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NOTE

from:	Presidency/General Secretariat of the Council
to	Permanent Representatives Committee -Part I
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Subject:	Proposal for a Directive of The European Parliament and of The Council amending Directive 2005/36/EC on the recognition of professional qualifications and Regulation on administrative cooperation through the Internal Market Information System - Analysis of the final compromise text with a view to agreement

I. INTRODUCTION

1. On 19 December 2011, the Commission submitted to the Council and the European Parliament a proposal for a Directive of the European Parliament and of the Council amending Directive 2005/36/EC on the recognition of professional qualifications and Regulation on administrative cooperation through the Internal Market Information System. This proposal is part of the Single Market Act I.

The Commission has not proposed a new Directive but a targeted modernisation of the existing provisions driven notably by the objectives of reducing the complexity of procedures through a European Professional Card which would further exploit the benefits of the already successful Internal Market Information System (IMI) and modernising system of automatic recognition, notably for nurses, midwives, pharmacists and architects.

2. The Working Party on Establishment and Services examined the proposal on 19 occasions under Danish, Cyprus and Irish Presidencies since January 2012. The meetings of the Working Party have been supplemented by 13 discussions in the Permanent Representatives Committee, 10 of which under Irish Presidency.
3. The European Parliament's Internal Market and Consumer Protection (IMCO) Committee voted its report on 24 January 2013.
4. At its meeting on 1 March 2013, the Committee of Permanent Representatives gave a mandate to the Presidency to start negotiations with a view to a rapid agreement with the European Parliament on this important dossier.

II. STATE OF PLAY

5. The Presidency regularly informed the Committee, as well as the Working Party, of the development of negotiations, in particular of the outcome of the four informal trilogues, with the European Parliament.
6. An agreement ad referendum between the co-legislators was reached at the fourth and final informal trilogue, which took place on 12 June in Strasbourg. The Working Party on Establishment and Services has been consulted through an informal silence procedure on the outcome of the negotiations. No delegation raised any major concern on the outcome of the negotiations with the European Parliament.

7. The Presidency considers that the text represents a well-balanced compromise that takes into account the major concerns and priorities of both Institutions. The Commission indicated its intention to issue a statement on the consultation of stakeholders at the time of the adoption of the Directive, to be published in the Official Journal.

III. CONCLUSION

The Committee is invited to give its approval to the compromise text set out in the Annex to this Note and to mandate the Presidency to inform the European Parliament that, should Parliament adopt the text of the proposal in the exact form as set out in the Annex at a forthcoming plenary meeting, the Council would adopt the proposed Directive as amended.

PE-CONS No/YY – 2011/0435(COD)

DIRECTIVE 2013/.../EU OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL

of

**amending Directive 2005/36/EC on the recognition of professional qualifications and
Regulation (EU) No 1024/2012 on administrative cooperation through the Internal Market
Information System ('the IMI Regulation')**

(Text with EEA relevance)

THE EUROPEAN PARLIAMENT AND THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the Treaty on the Functioning of the European Union, and in particular Articles 46, 53(1) *and* 62 thereof,

Having regard to the proposal from the European Commission,

After transmission of the draft legislative act to the national parliaments,

Having regard to the opinion of the European Economic and Social Committee¹,

■

Acting in accordance with the ordinary legislative procedure²,

¹ OJ C 191, 29.6.2012, p. 103.

² *Position of the European Parliament of (not yet published in the Official Journal) and decision of the Council of*

Whereas:

- (1) Directive 2005/36/EC of the European Parliament and of the Council of 7 September 2005 on the recognition of professional qualifications¹ consolidated a system of mutual recognition which was initially based on 15 Directives. It provides for automatic recognition for a limited number of professions based on harmonised minimum training requirements (sectoral professions), a general system for the recognition of evidence of training and automatic recognition of professional experience. Directive 2005/36/EC also established a new system of free provision of services. It should be recalled that third country family members of Union citizens benefit from equal treatment in accordance with Directive 2004/38/EC of the European Parliament and of the Council of 29 April 2004 on the right of citizens of the Union and their family members to move and reside freely within the territory of the Member States². Third country nationals may also benefit from equal treatment with regard to recognition of diplomas, certificates and other professional qualifications, in accordance with the relevant national procedures, according to specific Union legislation such as acts on long term residence, refugees, "blue card holders" and scientific researchers.
- (2) In its Communication 'Single Market Act, Twelve levers to boost growth and strengthen confidence, "Working together to create new growth", the Commission identified the need to modernise the Union legislation in this area. On 23 October 2011, the European Council in its conclusions supported such a modernisation and called for an agreement by the end of 2012. In its resolution of 15 November 2011, the European Parliament also invited the Commission to come forward with a proposal. The EU Citizenship report 2010 on dismantling the obstacles to EU citizens' rights underlines the need to lighten the administrative burden linked to the recognition of professional qualifications. ***In addition, this Directive contributes to ensuring a high level of health and consumer protection.***

¹ OJ L 255, 30.9.2005, p. 22.

² OJ L 158, 30.4.2004, p. 77.

- (2a) *Notaries who are appointed by an official act of government should be excluded from the scope of this Directive in view of the specific and differing regimes applicable to them in individual Member States to access and pursue the profession.*
- (3) *For the purposes of strengthening the internal market and promoting the free movement of professionals, while ensuring a more efficient and transparent recognition of qualifications, a European Professional Card **would be of added value**. In particular that Card **would be useful** to facilitate temporary mobility and recognition under the automatic recognition system, as well as to promote a simplified recognition process under the general system. **The purpose of the European Professional Card is to simplify the recognition process and to introduce cost and operational efficiencies that will benefit professionals and competent authorities. The introduction of a European Professional Card should take into account the views of the profession concerned and should be preceded by an assessment of its suitability for the profession concerned and its impact on Member States. That assessment should be conducted together with Member States, where necessary.** The *European Professional Card* should be issued upon request from a professional and after submission of necessary documents and completion of related verification procedures by the competent authorities. **The European Professional Card, issued for the purpose of establishment, should constitute a recognition decision and is to be treated as any other recognition decision under this Directive. It should complement rather than replace any registration requirements associated with access to a particular profession. There is no need for a European Professional Card for the legal professions for which professional cards are already implemented under the system provided for in Council Directive 77/249/EEC of 22 March 1977 to facilitate the effective exercise by lawyers of freedom to provide services¹ and Directive 98/5/EC of the European Parliament and of the Council of 16 February 1998 to facilitate practice of the profession of lawyer on a permanent basis in a Member State other than that in which the qualification was obtained².***

