



Reports of Cases

JUDGMENT OF THE COURT (Fourth Chamber)

16 April 2015 *

(Reference for a preliminary ruling — Directive 2005/36/EC — Article 10 — Recognition of professional qualifications — Access to the profession of architect — Titles not listed in Annex V, point 5.7.1 — Concepts of ‘specific and exceptional reasons’ and ‘architect’)

In Case C-477/13,

REQUEST for a preliminary ruling under Article 267 TFEU from the Bundesverwaltungsgericht (Germany), made by decision of 10 July 2013, received at the Court on 5 September 2013, in the proceedings

Eintragungsausschuss bei der Bayerischen Architektenkammer

v

Hans Angerer,

intervening parties:

Vertreter des Bundesinteresses beim Bundesverwaltungsgericht,

Landesanwaltschaft Bayern als Vertreter des öffentlichen Interesses,

THE COURT (Fourth Chamber),

composed of L. Bay Larsen, President of the Chamber, K. Lenaerts, Vice-President of the Court, acting as Judge of the Fourth Chamber, K. Jürimäe (Rapporteur), J. Malenovský and A. Prechal, Judges,

Advocate General: M. Szpunar,

Registrar: M. Aleksejev, Administrator,

having regard to the written procedure and further to the hearing on 9 July 2014,

after considering the observations submitted on behalf of:

- the Eintragungsausschuss bei der Bayerischen Architektenkammer, by A. Graf von Keyserlingk and J. Buntrock, Rechtsanwälte,
- Mr Angerer, by H. Olschewski, Rechtsanwalt,

* Language of the case: German.

- the Landesanwaltschaft Bayern als Vertreter des öffentlichen Interesses, by C. Zappel and R. Käß, acting as Agents,
- the German Government, by T. Henze and J. Möller, acting as Agents,
- the Netherlands Government, by M. Bulterman and M. de Ree, acting as Agents,
- the Romanian Government, by R. Hațieganu and A. Vacaru, acting as Agents,
- the European Commission, by G. Braun and H. Støvlbæk, acting as Agents,

after hearing the Opinion of the Advocate General at the sitting on 5 November 2014,

gives the following

Judgment

- 1 This request for a preliminary ruling concerns the interpretation of Article 10(c) of Directive 2005/36/EC of the European Parliament and of the Council of 7 September 2005 on the recognition of professional qualifications (OJ 2005 L 255, p. 22, and corrigenda OJ 2007 L 271, p. 18, and OJ 2008 L 93, p. 28), as amended by Commission Regulation (EC) No 279/2009 of 6 April 2009 (OJ 2009 L 93, p. 11) ('Directive 2005/36').
- 2 That request has been made in proceedings between the Eintragungsausschuss bei der Bayerischen Architektenkammer (Commission for enrolment in the Bavarian Order of Architects) ('the Bayerische Architektenkammer') and Mr Angerer concerning his application for registration on the roll of architects of the *Land* of Bavaria.

Legal context

EU law

- 3 Directive 2005/36 repealed Council Directive 85/384/EEC 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 (OJ 1985 L 223, p. 15).
- 4 Recitals 17, 19 and 28 in the preamble to Directive 2005/36 read as follows:
 - '(17) In order to take into account all situations for which there is still no provision relating to the recognition of professional qualifications, the general system should be extended to those cases which are not covered by a specific system, either where the profession is not covered by one of those systems or where, although the profession is covered by such a specific system, the applicant does not for some particular and exceptional reason meet the conditions to benefit from it.
 - ...
 - (19) Freedom of movement and the mutual recognition of the evidence of formal qualifications of ... architects should be based on the fundamental principle of automatic recognition of the evidence of formal qualifications on the basis of coordinated minimum conditions for training. ...

...

(28) National regulations in the field of architecture and on access to and the pursuit of the professional activities of an architect vary widely in scope. In most Member States, activities in the field of architecture are pursued, *de jure* or *de facto*, by persons bearing the title of architect alone or accompanied by another title, without those persons having a monopoly on the pursuit of such activities, unless there are legislative provisions to the contrary. These activities, or some of them, may also be pursued by other professionals, in particular by engineers who have undergone special training in the field of construction or the art of building. With a view to simplifying this Directive, reference should be made to the concept of “architect” in order to delimit the scope of the provisions relating to the automatic recognition of the qualifications in the field of architecture, without prejudice to the special features of the national regulations governing those activities.’

