Commission Delegated Regulation (EU) 2019/907 of 14 March 2019 establishing a Common Training Test for ski instructors under Article 49b of Directive 2005/36/EC of the European Parliament and of the Council on the recognition of the professional qualifications (Text with EEA relevance)

COMMISSION DELEGATED REGULATION (EU) 2019/907

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(Text with EEA relevance)

THE EUROPEAN COMMISSION,

Having regard to the Treaty on the Functioning of the European Union,

Having regard to Directive 2005/36/EC of the European Parliament and of the Council of 7 September 2005 on the recognition of professional qualifications[(1)], and in particular Article 49b(4) thereof,

Whereas:

(1) Currently, ski instructors benefit from the principle of mutual recognition of their qualifications under Directive 2005/36/EC. Establishing a common training test for ski instructors ('CTT') would introduce an automatic recognition for certain ski instructor qualifications to enable holders of those qualifications to move more easily between Member States. The CTT would be one way of facilitating the mobility of ski instructors across the Union. For ski instructors who are not eligible to participate in the CTT or who have not passed the CTT, the general framework for recognition of their qualifications under Directive 2005/36/EC would continue to apply.

(2) The profession of ski instructor or alternatively the education and training leading to the qualification as a ski instructor is regulated in more than one third of Member States and therefore the requirements under Article 49b(2) of Directive 2005/36/EC are fulfilled.

(3) In 2012, a Memorandum of Understanding ('Memorandum') establishing a pilot project for a professional card to be issued to ski instructors in the Union was signed by nine Member States, namely Austria, Belgium, Denmark, France, Germany, Italy, Romania, Spain and the United Kingdom. Slovenia and the Czech Republic subsequently signed the Memorandum in 2014. The Memorandum recognised the acquired rights of ski instructors who were nationals of those signatory Member States as of the date of the Memorandum. The Memorandum also stipulated that the successful completion of the Eurotest and Eurosecurity tests were prerequisites for the automatic recognition of the qualification as a ski instructor amongst those Member States as of the date of signing the Memorandum. In order to ensure legal certainty, it is appropriate and reasonable to

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rely on these two tests as basis for the content of the CTT and to take the provisions agreed in the Memorandum into account as a common basis for this Regulation.

(4) Any ski instructor covered by this Regulation should be capable of ensuring that ski instruction classes are safely conducted with full autonomy in a snowy mountainous environment, but excluding those areas where mountaineering techniques are required. Therefore, in order to ensure a high quality of ski instruction, it is appropriate that the qualifications which confer the eligibility of candidates to participate in the CTT should also include certain teaching skills.

(5) Participation in competitions managed by the Fédération Internationale du Ski ('FIS') and any FIS points awarded as part of those competitions should be taken into consideration, where appropriate, when processing a request for an exemption in relation to Part I of the CTT as regards the certification of technical ability.

(6) In the interests of legal certainty it is necessary to recognise the acquired rights of both ski instructors who hold a professional card issued under the Memorandum as well as those who hold a qualification listed in Annex I in a Member State, which is not a signatory to the Memorandum, where they can demonstrate the required experience as a ski instructor under specific conditions,

HAS ADOPTED THIS REGULATION:

Article 1

Scope

This Regulation shall apply to all citizens of the Union who wish to pursue the profession of ski instructor in a Member State other than the one in which they have obtained a qualification listed in Annex I.

Article 2

Subject-matter

1 This Regulation establishes the contents of the Common Training Test ('CTT') and the conditions to be fulfilled for both participating in and passing of the CTT.

2 The CTT shall comprise of a test certifying technical ability of ski instructors and a test certifying safety-related competences of ski instructors in accordance with the rules laid down in Parts I and II respectively of Annex II.

Article 3

Competent entities

For the purpose of this Regulation a 'competent entity' means any entity that is listed in Annex I, which awards a qualification conferring the right to participate in the CTT pursuant to Article 5.

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Article 4

Principle of automatic recognition

1 Member States shall recognise certificates issued in accordance with Article 8 attesting the successful completion of the CTT. Any citizen of the Union who holds such a certificate issued in a Member State shall be entitled to gain access to the professional activities of ski instructors in other Member States subject to the same conditions as ski instructors who have acquired their qualification in those Member States.