¹ *OJ L 78, 26.3.1977, p. 17.*

² *OJ L 77, 14.3.1998, p. 36.*

- (3a) The functioning of the *European Professional Card* should be supported by the Internal Market Information System (IMI) established by Regulation (EU) No **1024/2012** of the European Parliament and of the Council¹. *That system* should ■ enhance synergies and trust among competent authorities, while at the same time eliminating duplication of administrative work *and recognition procedures* for the *competent* authorities, and creating more transparency and certainty for professionals.
- (3b) The process for the application and issuing of the *European Professional Card* should be clearly structured and incorporate safeguards and the corresponding rights of appeal for the applicant. *Implementing acts should specify translation requirements and the methods of payment of any fees to be provided by an applicant so that the workflow in IMI is not disrupted or impaired and the processing of the application is not delayed. Setting the level of fees is a matter for Member States. Member States should however notify the Commission about the level of fees set.* The *European Professional Card* and the related workflow within IMI should ensure the integrity, authenticity and confidentiality of the data stored and avoid unlawful and unauthorised access to information contained therein.
- (4) Directive 2005/36/EC only applies to professionals who want to pursue the same profession in another Member State. There are cases where the activities concerned are part of a profession with a larger scope of activities in the host Member State. If the differences between the fields of activity are so large that in reality a full programme of education and training is required from the professional to compensate for shortcomings and if the professional so requests, a host Member State should under these particular circumstances grant partial access. However, in case of overriding reasons of general interest, *as defined by the Court of Justice of the European Union in its case-law relating to Articles 49 and 56 TFEU and which may continue to evolve*, a Member State should be able to refuse partial access. *This may in particular be the case for health professions if they have public health or patient safety implications. Granting of partial access should be without prejudice to the right of social partners to organise themselves.*

¹ OJ L 316, 14.11.2012, p. 1.

- (5) Temporary and occasional provision of services in Member States should be subject to safeguards, notably a requirement of a minimum ***one year's*** prior professional experience, in the interest of the protection of local consumers in the host Member State if the profession is not regulated in the home Member State. ***In the case of seasonal activities, Member States should have the possibility to carry out controls in order to verify the temporary and occasional nature of the services provided on their territory. To that end, the host Member State might require, once a year, information about the services actually provided on its territory, in cases where such information has not been already communicated on a voluntary basis by the provider.***
- (6) Directive 2005/36/EC allows Member States to check the professional qualifications of the service provider prior to the first provision of service in the case of regulated professions having public health and safety implications. This has led to legal uncertainty leaving it to the discretion of a competent authority to decide on the need for such prior check. In order to ensure legal certainty professionals should know from the outset whether a prior check of qualifications is necessary and when a decision can be expected. ***In any event, the conditions for such prior checks of professional qualifications under the free provision of services should not be more stringent than under the establishment rules. In the case of regulated professions having public health and safety implications, this Directive should be without prejudice to the possibility for Member States to impose an insurance cover obligation related to the professional acts according to the rules applicable under Directive 2011/24/EU of the European Parliament and of the Council of 9 March 2011 on the application of patients' rights in cross-border healthcare¹ and Directive 2006/123/EC of the European Parliament and of the Council of 12 December 2006 on services in the internal market².***

¹ OJ L 88, 4.4.2011, p. 45.

² OJ L 376, 27.12.2006, p. 36.

- (7) *Vocational education and training systems have proved to be a useful tool for ensuring youth employment and enabling a smooth transition from training into working life. The review of Directive 2005/36/EC should therefore take their specificities fully into account.*
- (8) In order to apply the mechanism of recognition under the general system, it is necessary to group the various national education and training schemes into different levels. Those levels, which are established only for the purpose of the operation of the general system, should have neither effect upon the national education and training structures nor upon the competence of Member States in this field, including a national policy for implementing the European Qualifications Framework. This can be a tool to promote the transparency and comparability of qualifications and can be a useful additional source of information for the competent authorities examining the recognition of qualifications issued in other Member States. *Following the Bologna process, higher education institutions have adapted the structure of their programmes to a two-cycle Bachelor's and Master's degree system. In order to ensure that the five levels outlined under this Directive are consistent with this new degree structure, Bachelor's degree should be classified under level (d) and Master's degree under level (e).* The *five* levels established for the operation of the general system should in principle no longer be used as a criterion for excluding Union citizens from the scope of Directive 2005/36/EC when this would be contrary to the principle of lifelong learning.

- (9) Applications for recognition from professionals coming from non-regulating Member States and having one year of professional experience have to be treated in the same way as those of professionals coming from a regulating Member State. Their qualifications have to be compared to the qualifications requested in the host Member State on the basis of the qualification levels in Directive 2005/36/EC. In case of substantial differences the competent authority should be able to impose compensation measures. ***Any mechanisms for assessing theoretical knowledge and practical skills which might be required for access to the profession as compensation measures, should guarantee and comply with the principles of transparency and impartiality.***
- (10) In the absence of harmonisation of the minimum training conditions for access to the professions governed by the general system, it should remain possible for the host Member State to impose a compensation measure. This measure should be proportionate and, in particular, take account of the knowledge, skills and competences gained by the applicant in the course of his professional experience or through lifelong learning, ***formally validated to that end by a relevant body.*** The decision imposing a ***compensation*** measure should be ***duly justified*** in order to enable the applicant to better understand his situation and to seek legal scrutiny before national courts under Directive 2005/36/EC.
- (11) The review of Directive 2005/36/EC has shown a need to update and clarify with more flexibility the lists of industrial, commercial and craft activities in Annex IV, while maintaining for those activities a system of automatic recognition based on professional experience. Annex IV is currently based on the International Standard Industrial Classification of all Economic Activities (ISIC) dated from 1958 and no longer reflects the current structure of economic activities. The ISIC classification has been reviewed several times since 1958. Therefore, the Commission should be able to adapt Annex IV in order to maintain intact the system of automatic recognition.