5 Article 1 of that directive, entitled, ‘Purpose’, provides:

‘This Directive establishes rules according to which a Member State which makes access to or pursuit of a regulated profession in its territory contingent upon possession of specific professional qualifications (referred to hereinafter as the host Member State) shall recognise professional qualifications obtained in one or more other Member States (referred to hereinafter as the home Member State) and which allow the holder of the said qualifications to pursue the same profession there, for access to and pursuit of that profession.’

6 Article 4(1) of Directive 2004/113 provides:

‘The recognition of professional qualifications by the host Member State allows the beneficiary to gain access in that Member State to the same profession as that for which he is qualified in the home Member State and to pursue it in the host Member State under the same conditions as its nationals.’

7 Title III of Directive 2005/36, entitled ‘Freedom of Establishment’, consists of four chapters. In Chapter I of Title III, entitled ‘General system for the recognition of evidence of training’, Article 10 thereof provides:

‘This Chapter applies to all professions which are not covered by Chapters II and III of this Title and in the following cases in which the applicant, for specific and exceptional reasons, does not satisfy the conditions laid down in those Chapters:

- (a) for activities listed in Annex IV, when the migrant does not meet the requirements set out in Articles 17, 18 and 19;
- (b) for doctors with basic training, specialised doctors, nurses responsible for general care, dental practitioners, specialised dental practitioners, veterinary surgeons, midwives, pharmacists and architects, when the migrant does not meet the requirements of effective and lawful professional practice referred to in Articles 23, 27, 33, 37, 39, 43 and 49;
- (c) for architects, when the migrant holds evidence of formal qualifications not listed in Annex V, point 5.7;
- (d) without prejudice to Articles 21(1), 23 and 27, for doctors, nurses, dental practitioners, veterinary surgeons, midwives, pharmacists and architects holding evidence of formal qualifications as a specialist who must have taken part in the training leading to the possession of a title listed in Annex V, points 5.1.1, 5.2.2, 5.3.2, 5.4.2, 5.5.2, 5.6.2 and 5.7.1, and solely for the purpose of the recognition of the relevant specialty;

- (e) for nurses responsible for general care and specialised nurses holding evidence of formal qualifications as a specialist who have taken part in the training leading to the possession of a title listed in Annex V, point 5.2.2, when the migrant seeks recognition in another Member State where the relevant professional activities are pursued by specialised nurses without training as general care nurse;
 - (f) for specialised nurses without training as general care nurse, when the migrant seeks recognition in another Member State where the relevant professional activities are pursued by nurses responsible for general care, specialised nurses without training as general care nurse or specialised nurses holding evidence of formal qualifications as a specialist who have taken part in the training leading to the possession of the titles listed in Annex V, point 5.2.2;
 - (g) for migrants meeting the requirements set out in Article 3(3).'
- 8 Under Chapter III of Title III to that directive, entitled 'Recognition on the basis of coordination of minimum training conditions', Article 21(1) of that directive, itself entitled 'Principle of automatic recognition', states:
- 'Each Member State shall recognise evidence of formal qualifications as ... architect, listed in [Annex V, point 5.7.1], which satisfy[ies] the minimum training conditions referred to in [Article 46], and shall, for the purposes of access to and pursuit of the professional activities, give such evidence the same effect on its territory as the evidence of formal qualifications which it itself issues.
- Such evidence of formal qualifications must be issued by the competent bodies in the Member States and accompanied, where appropriate, by the certificates listed in [Annex V, point 5.7.1].
- ...'
- 9 Article 46(1) of Directive 2005/36, entitled 'Training of architects', states:
- 'Training as an architect shall comprise a total of at least four years of full-time study or six years of study, at least three years of which on a full-time basis, at a university or comparable teaching institution. The training must lead to successful completion of a university-level examination.
- That training, which must be of university level, and of which architecture is the principal component, must maintain a balance between theoretical and practical aspects of architectural training and guarantee the acquisition of the following knowledge and skills:
- ...'
- 10 Article 48(1) of that directive, entitled 'Pursuit of the professional activities of architects', provides:
- 'For the purposes of this Directive, the professional activities of an architect are the activities regularly carried out under the professional title of "architect".'
- 11 Annex V, point 5.7.1, to that directive lists, for each Member State, the formal qualifications which give access to the profession of architect, the bodies authorised to award those qualifications and the certificates accompanying the evidence of qualifications.

