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Research and Innovation SERI**

# Introduction of the Concept of Professional Qualifications

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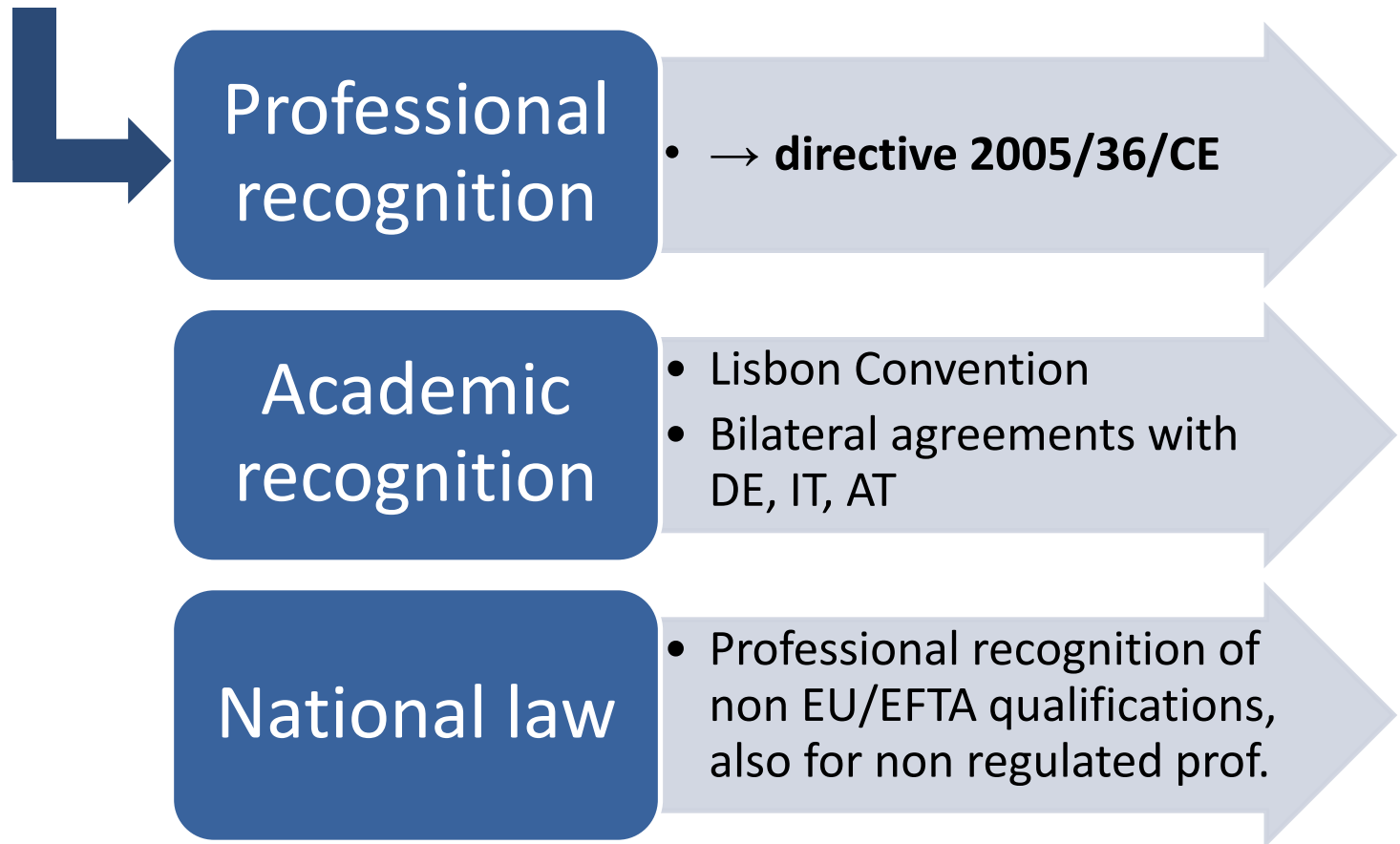
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# Switzerland and the EU

120 bilateral agreements; one of them is the Agreement on free movement of persons



# **Swiss coordinator for the MRPQ**

## **About me:**

- **State Secretariat for Education, Research and Innovation SERI;**
- **Education as a lawyer;**
- **Head of Unit (coordination, assistance center, declaration center for providers of services).**

## **Tasks of a coordinator:**

- **Advisor, specialist, reference person;**
- **Interface between the EU-Commission and the national authorities;**
- **Continuous strenghtening of tasks and duties.**



# Main discussion points

- **Academic** recognition vs **professional** recognition;
- What is a **regulated profession**;
- The basement of PQD, the **principle of origin** (“Cassis-de-Dijon”) and the principle of **mutual trust**;
- What does “professional recognition” mean (= **full access to a profession**, with all the consequences for bodies, etc.).