- (11a) *Continuous professional development contributes to the safe and effective practice of professionals who benefit from the automatic recognition of their professional qualification. It is important to encourage the further strengthening of continuous professional development for those professions. Member States should in particular encourage continuous professional development for doctors of medicine, medical specialists, general practitioners, nurses responsible for general care, dental practitioners, specialised dental practitioners, veterinary surgeons, midwives, pharmacists and architects. The measures taken by Member States to promote continuous professional development for those professions should be communicated to the Commission, and Member States should exchange their best practice in that area. Continuous professional development should cover technical, scientific, regulatory and ethical developments and motivate professionals to participate in lifelong learning relevant to their profession.*
- (12) The system of automatic recognition on the basis of harmonised minimum training requirements depends on the timely notification of new or changed evidence of formal qualifications by the Member States and their publication by the Commission. Otherwise, holders of such qualifications have no guarantees that they can benefit from automatic recognition. In order to increase transparency and facilitate the examination of newly notified titles, Member States should ***provide information about the duration and content of the training programmes, which need to be in compliance with the minimum training requirements defined in this Directive.***
- (13) European Credit Transfer and Accumulation System (ECTS) credits are already used in a large majority of higher education institutions in the Union and their use is becoming more common also in courses leading to the qualifications required for the exercise of a regulated profession. Therefore, it is necessary to introduce the possibility to express the duration of a programme also in ECTS. This should not affect the other requirements for automatic recognition. One ECTS credit corresponds to 25-30 hours of study where 60 credits are normally required for the completion of one academic year.

- (13a) *In the interest of ensuring a high level of public health and patient safety within the Union and modernising Directive 2005/36/EC, it is necessary to modify the criteria used to define the basic medical training so that conditions related to the minimum number of years and hours become cumulative. The objective of this modification is not to lower the training requirements for basic medical education.*
- (14) In the interest of enhancing the mobility of medical specialists who have already obtained a medical specialist qualification and afterwards follow another specialist training, Member States should be allowed to grant exemptions from some part of the training if such elements of the *later* training have already been completed during the former medical specialist training programme in *a* Member State. *Member States should be allowed to grant, within certain boundaries, such exemptions for medical specialities which are covered by the automatic recognition regime.*
- (15) The nursing ■ profession *has* significantly evolved in the last three decades: community-based healthcare, the use of more complex therapies and constantly developing technology presuppose a capacity for higher responsibilities for nurses. *In particular nurse training, the organisation of which still differs according to national traditions, should provide a more robust and more output oriented assurance that the professional has acquired certain knowledge and skills during the training, and is able to apply at least certain competences in order to pursue the activities relevant to the profession.*
- (15a) *In order to prepare midwives to meet complex healthcare needs related to their activities, midwifery trainees should have a solid general education background before they start the training to become a midwife. Therefore, admission to midwifery training should be increased to twelve years of general education or successful examination of an equivalent level, except in the case of professionals who are already qualified as a nurse responsible for general care. Training of midwives should provide better assurance that the professional has acquired certain knowledge and skills necessary to pursue the minimum activities of a midwife.*

- (16) To simplify the system for automatic recognition of medical and dental specialities, such specialities should be covered by Directive 2005/36/EC if they are common to at least *two-fifths* of the Member States.
- (16a) *A significant number of Member States decided to allow access to all activities in the field of pharmacy and the pursuit of these activities based on the recognition of qualifications of pharmacists acquired in another Member State since the entry into force of Directive 2005/36/EC. Such recognition of a qualification acquired abroad does however not prevent a Member State from maintaining non-discriminatory rules governing any geographical distribution of pharmacies on their territory because Directive 2005/36/EC does not coordinate such rules. However, any derogation which is still necessary for a Member State should no longer exclude pharmacists who are already recognised by the Member State using such derogation and who are already lawfully and effectively practising as a pharmacist for a certain period on the territory of that Member State.*
- (17) The functioning of the system of automatic recognition depends on confidence in the training conditions which underpin the qualifications of the professionals. Therefore, it is important that the minimum training conditions of architects reflect new developments in architectural education, notably with respect to the recognised need to supplement academic training with professional experience under the supervision of qualified architects. At the same time, the minimum training conditions should be flexible enough to avoid unduly restricting the ability of Member States to organise their education systems.

- (18) Directive 2005/36/EC should promote a more automatic character of recognition of qualifications for those professions which do not currently benefit from it. *Those professions could include specialties, not currently subject to automatic recognition provisions in the Directive, relating to professions encompassed by Chapter III of Title III and which have clearly defined specific activities reserved to them. Common Training frameworks on such specialties, in particular medical specialties, should offer a high level of protection for patients' safety and public health.* This should take account of the competence of Member States to decide the qualifications required for the pursuit of professions in their territory as well as the contents and the organisation of their systems of education and training. *Common training principles* should take the form of common *training frameworks based on a common set of knowledge, skills and competences* or *standardised training tests*. Qualifications obtained under common training frameworks should automatically be recognised by Member States. *Professional organisations which are representative at Union level and, under certain circumstances, national professional organisations or competent authorities should be able to submit to the Commission suggestions for common training principles, in order to allow for an assessment with the national coordinators of their possible consequences for the national education and training systems, as well as for the national rules governing the access to regulated professions.*

- (19) Directive 2005/36/EC already provides for **■** obligations for professionals to have the necessary language skills. The review of *of the application of* that obligation has shown a need to clarify the role of *the* competent authorities and employers notably in the interest of *better protecting* patients' safety. *Competent authorities should be able to apply language controls after the recognition of the qualifications. It is important for professions with patient safety implications in particular that a language control under this Directive be exercised before the professional accesses to such a profession.*
- Language controls should however be reasonable and necessary for the jobs in question and should not *aim at* excluding professionals from the labour market in the host Member State. *In order to ensure respect of the principle of proportionality, and in the interests of enhancing the mobility of professionals in the Union, the controls applied directly by or under the supervision of a competent authority should be limited to one official or administrative language of the host Member State, provided that the administrative language concerned is also an official language of the Union. This should not preclude host Member States from encouraging professionals to acquire another language at a later stage if necessary for the professional activity to be pursued. Employers should also continue to play an important role in ascertaining the knowledge of languages necessary to carry out professional activities in their workplaces.*

- (20) *National rules organising the access to regulated professions should not constitute an obstacle to the mobility of young graduates. Therefore, when a graduate completes a professional traineeship in another Member State, the traineeship in question should be recognised when the graduate applies for accessing a regulated profession in the home Member State. The recognition of a traineeship carried out in another Member State should be based on a clear written description of learning objectives and assigned tasks, to be determined by the traineeship's supervisor in the host Member State. Traineeships carried out in third countries should be taken into account by Member States when considering a request to access a regulated profession.*
- (21) Directive 2005/36/EC provides for a system of national contact points. Due to the entry into force of Directive 2006/123/EC and the establishment of points of single contact under that Directive, there is a risk of overlap. Therefore, the national contact points established by Directive 2005/36/EC should become assistance centres which should focus their activities on providing advice **and assistance** to citizens, including face to face advice, in order to ensure that daily application of internal market rules in **complex** individual cases of citizens is followed up at national level. *Where necessary, the assistance centres would liaise with competent authorities and assistance centres of other Member States. On the European Professional Card, Member States may decide whether the assistance centres either act as a competent authority in the home Member State or support the relevant competent authority in the handing of applications for a European Professional Card and processing of the IMI files. In the context of free provision of services, if the profession is not regulated in the home Member State, the assistance centres may also participate in the exchange of information foreseen for the purpose of administrative cooperation.*