German law

- 12 According to the Constitution, the law applicable to the profession of architect in Germany falls within the legislative competence of the *Länder*. Paragraph 4 of the Law on the Bavarian Chamber of Architects and the Bavarian Chamber of Building Engineers (Gesetzes über die Bayerische Architektenkammer und die Bayerische Ingenieurekammer-Bau) of 9 May 2007 (GVBl, p. 308, ‘the BauKaG’), provides:

‘...

(2) Any person who:

1. has a place of residence, place of business or main professional employment in Bavaria,
- 2.

has passed the leaving examination in a course

- (a) with at least four years’ regular length of study in the tasks listed in Paragraph 3(1) in the field of architecture (structural engineering), or
- (b) with at least three years’ regular length of study in the tasks listed in Paragraph 3(2) and (3) in the fields of interior or landscape architecture at a German university,

at a German public or officially recognised school for engineers (Akademie) or at a German educational establishment equivalent to these, and

3. has completed at least two years’ post-qualification practical experience in the relevant field shall be registered in the roll of architects.

In determining the required period of practical experience, advanced and further vocational education programmes of the Order of Architects in the tasks of technical and economic planning and construction law shall be taken into account.

...

(5) The requirements under subparagraph 2, No 2(a) and No 3, above are also satisfied where a national of a Member State of the European Union or of a State Party to the Agreement on the European Economic Area does not, for specific and exceptional reasons within the meaning of Article 10(b), (c), (d) and (g) of [Directive 2005/36] fulfil the requirements for recognition of his formal qualifications on the basis of coordination of minimum training conditions within the meaning of [Directive 2005/36], if moreover the requirements of Article 13 of [Directive 2005/36] are satisfied; in that respect training courses are treated equally for the purposes of Article 12 of [Directive 2005/36] ...

...’

The dispute in the main proceedings and the questions referred for a preliminary ruling

- 13 Since March 2007, Mr Angerer, a German national, has pursued the profession of ‘master builder’ (*Baumeister*) in Austria. He resides both in Bavaria and in Austria. On 25 April 2008, Mr Angerer submitted an application for registration on the Roll of Foreign Service Providers of the Order of Architects of the *Land* of Bavaria.

- 14 On the date that application was made, he was the holder of a certificate of aptitude in Austria. He was also holder, in Germany or in Austria, as applicable, of other qualifications, namely an apprenticeship certificate, and master's certificate in painting and varnishing, a certificate in business administration for manual trades, a master's certificate in plastering (dry wall building), a further education certificate in energy consultancy and an apprentice mason's certificate.
- 15 By decision of 18 June 2009, the Bayerische Architektenkammer refused the registration applied for by Mr Angerer. However, by decision of 17 March 2010, the Bayerische Ingenieurekammer Bau (Bavarian Chamber of Engineers (Construction Sector)) included him in a directory under Paragraph 61(7) of the Bavarian Building Regulations (Bauordnung), thereby authorising him to submit construction projects in Bavaria. Therefore, Mr Angerer is not subject to any restrictions in the pursuit of the profession of master builder (planning and technical calculation), for which he holds a qualification in Austria.
- 16 Following the action brought by Mr Angerer against the decision refusing enrolment of 18 June 2009, the Bayerisches Verwaltungsgericht (Administrative Court, *Land* Bavaria) annulled that decision by judgment of 22 September 2009 and ordered the Bayerische Architektenkammer to include Mr Angerer on the Roll of Foreign Service Providers.
- 17 The Bayerische Architektenkammer appealed against that judgment to the Bayerischer Verwaltungsgerichtshof (Bavarian Higher Administrative Court). In the course of the appeal proceedings, at the request of the court and with the consent of the Bayerische Architektenkammer, Mr Angerer amended the subject-matter of his initial application, that is to say, to enrolment in the Order of Architects and not inclusion on the Roll of Foreign Service Providers.
- 18 By judgment of 20 September 2011, the Bayerischer Verwaltungsgerichtshof upheld Mr Angerer's new application on the ground that the conditions for enrolment in the Order of Architects, as mentioned in Paragraph 4(5) of the BauKaG, were satisfied.
- 19 The Bayerische Architektenkammer has brought an appeal on point of law before the referring court. The latter notes that Paragraph 4(5) of the BauKaG is intended to transpose Directive 2005/36 into German law. That provision refers, in particular, to Article 10(c) of that directive. Therefore, the referring court considers that it is crucial, in the context of the dispute before it, to define the conditions laid down in Article 10(c) of that directive, by delimiting the content of the concepts of 'specific and exceptional reasons' and 'architect' referred to therein.
- 20 First, as regards the concept of 'specific and exceptional reasons', the referring court considers that the situations listed in Article 10(b) to (d) and (g) of Directive 2005/36 do not in themselves constitute 'specific and exceptional reasons' within the meaning of Article 10, but that the applicant must also submit grounds and adduce evidence of additional reasons relating, for example, to his personal history, which prevented him from satisfying the conditions which would enable automatic recognition of the formal qualifications on the basis of the coordination of minimum training conditions, within the meaning of that directive.
- 21 Second, as regards the concept of 'architect', the referring court notes that, in Austrian law, a master builder is authorised to design buildings, undertake civil works and other types of construction, to perform all the relevant calculations, to direct the works, carry them out and direct demolition works. Those skills are common to master builders and architects. However, according to the referring court, it must be determined whether the concept of 'architect' within the meaning of Article 10(c) of Directive 2005/36 requires that, in his Member State of origin, the migrant worker has exercised, in addition to carrying out the technical activities of construction planning, construction supervision and actual construction, has also or could also have, after his training, carried out creative, urban planning, economic and historic building conservation activities.