# Academic and professional recognition (1)

	Academic recognition	Professional recognition
Purpose	Access to an education	Exercise of a profession
Legal basis	Lisbon recognition Convention	Within the EU Directive 2005/36/EC (PQD)
Authorities	Schools (mainly universities)	Regulator (authority, professional body, chamber, etc.)
Effect	Admission to an education	Enrollment within a board, autorisation to pursue a profession, inscription in a register, etc.



# Academic and professional recognition (2)

The **purpose** of the recognition does matter. The point what kind of diploma do you want to get recognised, the point is **why**.

For example, the recognition of a academic degree as a Psychologist is a **professional recognition** if its purpose is the access to the profession as a Psychologist.

The recognition of a Bachelor degree with the purpose of being allowed to attend a Master course is an **academic recognition**.



# The regulated professions

**Why is the regulatory back-ground important for the mobility of professionals?**

- The regulation determines **to what extent** the profession can be pursued.
- For non-regulated profession is the access to labour market **totally free**.
- The regulation set up the competencies between different categories of professionals (for example what can do a chiropractor compares to a physiotherapist).
- The regulation may reserve certain activities to certain professionals (for example acupuncture may only be pursued by medical doctors).

# Different ways to regulate a profession

There are different ways to regulate a profession, respectively different conditions to fulfil if a professional works in an other country:

- Ask for an **insurance**;
- Ask for a **registration**;
- Ask for a **good standing**;
- Put certain criteria regarding the **premises** in which the activity will take place;
- Ask for certain **professional qualifications**.



# Why to focus on the requisite of professional qualifications?

In the field of the recognition of professional qualifications, a profession is regulated when its access is subject to the possession of specific professional qualifications.

## Why?

- Ask for an **insurance** → get insured.
- Ask for a **registration**; → get registered.
- Ask for a **good standing**; → you have it or no.
- **Premises** → rent adequate premises
  
- **Diploma** defined in accordance to the national educational system → Problem; need of rules

# A profession is only regulated if:

➤ A **legal basis** exists, as any regulation is a restriction to the constitutional commercial freedom;

➤ The legal basis shall describe the **covered activity**;

Tricky example: «The exercise of a **health profession** requires the corresponding Bachelor delivered by a state-recognised university.

➤ Ask to the possession of **specific professional qualifications**;

Tricky example: «Civil Engineer must have **adequate qualifications**.

➤ Be justified by a **public interest**.

 the **principle of origin** (“Cassis-de-Dijon”)





## The ruling...

The Cassis de Dijon ruling (judgment of the Court of Justice of 20 February 1979) established the principle that, in essence, products **sold lawfully** in one Member State may not be prohibited from sale in another. The principle of mutual recognition is conducive to competition and, thereby, prosperity.