- (22) ■ The Directive already provides for detailed obligations for Member States to exchange information. *These* obligations should be reinforced. *In future*, Member States should not only react to *requests* for information but *their competent authorities should also be empowered within the boundaries of their competences to proactively alert the competent authorities of other Member States about professionals who are no longer entitled to practice their profession*. A specific alert mechanism is ■ necessary for health professionals ■ under Directive 2005/36/EC. This should also apply to veterinary surgeons *as well as to professionals exercising activities related to the education of minors, including childcare workers. The obligation to send an alert should only apply to the Member States where such professions are regulated*. All Member States should be alerted if a professional due to a disciplinary action or criminal conviction is no longer entitled to *practice, even temporarily, the professional activities in a Member State. The alert should contain any available details of the definite or indefinite period to which the restriction or prohibition applies*. This alert should be activated through the IMI regardless of whether the professional has exercised any of the rights under Directive 2005/36/EC or of whether he has applied for recognition of his professional qualifications through the issuance of a European Professional Card or through any other method provided for by that Directive. *The alert procedure should comply with the Union law on the protection of personal data and fundamental rights. The alert procedure should not be designed to replace or adapt any arrangements between Member States on cooperation in the field of justice and home affairs and competent authorities under this Directive should also not be required to contribute to such cooperation via alerts foreseen under this Directive*.

- (23) One of the major difficulties a citizen who is interested to work in another Member State is facing, is complexity and uncertainty of administrative procedures to comply with. Directive 2006/123/EC already obliges Member States to provide easy access to information and procedure completion through the points of single contact. Citizens seeking recognition of their qualifications under Directive 2005/36/EC can already use the points of single contact if they are covered by Directive 2006/123/EC. However, job seekers and health professionals are not covered by Directive 2006/123/EC and available information remains scarce. There is therefore a need to specify that information, from a user perspective, and to ensure that such information is easily available. It is also important that Member States not only take responsibility at national level but also cooperate with each other and the Commission to ensure that professionals throughout the Union have an easy access to a user-friendly and multilingual information and to procedure completion through the points of single contact. Links should be made available through other websites, such as the Your Europe portal.
- (24) In order to supplement or amend certain non-essential elements of Directive 2005/36/EC, the power to adopt acts in accordance with Article 290 of the Treaty on the Functioning of the European Union should be delegated to the Commission in respect of updating of Annex I, **the *updating and clarifying the activities listed in Annex IV, the updating of knowledge and skills referred to in Article 21(6)***, the adaptations of points 5.1.1 to 5.1.4, 5.2.2, 5.3.2, 5.3.3, 5.4.2, 5.5.2, 5.6.2 and 5.7.1 of Annex V, **adapting the minimum periods of training of medical and dental specialists**, the inclusion in point 5.1.3 of Annex V of new medical specialities, the amendments to the list set out in points 5.2.1, 5.3.1, 5.4.1, 5.5.1 and 5.6.1 of Annex V, **and the inclusion in point 5.3.3 of Annex V of new dental specialities, specifying the conditions of application of common training frameworks, and specifying the conditions of application of common training tests**. It is of particular importance that the Commission carries out appropriate consultations during its preparatory work, including at expert level. The Commission, when preparing and drawing-up delegated acts, should ensure a simultaneous, timely and appropriate transmission of relevant documents to the European Parliament and to the Council.

- (25) In order to ensure uniform conditions for the implementation of Directive 2005/36/EC, implementing powers should be conferred on the Commission. Those powers should be exercised in accordance with Regulation (EU) No 182/2011 of the European Parliament and of the Council of 16 February 2011 laying down the rules and general principles concerning mechanisms for control by the Member States of the Commission's exercise of implementing powers¹.
- (26) The **examination** procedure should be used for the adoption of implementing acts **concerning the introduction** of European Professional Cards for **particular** professions, the format of the European Professional Card, **the processing of written applications**, the translations **to be provided by the applicant** necessary to support **any** application for issuing a European Professional Card, details **of documents required under Directive 2005/36/EC to present a complete application, how payments for that card are to be made and processed, when and for which documents competent authorities may request certified copies for the profession concerned**, the technical specifications and the measures necessary to ensure integrity, confidentiality and accuracy of information contained in the European Professional Card and in the IMI file, the conditions and the procedures for **issuing** a European Professional Card, **rules concerning** the conditions of access to the IMI file, the technical means and the procedures for the verification of the authenticity and validity of a European Professional Card, ■ and the **application** of the alert mechanism, due to the technical nature of those implementing acts.

¹ OJ L 55, 28.2.2011, p. 13.

- (26a) *The Commission should, by means of implementing acts and, given their special nature, acting without the application of Regulation (EU) No 182/2011, decide to reject the requested update of Annex I, where the conditions set out in Directive 2005/36/EC are not fulfilled, ask the relevant Member State to refrain from applying the derogation as regards the choice between the adaptation period and aptitude test, where that derogation is inappropriate or is not in accordance with Union law, reject requested amendments of points 5.1.1 to 5.1.4, 5.2.2, 5.3.2, 5.3.3, 5.4.2, 5.5.2, 5.6.2 or 5.7.1 of Annex V, where the conditions set out in Directive 2005/36/EC are not fulfilled, list the national qualifications and national professional titles benefiting from automatic recognition under common training framework, list the Member States in which the common training tests shall be organised, the frequency during a calendar year and other arrangements necessary for organising common training tests and permit the Member State concerned to derogate from the relevant provisions of Directive 2005/36/EC for a limited period of time.*
- (27) Following the positive experience with the mutual evaluation under Directive 2006/123/EC, a similar evaluation system should be included in Directive 2005/36/EC. Member States should notify which professions they regulate, for which reasons, and discuss amongst themselves their findings. Such system would contribute to more transparency in the professional services market.
- (27a) *The Commission should in due course assess the recognition regime applicable to the evidence of formal qualifications as nurse responsible for general care issued by Romania. Such an assessment should be based on the results of a special upgrading programme, which Romania should set up according to its own legislation or regulation and for which it should liaise with other Member States and the Commission. The purpose of such special upgrading programme should be to enable participants in that programme to upgrade their qualification to successfully satisfy all the minimum training requirements set out in this Directive.*