22 In those circumstances, the Bundesverwaltungsgericht decided to stay the proceedings and to refer the following questions to the Court for a preliminary ruling:

- ‘(1) (a) Are “specific and exceptional reasons” within the meaning of Article 10 of Directive 2005/36 the circumstances defined in the categories that follow ..., or must in addition to these circumstances “specific and exceptional reasons” be given why the applicant does not satisfy the conditions laid down in Chapters II and III of Title III of the directive?
- (b) In the latter case, of what sort must the “specific and exceptional reasons” be? Must they be personal reasons — such as reasons relating to the individual’s curriculum vitae — why the migrant does not, exceptionally, satisfy the conditions for automatic recognition of his training under Chapter III of Title III of the Directive?
- (2) (a) Does the concept of “architect” within the meaning of Article 10(c) of Directive 2005/36 require that the migrant in the Member State of origin, beyond carrying out the technical activities of construction planning, construction supervision and actual construction, has also or could also have, after his training, carried out creative, urban planning, economic and possibly historic building conservation activities, and if so to what extent?
- (b) Does the concept of “architect” within the meaning of Article 10(c) of Directive 2005/36 require the migrant to have a university-level education, of which the principal component is architecture, meaning that it goes beyond technical matters of construction planning, construction supervision and actual construction, and also covers creative, urban planning, economic and possibly historic building conservation matters, and if so to what extent?
- (c) (i) Do the answers to (a) and (b) depend on how the professional title of “architect” is normally used in other Member States (Article 48(1) of the Directive)?
- (ii) or is it sufficient to establish how the professional title of “architect” is normally used in the Member State of origin and in the host Member State;
- (iii) or can the spectrum of activities normally associated with the professional title of “architect” in the territory of the European Union be derived from Article 46(1), paragraph 2, of the Directive?’

Consideration of the questions referred for a preliminary ruling

Question 1(a)

- 23 By Question 1(a), the referring court asks essentially whether Article 10(c) of Directive 2005/36 must be interpreted as meaning that applicants wishing to benefit from the general system for the recognition of evidence of training, provided for in Chapter I of Title III of that directive, must, in addition to having formal qualifications which are not listed in Annex V, point 5.7.1, thereto, also establish the existence of ‘specific and exceptional reasons’.
- 24 As a preliminary point, it must be recalled that Article 10 of Directive 2005/36 defines the scope of the general system for the recognition of evidence of training laid down in Chapter I of Title III of that directive. That system provides for a case-by-case examination by the authorities of the host Member State of the professional qualifications obtained by the applicant in his home Member State. As regards architects, its scope is limited to Article 10(c) of that directive.