2 Member States shall recognise certificates issued in accordance with Article 8 to ski instructors who benefit from acquired rights as set out in Article 7. Any citizen of the Union who holds such a certificate issued in a Member State shall be entitled to gain access to the professional activities of ski instructors in other Member States subject to the same conditions as ski instructors who have acquired their qualification in those Member States.

Article 5

Participation in the CTT

All citizens of the Union who hold or who are in training to obtain a qualification listed in Annex I[(2)] shall be entitled to participate in the CTT.

Article 6

Exemptions

1 Without prejudice to Article 5, ski instructors shall be exempted from the requirement to pass the test certifying technical ability as referred to in Part I of Annex II, where they hold or where they are in training to obtain a qualification listed in Annex I and either:

a can provide evidence of having been awarded at least 100 Fédération Internationale du Ski alpine skiing points for men and at least 85 Fédération Internationale du Ski alpine skiing points for women in one of the technical disciplines of slalom or giant slalom over any period of five years; or

b have passed the Eurotest.

2 Without prejudice to Article 5, ski instructors who have passed the Eurosecurity test shall be exempted from the requirement to pass the test certifying safety-related competences as referred to in Part II of Annex II, where they hold or where they are in training to obtain a qualification listed in Annex I.

3 Those ski instructors who have passed, as part of the CTT, either the test certifying technical ability as referred to in Part I of Annex II or the test certifying safety-related competences as referred to in Part II of Annex II shall not be required to repeat that part of the CTT that they have successfully completed.

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Article 7

Acquired rights

1 Ski instructors who, before the date of entry into force of this Regulation, hold a professional card issued under the Memorandum shall benefit from the principle of automatic recognition as set out in Article 4(2).

2 Ski instructors who fall within the scope of this Regulation and who have passed both the Eurotest and the Eurosecurity test shall benefit from the principle of automatic recognition as set out in Article 4(2), where they also hold a qualification listed in Annex I.

3 Ski instructors who have obtained a qualification listed in Annex I in a Member State other than a signatory of the Memorandum at the moment of entry into force of this Regulation and are able to demonstrate professional experience of at least 200 days during the five years immediately preceding the entry into force of this Regulation shall benefit from the principle of automatic recognition as set out in Article 4(2).

4 Those ski instructors who enjoy the benefit of acquired rights as set out in paragraphs 1, 2 and 3 shall be entitled to apply for a certificate of competency pursuant to Article 8.

Article 8

Certificate of competency

1 Ski instructors who fall within the scope of this Regulation and have either successfully passed the CTT or who enjoy acquired rights pursuant to Article 7 shall be issued a certificate of competency. The certificate shall be issued by the Member State or by the competent entity in a Member State, which have awarded the professional qualification conferring the right to participate in the CTT pursuant to Article 5 to the professional.

2 The certificate of competency shall indicate at least the following:

a the name of the ski instructor;

b the results obtained in the CTT and the date of passing the CTT, if applicable;

c the specific acquired right the ski instructor enjoys pursuant to Article 7, if applicable;

d the issuing Member State or competent entity;

e the qualification listed in Annex I held by the ski instructor.

3 The certificate of competency shall be accompanied by a sticker to be affixed to the national card of the ski instructor. The sticker shall attest that a certificate of competency has been issued to the ski instructor and shall indicate at least:

a the name of the ski instructor;

b the year of issue of the certificate of competency;

c the issuing Member State or competent entity.

4 A duplicate of the certificate of competency shall be issued at any time upon request from the ski instructor.

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Article 9

Notification procedure

Member States shall notify the Commission and the other Member States of any changes to the qualifications listed in Annex I as well as the existence of any new qualifications that are comparable, in terms of the skills and knowledge, with those listed in Annex I. Such notifications shall be transmitted via the Internal Market Information System established by Regulation (EU) No 1024/2012 of the European Parliament and of the Council[(3)].

Article 10

Training and experience of long duration

Ski instructors holding a qualification listed in Annex I and being able to demonstrate at least 95 days of theoretical and practical ski instructor training and 95 days of work experience as a ski instructor will be recognized in Austria on the level of ‘Diplomschilehrer’.

Article 11

Final provisions

This Regulation shall enter into force on the twentieth day following that of its publication in the *Official Journal of the European Union*.

This Regulation shall be binding in its entirety and directly applicable in all Member States.