- (28) Since the objectives of *this Directive*, namely the rationalisation, simplification and improvement of the rules for the recognition of professional qualifications, cannot be sufficiently achieved by the Member States as it would inevitably result in divergent requirements and procedural regimes increasing regulatory complexity and causing unwarranted obstacles to mobility of professionals and can therefore, by reason of coherence, transparency and compatibility be better achieved at Union level, the Union may adopt measures, in accordance with the principle of subsidiarity as set out in Article 5 of the Treaty on European Union. In accordance with the principle of proportionality, as set out in that Article, this Directive does not go beyond what is necessary in order to achieve those objectives.
- (29) In accordance with the Joint Political Declaration of Member States and the Commission *of 28 September 2011* on explanatory documents¹, Member States have undertaken to accompany, in justified cases, the notification of their transposition measures with one or more documents explaining the relationship between the components of a directive and the corresponding parts of national transposition instruments. With regard to this Directive, the legislator considers the transmission of such documents to be justified.
- (29a) *The European Data Protection Supervisor was consulted in accordance with Article 28(2) of Regulation (EC) No 45/2001 of the European Parliament and of the Council of 18 December 2000 on the protection of individuals with regard to the processing of personal data by the Community institutions and bodies and on the free movement of such data² and delivered an opinion on 8 March 2012³;*
- (30) Directive 2005/36/EC *and Regulation (EU) 1024/2012* should therefore be amended accordingly,

HAVE ADOPTED THIS DIRECTIVE:

¹ OJ C 369, 17.12.2011, p. 14.

² OJ L 8, 12.1.2001, p. 1.

³ *OJ C 137, 12.5.2012, p. 1.*

Article 1
Amendments to Directive 2005/36/EC

Directive 2005/36/EC is amended as follows:

- (1) In Article 1, the following *paragraph* is added:

"This Directive also establishes rules concerning partial access to a regulated profession and **■** recognition of *professional* traineeships pursued in another Member State."

- (2) **■** Article 2 *is amended as follows*:

(a) *in paragraph 1, the following subparagraph is added*:

"This Directive shall also apply to all nationals of a Member State who have pursued a professional traineeship outside the home Member State.";

(b) *the following paragraph is added*:

"4. This Directive shall not apply to notaries who are appointed by an official act of government."

(3) Article 3 is amended as follows:

(a) paragraph 1 is amended as follows:

(i) *points (f) and (h) are* replaced by the following:

"(f) 'professional experience': the actual and lawful full-time or equivalent part-time pursuit of the profession concerned in a Member State;

(h) *'aptitude test': a test of the professional knowledge, skills and competences of the applicant, made or recognised by the competent authorities of the host Member State with the aim of assessing the ability of the applicant to pursue a regulated profession in that Member State. In order to permit this test to be carried out, the competent authorities shall draw up a list of subjects which, on the basis of a comparison of the education and training required in the Member State and that received by the applicant, are not covered by the diploma or other evidence of formal qualifications possessed by the applicant.*

The aptitude test must take account of the fact that the applicant is a qualified professional in the home Member State or the Member State from which the applicant comes. It shall cover subjects to be selected from those on the list, knowledge of which is essential in order to be able to pursue the profession in the host Member State. The test may also include knowledge of the professional rules applicable to the activities in question in the host Member State.

The detailed application of the aptitude test and the status, in the host Member State, of the applicant who wishes to prepare himself for the aptitude test in that State shall be determined by the competent authorities in that Member State;"

(ii) the following points are added:

- "(j) *'professional traineeship': without prejudice to Article 46(4), a period of professional practice carried out under supervision provided it constitutes a condition for access to a regulated profession, and which can take place either during or after completion of an education leading to a diploma;*
- (k) 'European Professional Card': an electronic certificate ■ proving *either* the recognition of ■ qualifications for establishment in a host Member State or that *the professional* has met all the necessary conditions to provide services in a host Member State on a temporary and occasional basis;
- (l) 'lifelong learning': all general education, vocational education and training, non-formal education and informal learning undertaken throughout life, resulting in an improvement in knowledge, skills and competences, *which may include professional ethics;*
- (la) 'overriding reasons of general interest': reasons recognised as such in the case-law of the Court of Justice;*
- (lb) 'European Credit Transfer and Accumulation System or ECTS credits': the credit system for higher education used in the European Higher Education Area."*

- (b) in paragraph 2, the third subparagraph is replaced by the following:

"On each occasion that a Member State grants recognition to an association or organisation referred to in the first subparagraph, it shall inform the Commission.

The Commission shall examine whether that association or organisation fulfils the conditions provided for in the second subparagraph. In order to take due account of regulatory developments in Member States and where the conditions provided for in the second subparagraph are satisfied, the Commission shall be empowered to adopt delegated acts in accordance with Article 57c in order to update ■ Annex I.

Where ***the conditions provided for in the second subparagraph are not satisfied***, the Commission ■ shall adopt an implementing ***act in order to reject the requested update of Annex I.***"

- (4) ■ Article 4 ***is amended as follows:***

- (a) ***paragraph 1*** is replaced by the following:

"1. The recognition of professional qualifications by the host Member State shall allow ***beneficiaries*** to gain access in that Member State to the same profession ■ as that for which they are qualified in the home Member State and to pursue it in the host Member State under the same conditions as its nationals.";

- (b) ***the following paragraph is added:***

"3. ***By way of derogation from paragraph 1, partial access to a profession in the host Member State shall be granted under the conditions laid down in Article 4f.***"

(5) The following articles ■ are inserted:

"Article 4a

European Professional Card

1. Member States shall **issue holders** of a professional qualification with a European Professional Card upon **their** request and on condition that the Commission has adopted the relevant implementing acts provided for in paragraph 6.

1a. When a European Professional Card has been introduced for a particular profession by means of relevant implementing acts adopted pursuant to paragraph 6, the holder of a professional qualification concerned may choose to apply for such a Card or to make use of the procedures provided for in Titles II and III.
2. Member States shall ensure that the holder of a European Professional Card benefits from all the rights conferred by Articles 4b to 4e. ■
3. Where the holder of a **professional** qualification intends to provide services under Title II other than those covered by Article 7(4), **the competent authority of the home Member State shall issue** the European Professional Card ■ in accordance with Articles 4b and 4c. **The European Professional Card shall, where applicable, constitute the declaration under Article 7.**

4. Where the holder of a **professional** qualification intends to establish himself in another Member State under Chapters I to IIIa of Title III or to provide services under Article 7(4), **the competent authority of the home Member State shall complete all preparatory steps with regard to the individual file of the applicant created within the Internal Market Information System (IMI) (IMI file) as provided for in Articles 4b and 4d.** The competent authority of the host Member State **shall issue the European Professional Card** in accordance with Articles 4b and 4d.