- 25 However, as is clear from recital 19 in the preamble thereto, Directive 2005/36 provides that, as regards the profession of architect, the mutual recognition of the evidence of formal qualifications should be based on the fundamental principle of automatic recognition of those qualifications on the basis of coordinated minimum conditions for training. That system of automatic recognition is governed by Chapter III of Title III of Directive 2005/36.
- 26 According to settled case-law, in determining the scope of a provision of EU law, in this case Article 10 of Directive 2005/36, its wording, context and objectives must all be taken into account (judgment in *Spedition Welter*, C-306/12, EU:C:2013:650, paragraph 17 and the case-law cited).
- 27 As regards the wording of Article 10 of Directive 2005/36, it must be observed that the introductory sentence of that article, with respect to the professions which, in principle, are covered by the system of automatic recognition of evidence of formal qualifications, makes the application of the general system of recognition of evidence of those qualifications subject to two conditions, namely that the applicant does not satisfy the conditions laid down for the system of automatic recognition and that there are specific and exceptional reasons why the applicant is in that situation.
- 28 That interpretation is confirmed by the wording of recital 17 in the preamble to Directive 2005/36, according to which the general system for the recognition of professional qualifications is applicable where the applicant does not for some specific and exceptional reasons meet the conditions to benefit from the system of automatic recognition.
- 29 The introductory sentence of Article 10 of Directive 2005/36 is followed by subparagraphs (a) to (g) which set out the scope of one or other of the two conditions laid down by that provision. Those subparagraphs are applicable to either one or several specific professions or, across the board, to a group of professionals in a specific situation.
- 30 Article 10(c) of Directive 2005/36, which specifically covers the profession of architect, concerns a specific factual situation, that is to say, the situation in which an applicant does not have evidence of any formal qualifications listed in Annex V, point 5.7.1, thereto. Pursuant to Article 21(1) thereof, the possession of evidence of formal qualifications listed in that annex is the condition of applicability of the system of automatic recognition of evidence of formal qualifications laid down in Chapter III of Title III of that directive for architects. Therefore, Article 10(c) of Directive 2005/36 refers only to the first of the two conditions mentioned in the introductory sentence of that article, that is to say that relating to the failure to satisfy the conditions laid down for the application of the system of automatic recognition.
- 31 However, as regards architects who are not holders of formal qualifications listed in Annex V, point 5.7.1, to Directive 2005/36, that fact cannot have the result that the second condition referred to in the introductory sentence of Article 10 of that directive is inapplicable, since the two conditions are cumulative.
- 32 Pursuant to the wording of Article 10 of that directive, it follows that an applicant who wishes to benefit from the general system of recognition of evidence of formal qualifications applicable to architects will not only have to show that he is in the situation referred to in Article 10(c) of Directive 2005/36, namely that he does not hold any of the formal qualifications mentioned in Annex V, point 5.7.1, but must also put forward ‘specific and exceptional reasons’ why he is in that situation.
- 33 Such an interpretation is consistent with the intentions of the EU legislature, as is clear from the *travaux préparatoires* relating to Directive 2005/36. Thus, as regards Article 10 of that directive, the European Commission’s initial proposal as it emerges from the Proposal for a Directive of the European Parliament and of the Council on the recognition of professional qualifications (COM(2002) 119 final) (OJ 2002 C 181 E, p. 183) made no mention of the notion of ‘specific and exceptional reasons’ or of Article 10(a) to (g) of Directive 2005/36. That notion and those provisions were added

at the initiative of the Council of the European Union in Common Position (EC) No 10/2005 adopted by the Council on 21 December 2004 with a view to adopting Directive 2005/.../EC of the European Parliament and of the Council of ... on the recognition of professional qualifications (OJ 2005 C 58 E, p. 1). It follows from the Statement of the Council's Reasons (OJ 2005 C 58 E, p. 119) that it considered the Commission's initial proposal concerning Article 10 of that directive to be too far-reaching. The Council also stated that, 'the general system should apply only to professions not covered by Chapters II and III of Title III, as well as to the particular cases listed in Article 10(a) to (g) of the common position in which the applicant, while belonging to a profession covered by those Chapters, does not satisfy, for specific and exceptional reasons, the conditions laid down in those Chapters'.