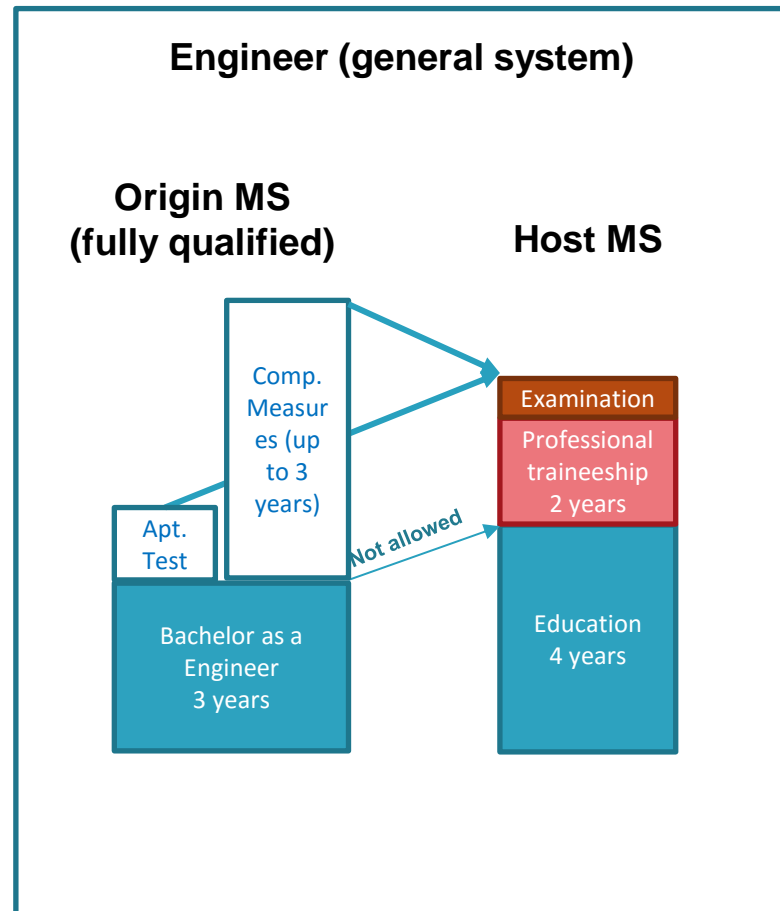
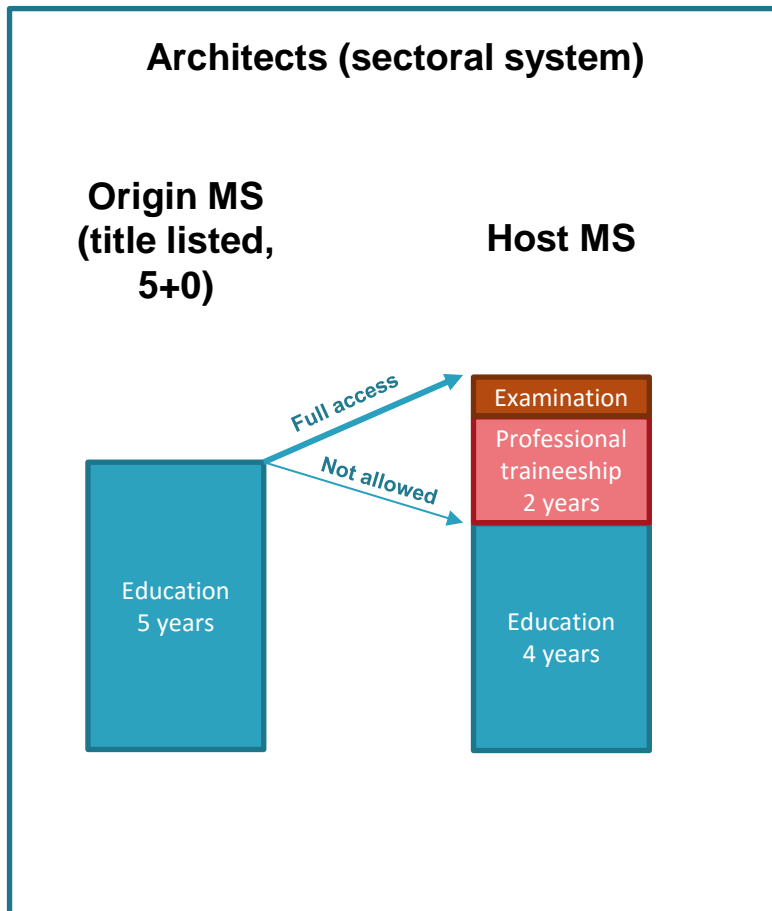
This ruling, applicable for the free movement of goods, had also effect for the free movement of persons, in particular for the **general recognition system**.

## ... applied to the recognition of professional qualifications (1)

- ✓ You have basically to accept anybody who is **fully qualified**, according to the regulation of his/her origin State, to pursue the profession.
- ✓ You can only restrict this right for **very particular reasons** (big differences in the education, threat on public health, etc.)
- ✓ The only fact that you, as a host member state, have other rules, habits, criteria, etc. may **not be sufficient**.
- ✓ A recognition should not be refused; **compensation measures** shall take place.



# ... applied to the recognition of professional qualifications (2)



# What is a professional qualification (1)

## Art. 3 § 1 PQD:

b) 'professional qualifications': qualifications attested by **evidence of formal qualifications**, an **attestation of competence** referred to in Article 11, point (a) (i) and/or **professional experience**;

c) 'evidence of formal qualifications': diplomas, certificates and other evidence issued by an authority in a Member State (...) and certifying successful completion of professional training obtained mainly in the Community. Where the first sentence of this definition does not apply, evidence of formal qualifications referred to in paragraph 3 shall be treated as evidence of formal qualifications;

f) 'professional experience': the actual and lawful pursuit of the profession concerned in a Member State;