For the purpose of establishment, the issuance of a European Professional Card shall not provide an automatic right to practise a particular profession if there are registration requirements or other control procedures already in place in the host Member State before a European Professional Card is introduced for that profession.

5. Member States shall designate competent authorities for **dealing with IMI files and issuing** European Professional Cards. **Those** authorities shall ensure an impartial, objective and timely processing of applications for European Professional Cards. The assistance centres referred to in Article 57b may also act in the capacity of a competent authority **the competent authority** . Member States shall ensure that competent authorities **and assistance centres** inform citizens, including prospective applicants, about the **functioning and the added value** of a European Professional Card **for the professions for which** it is available.

6. The Commission shall, *by means of* implementing acts, *adopt measures necessary to ensure the uniform application of the provisions on the European Professional Cards for those professions that meet the conditions laid down in the second subparagraph, including measures concerning* the format of the European Professional Card, *the processing of written applications*, the translations *to be provided by the applicant* to support any application for issuing a European Professional Card, details *of the documents required pursuant to Article 7(2) or Annex VII to present a complete application and how payments for a European Professional Card are to be made and processed*, taking into account *the* particularities of *the* profession concerned. *The Commission shall also specify by means of implementing acts how, when and for which documents competent authorities may request certified copies in accordance with the second subparagraph of Article 4b(3), Articles 4d(2) and 4d(3) for the profession concerned.*

The introduction of a European Professional Card for a particular profession by means of adopting relevant implementing acts referred to in subparagraph 1 shall be subject to all the following conditions:

- (a) there is significant mobility or potential for significant mobility in the profession concerned;*
- (b) there is sufficient interest expressed by the relevant stakeholders;*
- (c) the profession or the education and training geared to the pursuit of the profession is regulated in a significant number of Member States.*

Those implementing acts shall be adopted in accordance with the *examination* procedure referred to in Article 58(2).

7. Any fees which applicants may incur in relation to administrative procedures to issue a European Professional Card shall be reasonable, proportionate and commensurate with the costs incurred by the home and host Member States and shall not act as a disincentive to apply for a European Professional Card.



Article 4b

Application for a European Professional Card and creation of an IMI file

1. The *home Member State shall enable a* holder of a professional qualification *to* apply for a European Professional Card  *through an on-line tool, provided by the Commission, that automatically creates an IMI file for the particular applicant. Where a home Member State allows also for written applications, it shall put in place all necessary arrangements for the creation of the IMI file, any information to be sent to the applicant and the issuance of the European Professional Card.*
2. Applications shall be supported by the *documents* required *in the implementing act to be adopted pursuant to Article 4a(6).*
3. *Within one week of the receipt of the application* the competent authority of the home Member State shall acknowledge receipt of the application and inform the applicant of any missing document.

Where applicable, the competent authority of the home Member State shall issue any supporting certificate required under this Directive. The competent authority of the home Member State shall verify whether the applicant is legally established in the home Member State and whether all the necessary documents which have been issued in the home Member State are valid and authentic. In the event of duly justified doubts, the competent authority of the home Member State shall consult a relevant body and may request from the applicant certified copies of documents. In case of subsequent applications by the same applicant, the competent authorities of the home **and** the host Member State may not request the re-submission of documents which are already contained in the IMI file and which are still valid.

4. The Commission may, *by means of implementing acts*, adopt  the technical specifications, the measures necessary to ensure integrity, confidentiality and accuracy of information contained in the European Professional Card and in the IMI file, the conditions and the procedures for *issuing* a European Professional Card to its holder, including the possibility of downloading it or submitting updates for the *IMI* file. Those implementing acts shall be adopted in accordance with the *examination* procedure referred to in Article 58(2).

Article 4c

European Professional Card for the temporary *and occasional* provision of services other than those covered by Article 7(4)

1. The competent authority of the home Member State shall verify the application *and the supporting documents in the IMI file and issue the* European Professional Card *for the temporary and occasional provision of services other than those covered by Article 7(4) within three weeks. That time period shall start upon receipt of the missing documents or if no further documents were requested, upon the expiry of the one-week period referred to in subparagraph 1 of Article 4b. It shall then transmit the European Professional Card immediately to the competent authority of each host Member State concerned and* shall inform the applicant *accordingly*. The host Member State may not require *any* further declaration under Article 7 for the following *18 months*.
2. The decision of the *competent authority of the* home Member State, or the absence of a decision within the period of *three* weeks referred to in paragraph 1, shall be subject to appeal under national law.
3. If a holder of a European Professional Card wishes to provide services in Member States *other than those initially mentioned in the application referred to in paragraph 1 that holder may apply for such extension. If the holder* wishes to continue providing services beyond the period ■ referred to in paragraph 1, *that holder shall inform the competent authority accordingly. In either case, that holder shall also provide any information on material changes in the situation substantiated in the IMI file that may be required by the competent authority in the home Member State in accordance with the implementing acts to be adopted pursuant to Article 4a(6). The competent authority of the home Member State shall transmit the updated European Professional Card to the host Member States concerned.*

4. The European Professional Card shall be valid *in the entire territory of all the host Member States concerned* for as long as its holder maintains the right to practice ■ on the basis of the documents and information contained in the IMI file.

