

25 January 2021

ANALYSIS MEMO

Main legal effects of registration in national directories



Certification
professionnelle



TABLE OF CONTENTS

1.	DETERMINATION OF THE EFFECTIVE DATE OF REGISTRATION IN NATIONAL DIRECTORIES.....	2
1.1.	Regarding registration on request.....	2
1.2.	Regarding registration by law	2
2.	MAIN EFFECTS OF REGISTRATION IN NATIONAL DIRECTORIES	3
2.1	Regarding the RNCP.....	3
2.1.1	Consequences for the granting of a qualification level to the holder of the professional qualification.....	3
2.1.2	Consequences in terms of access to devices.....	4

1. DETERMINATION OF THE EFFECTIVE DATE OF REGISTRATION IN NATIONAL DIRECTORIES

1.1. Regarding registration on request

Registration in national directories following a request from a qualification body is an individual decision, requiring a publication formality to become legally enforceable.

Article R. 6113-12 of the French Labour Code specifies in this respect that the Director General of France Compétences must confirm registration in the national directories “in a decision published in the Official Journal of the French Republic and posted on the France Compétences website”.

The registration therefore comes into force and is legally valid for the applicant and interested third parties from the first publication date and for the term specified in the registration decision (maximum five years).

In practice, publication in the Official Journal occurs after posting on the France Compétences website. That date of posting on the website will therefore be considered to be the start date of registration in the national directories. It should be noted that the qualifications issued to holders may specify either the date of the general manager’s decision or the date of first publication.

1.2. Regarding registration by law

In the case of registration by law, the registration decision does not emanate from the Director General of France Compétences, but from the ministry issuing the qualification, after approval from the competent professional advisory commission, pursuant to paragraph I of Article L. 6113-3 of the French Labour Code for the RNCP.

Note that if the decision is made by ministries issuing qualifications, France Compétences is responsible for registering it in the national directories.

France Compétence therefore ensures:

- compliance with the consultation procedure for professional qualifications covered by the RNCP and the existence of a legal basis justifying the creation or revision of the professional qualification (generally via a ruling or a decision published in the Official Journal of the French Republic or the Official Bulletin of the relevant ministry);
- that the purpose and scope of the qualification mean that it is indeed covered by the RNCP rather than the specific directory (and vice versa);
- the presence of the activity standard (for the RNCP only), the skills standard and the assessment standard;
- in respect of the existence of skills blocks (excluding professions with regulated access) in accordance with the legislative definition: “homogeneous and coherent sets of skills contributing to the autonomous exercise of a professional activity, that can be assessed and validated”;
- For the specific directory, that it is an accreditation “established by the government, required to exercise a profession or an activity on the national territory in application of an international standard or a legislative or regulatory provision”;
- In respect of the responsibility for maintaining national directories, that the descriptive sheet allows communication of sufficient information about it to users.

Registration of the professional qualification or accreditation in directories is therefore only effective from the date of its first publication, i.e. the date of publication on the France Compétences website. However the ministry issuing the qualification may stipulate in its decree or publication that the effect of publication of the registration should be deferred.

2. MAIN EFFECTS OF REGISTRATION IN NATIONAL DIRECTORIES

This memo does not set out the rights and obligations associated with the status of qualification body: <https://www.francecompetences.fr/app/uploads/2020/03/Note-sur-la-qualit%C3%A9-de-l-organisme-certificateur.pdf>

Apart from the consequences arising from the status of qualification bodies, other legal effects arise from registration in directories.

It should firstly be recalled that although registration methods may differ depending on the nature of the qualification, all the qualifications registered in the RNCP and specific directory feature the same recognition of the professional qualification system and present the same guarantees in terms of quality assurance.

2.1 Regarding the RNCP

2.1.1 Consequences for the granting of a qualification level to the holder of the professional qualification

With the sole exception of general baccalaureates and technological baccalaureates, which deliver a level 4 qualification under the national framework without being registered in the RNCP, a qualification level can only be awarded to a candidate if the professional qualification has been registered and has not expired on its issue date.