# What is a professional qualification (2)

## **Art. 11 let. A PQD:**

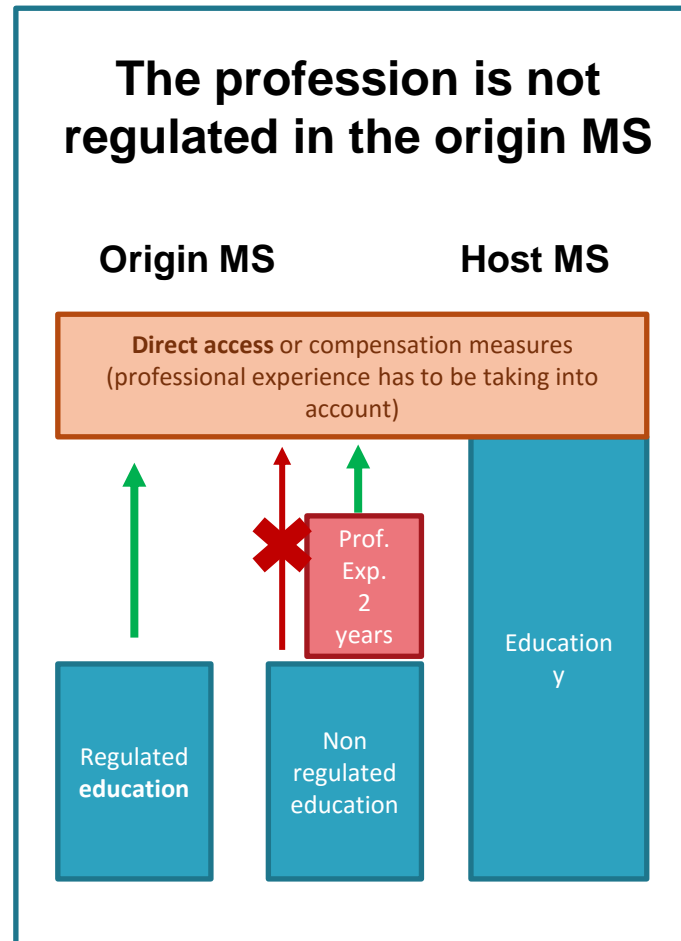
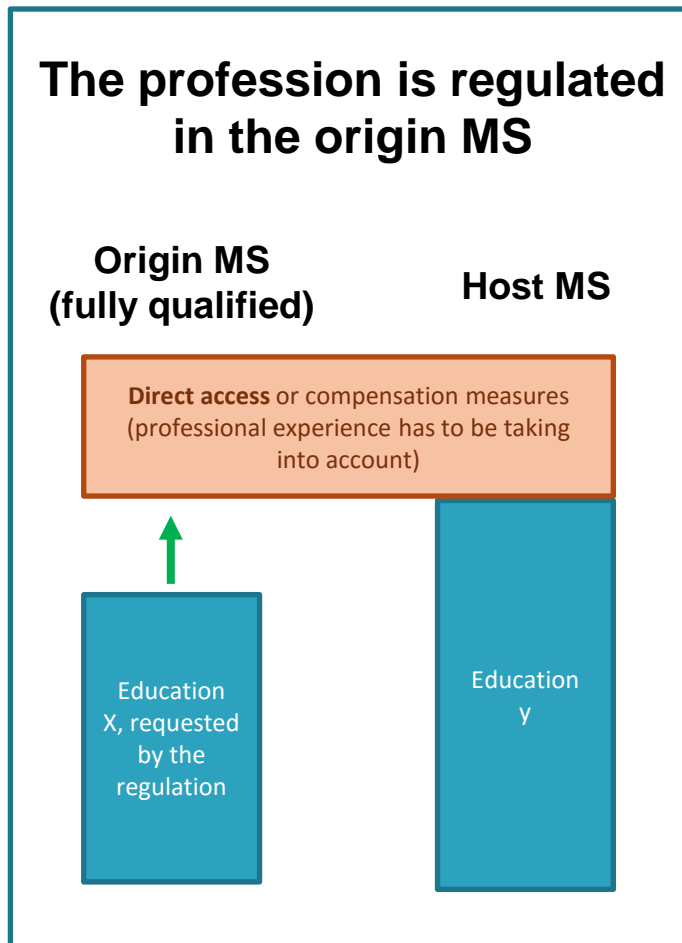
attestation of competence issued by a competent authority in the home Member State (...), on the basis of:

- (i) either a training course not forming part of a certificate or diploma within the meaning of points (b), (c), (d) or (e), or a specific examination without prior training, or full-time pursuit of the profession in a Member State for three consecutive years or for an equivalent duration on a part-time basis during the previous 10 years,
- (ii) or general primary or secondary education, attesting that the holder has acquired general knowledge;





# What is a professional qualification (3)





**Thank you very much for your  
attention!**