Article 4d

European Professional Card for establishment and for the temporary *and occasional* provision of services under Article 7 (4)

1. ■ The competent authority of the home Member State shall, within *one month, for the purpose of the issuance of a European Professional Card for establishment or for the temporary and occasional provision of services under Article 7(4), verify* the authenticity and validity of the ■ supporting documents *in the IMI file. That time period shall start upon receipt of the missing documents or if no further documents were requested, upon the expiry of the one-week period referred to in subparagraph 1 of Article 4b. It shall then* transmit *the application immediately* to the competent authority of the host Member State ■ . The *home Member State shall inform the* applicant of the *status* of the *application at the same time as it transmits the application to the host Member State.*
2. In the cases referred to in Article 16, 21, ■ 49a *and 49b*, a host Member State shall decide on *issuance* of a European Professional Card under paragraph 1 within one month as from the date of receipt of the *application* transmitted by the home Member State. In *the event* of *duly* justified doubts, the host Member State may request additional information from, *or the inclusion of a certified copy of a document by*, the home Member State, *which the latter shall provide within a maximum of two weeks from the submission of the request. That request shall not suspend the period of one month, without prejudice to the possibility of the host Member State extending the deadline in accordance with second subparagraph of paragraph 5.*

3. In the cases referred to in Articles 7(4) and 14, a host Member State shall decide on whether to *issue a European Professional Card* or to subject *the holder of a professional qualification* to compensation measures within two months from the date of receipt **■** of the *application* transmitted by the home Member State. In *the event* of *duly* justified doubts, the host Member State may request additional information from, *or the inclusion of a certified copy of a document by*, the home Member State *which shall be provided by the latter within a maximum of two weeks. That request shall not suspend the period of two months, without prejudice to the possibility of the host Member State extending the deadline in accordance with second subparagraph of paragraph 5.*
4. *In the event that the host Member State does not receive the necessary information which it may require in accordance with this Directive for taking a decision on the issuance of the European Professional Card from either the home Member State or the applicant, it may refuse to issue the Card. Such refusal shall be duly justified.*
5. Where the host Member State fails to take a decision within the time limits set out in the paragraphs 2 and 3 *of this Article or fails to organise an aptitude test in accordance with Article 7(4)*, the European Professional Card **■** shall be deemed to be *issued and shall be sent automatically, through IMI, to the holder of a professional qualification.*

The host Member State shall have the possibility to extend the deadlines set out in paragraphs 2 and 3 for the automatic issuance of the European Professional Card by two weeks. It shall explain the reason for the extension and inform the applicant accordingly. Such extension of two weeks may be repeated once and only where it is strictly necessary, in particular for reasons relating to public health or the safety of the service recipients.

6. The actions taken by the home Member State in accordance with paragraph 1 shall replace any application for recognition of professional qualifications under the national law of the host Member State.
7. The decisions of the home and of the host Member State ***adopted*** under paragraphs 1 to 5 or the absence of decision by the home Member State shall be subject to appeal under the national law of the Member State concerned.

Article 4e

Processing and access to data regarding the European Professional Card

1. ***Without prejudice to the presumption of innocence***, the competent authorities of the home and the host Member States shall update in a timely manner the corresponding IMI file with information regarding disciplinary ***actions*** or criminal sanctions ***which relate to a prohibition or restriction and which have consequences for the pursuit of activities*** by the holder of a European Professional Card under this Directive, while ***respecting personal data protection rules provided for in Directive 95/46/EC of the European Parliament and of the Council of 24 October 1995 on the protection of individuals with regard to the processing of personal data and on the free movement of such data***^{*} and ***Directive 2002/58/EC of the European Parliament and of the Council of 12 July 2002 concerning the processing of personal data and the protection of privacy in the electronic communications sector (Directive on privacy and electronic communications)***^{**}. Such updates ***shall*** include the deletion of information which is no longer required. The holder of the European Professional Card as well as the competent authorities ***that have access to*** the corresponding IMI file shall be informed ***immediately*** of any updates ***■***. ***That obligation shall be without prejudice to the alert obligations for Member States under Article 56a.***

1a. The content of the information updates referred to in paragraph 1 shall be limited to the following:

(a) the identity of the professional;

(b) the profession concerned;

(c) information about the national authority or court which has adopted the decision on restriction or prohibition;

(d) the scope of restriction or prohibition; and

(e) the period for which the restriction or the prohibition decided by the national authority or court applies.

2. Access to the information in the IMI file shall be limited to the competent authorities of the home and the host Member State, █ in accordance with Directive 95/46/EC. *The competent authorities shall inform the holder of the European Professional Card of the content of the IMI file upon that holder's request.*

█

4. The information included in the European Professional Card shall be limited to the information that is necessary to ascertain its holder's right to exercise the profession for which it has been issued, in particular name, surname, date and place of birth, profession, *formal qualifications*, applicable regime, competent authorities involved, Card number, security features and reference to a valid proof of identity. *Information relating to professional experience acquired, or compensation measures passed, by the holder of the European Professional Card shall be included in the IMI file.*

5. *The personal data included in the IMI file may be processed for as long as it is needed for the purpose of the recognition procedure as such and as evidence of the recognition or of the transmission of the declaration required under Article 7.*

Member States shall ensure that the holder of a European Professional Card has the right at any time, *and at no cost to that holder*, to request the rectification of *inaccurate or incomplete data, or the* deletion or blocking *of the IMI* file *concerned. The holder shall be informed of this right at the time the European Professional Card is issued, and reminded of it every two years thereafter. The reminder shall be sent automatically via IMI where the initial application for the European Professional Card was submitted online.*

In the event of a request for deletion of an IMI file linked to a European Professional Card issued for the purpose of establishment or temporary provision of services under Article 7(4), the competent authorities of the Member State concerned shall issue the holder of professional qualifications with evidence attesting to the recognition of his qualifications.

6. In relation to the processing of personal data in the European Professional Card and all **IMI files**, the relevant competent authorities of the Member States shall be regarded as controllers within the meaning of Directive 95/46/EC. In relation to its responsibilities under paragraphs 1 to 4 and the processing of personal data involved therein, the Commission shall be regarded as a controller within the meaning of Regulation (EC) No 45/2001 of the European Parliament and of the Council of 18 December 2000 on the protection of individuals with regard to the processing of personal data by the Community institutions and bodies and on the free movement of such data****.

7. **Host** Member States shall provide that employers, customers, patients, **public authorities** and other interested parties may verify the authenticity and validity of a European Professional Card presented to them by the Card holder without prejudice to **paragraph 2** .

The Commission shall , **by means of** implementing acts, **lay down rules concerning** access to the IMI file, the technical means and the procedures for the verification referred to in the first subparagraph. Those implementing acts shall be adopted in accordance with the **examination** procedure referred to in Article 58(2).

Article 4f

Partial access

1. The competent authority of the host Member State shall grant partial access on a case-by-case basis to a professional activity in its territory **only when all** the following conditions are fulfilled:
 - (-a) the professional is fully qualified to exercise in the home Member State the professional activity for which partial access is sought in the host Member State;**
 - (a) differences between the professional activity legally exercised in the home Member State and the regulated profession in the host Member State as such are so large that the application of compensatory measures would amount to requiring the applicant to complete **the full** programme of education and training required in the host Member State to have access to the full regulated profession in the host Member State;

- (b) the professional activity can objectively be separated from other activities falling under the regulated profession in the host Member State.

■

For the purpose of point (b), the competent authority of the host Member State shall take into account whether the professional activity can be pursued autonomously in the home Member State.