However, by way of exception to this principle, pursuant to Article L. 6113-9 of the French Labour Code, candidates who have passed the qualification assessments on a date when it was not or was no longer registered:

1. Either because they started the training to acquire the qualification before the expiry date of its registration, in which case that exemption can only result in a qualification being issued within a reasonable period of time following the end of the training period (potentially including a catch-up session, where applicable).
2. Or because their VAE process was deemed admissible by the qualification body before the relevant qualification's registration deadline. This exemption cannot have the effect of issuing a qualification beyond the admissibility validity period communicated by the qualification body to the candidate (on the professional qualification's expiry date).
3. Or, for professional qualifications recorded on demand, cohorts of holders whose professional integration has served to justify that the professional qualification meets the criteria for registration in the RNCP (and for subsequent cohorts whose integration data was not available on the publication date), cohorts which must be submitted within five years preceding the registration request.

Note that in the latter case, this information appears in the records published in the legal resources section of the France Compétences website.

In the first situation set out above, the notion of participation in training is assessed on the date the training contract is concluded between the candidate and the training organisation, except:

- o For apprenticeship and professionalisation contracts: on the date of conclusion by the parties to the contract. Note that termination of an apprenticeship contract that does not also end the training period within six months following that termination does not prevent the candidate from invoking the date of signature of the first contract in respect of that exemption,
- o For training involving the personal training account: on the date the request for registration is submitted on the dedicated platform.
- o For professional transition projects (PTP): on the training start date.

Focus

In the event of renewal of a qualification, candidates who already hold a professional qualification under the previous registration may benefit from the provisions of Article L.6113-9 of the French Labour Code, in so far as they have justified that the professional qualification is adequate in respect of the new registration.

This may be of particular interest to them if the qualification has obtained a higher qualification level. In that specific case, the qualification provider must consider whether to retroactively issue the new qualification level in respect of the new registration. This decision is particularly made according to the scale of changes made to the skills standard between the two registrations – if the skills standard has not experienced any changes or only minor changes, the qualification body must proceed with that retroactive validation. Conversely, it is not possible to grant a level of qualification lower than that of the previous registration to people who began the training before the professional qualification's expiry date.

It should be recalled that if the granting of a level of qualification can be separated from other forms of recognition, particularly academic ones, the registration of a professional qualification within the national framework implies recognition by the government of its certifying character and the adequacy of the professional skills in relation to employment market needs. It is also recalled that the French qualification system involves social partners in this recognition process, according to terms reinforced by the law of 5 September 2018.

Finally, this positioning within the national framework implies *de facto* recognition of the corresponding qualification level within the European Qualifications Framework.

2.1.2 Consequences in terms of access to devices

The following access routes are only open if the professional qualification is registered in the RNCP and is active:

- Apprenticeship contract (excluding CQP [vocational qualification certificate]): Article L. 6211-1: "Apprenticeship contributes to the nation's educational objectives. It contributes to professional integration. Its purpose is to provide workers who have satisfied the compulsory education obligation with general, theoretical and practical training with a view to obtaining a professional qualification leading to a diploma or a vocational qualification registered in the national directory of professional qualifications."
- VAE [Validation of Prior Experience]: Article L. 6411-1 of the French Labour Code: "The purpose of the validation of prior experience specified in Article L. 6111-1 is to provide a professional qualification registered in the national directory of professional qualifications mentioned in Article L. 6113-1".

So although an organisation can have all or part of the prior experience taken into account in the validation of its qualifications in the specific directory, this cannot be considered equivalent to a VAE system.

Registration in the RNCP grants entitlement to use the access route in the context of professionalisation contracts. Independently of that registration, the professionalisation contract may aim to award a CQP not registered in the RNCP or a certificate recognised under a collective agreement.

Although in principle the VAE leads to a professional qualification and the very purpose of apprenticeship and professionalisation contracts is to acquire them, the legal rules governing the personal training account and the professional transition project aim to provide training leading to the acquisition of a professional qualification, which implies analysing the link between the training and the qualification (or the skill block sought).

To be considered eligible for the personal training account or PTPs [professional transition projects], training leading to a qualification registered in the RNCP must therefore meet the following cumulative conditions:

- Prepare learners for a professional qualification registered in the RNCP and active or one of its skills blocks;
- Be provided by a training body duly accredited by a qualification body to prepare learners for the professional qualification and/or its skill blocks;
- Have as its sole purpose the acquisition of this professional qualification or one of its skills blocks;
- Present educational content meeting the obligation of resources for preparing candidates for qualification. So unless prerequisites adapted to personalisation of candidates' training paths are defined, the associated educational content must allow acquisition of all the professional skills identified in the qualification's standard or in its skills block.



11 rue Scribe - 75009 Paris
01 81 69 01 40

FOLLOW US :   

www.francecompetences.fr