- 34 In addition, the general scheme and purpose of Directive 2005/36 preclude a broad interpretation of 'specific and exceptional reasons', according to which those reasons do not constitute an independent condition in relation to that set out in Article 10(c) of that directive.
- 35 As regards the general scheme of Directive 2005/36, as far as concerns the profession of architect, it is clear from recital 19 in the preamble to that directive that architects' professional qualifications are primarily to be recognised on the basis of the system for automatic recognition of evidence of formal qualifications laid down in Articles 21 and 46 and Annex V, point 5.7.1, to that directive.
- 36 As regards the purpose of Directive 2005/36, it is clear from Articles 1 and 4 thereof that the fundamental purpose of mutual recognition is to allow the holder of a professional qualification giving access to a regulated profession in the holder's home Member State to gain access, in the host Member State, to the same profession as that for which he is qualified in the home Member State, and to practise that profession in the host Member State under the same conditions as its own nationals (judgment in *Ordre des architectes*, C-365/13, EU:C:2014:280, paragraph 19).
- 37 Interpreting Article 10(c) of Directive 2005/36 to the effect that it does not require applicants who do not fulfil the conditions laid down in Chapter III of Title III of that directive to establish specific and exceptional reasons could have the consequence of requiring the host Member State to examine the evidence of formal qualifications held by an applicant even though he does not have the qualifications necessary to pursue the profession of architect in his Member State of origin. That would be contrary to the purpose of that directive.
- 38 Having regard to the foregoing considerations, the answer to Question 1(a) is that Article 10(c) of Directive 2005/36 must be interpreted as meaning that an applicant wishing to benefit from the general system for recognition of evidence of training laid down in Chapter I of Title III of that directive must, in addition to holding formal qualifications not listed in Annex V, point 5.7.1, thereto, also establish the existence of 'specific and exceptional reasons'.

Question 1(b)

- 39 By Question 1(b), the referring court asks essentially which type of circumstances may constitute 'specific and exceptional reasons', within the meaning of Article 10(c) of Directive 2005/36.
- 40 Mr Angerer, the German and Romanian Governments and the Commission take the view that the concept 'specific and exceptional reasons' refers to circumstances relating to possible institutional and structural obstacles arising from the specific situation of the Member State concerned. Mr Angerer, the Landesanstalt für Arbeitsschutz und Berufshilfe Bayern als Vertreter des öffentlichen Interesses and the Commission also take the view that those reasons also cover circumstances relating to the applicant's personal situation, in particular his curriculum vitae, his education, or events in his private life. The German Government

submits that if such personal circumstances may constitute ‘specific and exceptional reasons’ it must be ensured that the applicant has all the professional skills authorising him to pursue the profession of architect.

- 41 In that connection, the Court held in the judgment in *Dreessen* (C-31/00, EU:C:2002:35, paragraphs 27 and 28) that the Member States had to comply with their obligations as regards mutual recognition of professional qualifications, arising from the Court’s interpretation of Articles 49 TFEU and 53 TFEU, in examining any application for authorisation to pursue the profession of architect if the applicant cannot avail himself of the mechanism for automatic recognition of professional qualifications. That may be the case where, as a result of an error by the competent authorities of the Member State concerned, the formal qualification held by the applicant has not been notified to the Commission.
- 42 Likewise, it follows from the judgment in *Hoczman* (C-238/98, EU:C:2000:440, paragraph 23) that Member States must comply with their obligations in relation to the mutual recognition of professional qualifications pursuant to Article 49 TFEU, where the applicant cannot avail himself of the mechanism of recognition of professional qualifications provided for by the relevant directive by reason of the place where the formal qualification concerned was obtained and the applicant’s academic and professional career.
- 43 It is clear from the *travaux préparatoires* relating to Directive 2005/36, in particular the Council’s statement of reasons, cited in paragraph 33 of the present judgment, that the situations at issue in the judgments in *Hoczman* (C-238/98, EU:C:2000:440) and *Dreessen* (C-31/00, EU:C:2002:35) are, inter alia, the basis for the adoption of Article 10 of that directive. It follows that the ‘specific and exceptional reasons’, referred to in that article, may cover both the circumstances relating to institutional and structural obstacles resulting from the particular situation in the Member State concerned and circumstances related to the applicant’s personal situation.
- 44 In order to define the scope of the concept of ‘specific and exceptional reasons’, it is also necessary to take account of the purpose of Directive 2005/36, as set out in paragraph 36 of the present judgment, which is to allow the holder of a professional qualification giving access to a regulated profession in the holder’s home Member State to gain access, in the host Member State, to the same profession as that for which he is qualified in the home Member State.
- 45 Having regard to the foregoing considerations, the answer to Question 1(b) is that Article 10(c) of Directive 2005/36 must be interpreted as meaning that the concept of ‘specific and exceptional reasons’, within the meaning of that provision, refers to the circumstances which gave rise to the fact that the applicant does not hold a formal qualification listed in Annex V, point 5.7.1, to that directive, it being understood that the applicant cannot rely on the fact that he holds professional qualifications which give him access, in his home Member State, to a profession other than that which he wishes to pursue in the host Member State.

The second question

- 46 By its second question, the referring court asks essentially whether Article 10(c) of Directive 2005/36 must be interpreted as meaning that the notion of ‘architect’ mentioned in that provision must be defined, first, having regard to the legislation of the home Member State, with that of the host member State, of other Member States or in the light of the conditions laid down in Article 46 of that directive and, second, whether it requires that the applicant has training and experience which cover not only the technical activities of planning, supervision and implementation, but also creative, urban planning, economic and possibly historic building conservation activities.

- 47 In that connection, it must be recalled that, according to the case-law applicable to Directive 85/384, the domestic law of the host Member State is to define the activities falling within the scope of the field of architecture (see, to that effect, judgment in *Ordine degli Ingegneri di Verona and Others*, C-111/12, EU:C:2013:100, paragraph 42).
- 48 The finding in the preceding paragraph is applicable by analogy to the system of automatic recognition of the qualifications for architects laid down by Directive 2005/36. It is clear, in particular, from recital 28 in the preamble thereto that the concept of ‘architect’ is used in that directive in order to delimit the scope of the provisions relating to the automatic recognition of the qualifications in the field of architecture, without prejudice to the special features of the national regulations governing those activities.
- 49 As the Advocate General observed, in point 56 of his Opinion, if the EU legislature wished not to define the concept of ‘architect’ in the context of the system of automatic recognition of formal qualifications for architects laid down by Directive 2005/36, then by inference it did not wish to define it in the context of the general system.
- 50 It must be stated once again that the requirements referred to in Article 46 of Directive 2005/36 are not, as such, applicable in the context of the general system of recognition of evidence of training for architects. That article, which is specific to the system of automatic recognition based on the coordination of minimum training conditions sets out the minimum training conditions.
- 51 It follows that the answer to the second question is that Article 10(c) of Directive 2005/36 must be interpreted as meaning that the concept of ‘architect’, referred to in that provision, must be defined in the light of the legislation of the host Member State and, therefore, that it does not necessarily require the applicant to have training and experience which extends not only to the technical activities of planning, supervision and implementation, but also to creative, urban planning, economic and possibly historic building conservation activities.

Costs

- 52 Since these proceedings are, for the parties to the main proceedings, a step in the action pending before the national court, the decision on costs is a matter for that court. Costs incurred in submitting observations to the Court, other than the costs of those parties, are not recoverable.

On those grounds, the Court (Fourth Chamber) hereby rules:

1. **Article 10(c) of Directive 2005/36/EC of the European Parliament and of the Council of 7 September 2005 on the recognition of professional qualifications, as amended by Commission Regulation (EC) No 279/2009 of 6 April 2009, must be interpreted as meaning that an applicant wishing to benefit from the general system for recognition of evidence of training laid down in Chapter I of Title III of that directive must, in addition to holding formal qualifications not listed in Annex V, point 5.7.1 thereto, also establish the existence of ‘specific and exceptional reasons’.**
2. **Article 10(c) of Directive 2005/36, as amended by Regulation No 279/2009, must be interpreted as meaning that the concept of ‘specific and exceptional reasons’, within the meaning of that provision, refers to the circumstances which gave rise to the fact that the applicant does not hold a formal qualification listed in Annex V, point 5.7.1, to that directive, it being understood that the applicant cannot rely on the fact that he holds professional qualifications which give him access, in his home Member State, to a profession other than that which he wishes to pursue in the host Member State.**

3. **Article 10(c) of Directive 2005/36, as amended by Regulation No 279/2009, must be interpreted as meaning that the concept of ‘architect’, referred to in that provision, must be defined in the light of the legislation of the host Member State and, therefore, that it does not necessarily require the applicant to have training and experience which extends not only to the technical activities of planning, supervision and implementation, but also to creative, urban planning, economic and possibly historic building conservation activities.**

[Signatures]