2. Partial access may be rejected if such rejection is justified by an overriding reasons of general interest, ***if*** it would be ***suitable for*** securing the attainment of the objective pursued and not going beyond what is ■ necessary ***to attain that objective***.
3. Applications ***referred to in paragraph 1 for the purpose of*** establishment in ***a*** host Member State shall be examined in accordance with Chapters I and IV of Title III in case of establishment in the host Member State.
4. Applications ***referred to in paragraph 1 for the purpose of providing*** temporary ***and occasional*** services in the host Member State concerning professional activities having public health and safety implications shall be examined in accordance with Title II.
5. By derogation from the sixth subparagraph of Article 7(4) and Article 52(1), the professional activity shall be exercised under the professional title of the home Member State once partial access has been granted. ***The host Member State may require use of that professional title in the languages of the host Member State. Professionals benefiting from partial access shall clearly indicate to the service recipients the scope of their professional activities.***

5a. This Article shall not apply to professionals benefiting from automatic recognition of their professional qualification under Chapters II, III and IIIa of Title III.

* **OJ L 281, 23.11.1995, p. 31.**

** **OJ L 201, 31.7.2002, p. 37.**

*** **OJ L 316, 14.11.2012, p. 1.**

**** **OJ L 8, 12.1.2001, p. 1."**

(6) ***In Article 5(1), point (b) is replaced by the following:***

■

"(b) where the service provider moves, if he has pursued that profession in one or several Member States for at least ***one year*** during the last ***ten*** years preceding the provision of services when the profession is not regulated in the Member State of establishment. **■** The condition requiring ***one*** year's pursuit shall not apply if the profession or the education and training leading to the profession is regulated."

■

(7) Article 7 is amended as follows:

(a) paragraph 2 is amended as follows:

(i) *points (d) and (e) are* replaced by the following:

"(d) for cases referred to in point (b) of Article 5(1), any means of proof that the service provider has pursued the activity concerned for at least one year during the previous ten years;

(e) for professions in the security sector, ■ in the health sector and professions related to the education of minors, including in childcare, where the Member State so requires for its own nationals, attestation of neither temporary or final suspensions from exercising the profession nor criminal convictions;"

(ii) the following *points are* added:

"(f) for professions with patient safety implications, a declaration about the applicant's knowledge of the language necessary for practising the profession in the host Member State;

(fa) for professions carrying out the activities referred to in Article 16 and which were notified by a Member State in accordance with Article 59(1a), a certificate concerning the nature and duration of the activity issued by the competent authority or body of the Member State where the service provider is established.";

(b) the following paragraph **■** is inserted:

"2a. Any required declaration supplied by a service provider shall enable the service provider to have access to the service activity or to exercise that activity in the entire territory of the Member State concerned. A Member State may require additional information listed in Article 7(2) concerning professional qualifications of the service provider if:

(a) the profession is regulated in parts of its territory in a different manner;

(b) such regulation is applicable also to all nationals of that Member State;

(c) the differences in such regulation are justified only by overriding reasons of general interest related to public health or safety of service recipients; and

(d) the Member State has no other means for obtaining such information.";

(c) paragraph 4 is replaced by the following:

- "4. For the first provision of services, in the case of regulated professions having public health or safety implications, which do not benefit from automatic recognition under Chapter II, III *or IIIa* of Title III, the competent authority of the host Member State may check the professional qualifications of the service provider prior to the first provision of services. Such a prior check shall be possible only where the purpose of the check is to avoid serious damage to the health or safety of the service recipient due to a lack of professional qualification of the service provider and where this does not go beyond what is necessary for that purpose.

■

Within a maximum of one month of receipt of the declaration and accompanying documents, the competent authority shall inform the service provider *of its decision* either ■ not to check his qualifications, *to require the applicant to take an aptitude test or to allow the provision of services*. Where there is a difficulty which would result in delay, the competent authority shall notify the service provider within the first month of the reason for the delay. The difficulty shall be solved within one month following that notification and the decision finalised within the second month following resolution of the difficulty.

Where there is a substantial difference between the professional qualifications of the service provider and the training required in the host Member State, to the extent that that difference is such as to be harmful to public health or safety, and that it cannot be compensated by professional experience or *by skills and competences acquired through* lifelong learning, *formally validated to that end by a relevant body*, of the service provider, the host Member State shall give the service provider the opportunity to show, in particular by means of an aptitude test, that *they have* acquired the lacking knowledge or competence *and take a decision on this basis in accordance with the second subparagraph*.

In any case, it must be possible to provide the service within one month of *the* decision *taken in accordance with the second subparagraph*.

In the absence of a reaction of the competent authority within the deadlines set in the *second and third* ■ subparagraphs, the service may be provided.

In cases where qualifications have been verified under the first to *fourth* subparagraphs, the service shall be provided under the professional title of the host Member State."

(8) In Article 8, paragraph 1 is replaced by the following:

"1. The competent authorities of the host Member State may ask the competent authorities of the Member State of establishment, in *the event of justified* doubts, to provide any information relevant to the legality of the service provider's establishment and his good conduct, as well as the absence of any disciplinary or criminal sanctions of a professional nature. In case of control of qualifications, the competent authorities of the host Member State may ask the competent authorities of the Member State of establishment information about the service provider training courses to the extent necessary to assess substantial differences likely to be harmful to public health or safety. The competent authorities of the Member State of establishment shall provide that information in accordance with Article 56. *In the case of non-regulated professions in the home Member State, the assistance centre referred to in Article 57b may also provide such information.*".

(9) Article 11 is amended as follows:

(a) the introductory *part* of the first subparagraph is replaced by the following:

"For the purposes of Article 13 and Article 14(6), the professional qualifications shall be grouped under the following levels:";

(b) in point (c), point (ii) is replaced by the following:

"(ii) regulated education and training or, in the case of regulated professions, vocational training with a special structure, with competences going beyond what is provided for in level b, equivalent to the level of training provided for under point (i), if such training provides a comparable professional standard and prepares the trainee for a comparable level of responsibilities and functions provided the diploma is accompanied by a certificate from the home Member State;";

(c) points (d) and (e) are replaced by the following:

"(d) a diploma certifying successful completion of training at post-secondary level of at least three and not more than four years' duration, or of an equivalent duration on a part-time basis, *which may in addition be expressed with* an equivalent number of ■ ECTS ■ credits, at a university or establishment of higher education or another establishment of equivalent level and, where appropriate, that he has successfully completed the professional training required in addition to the post-secondary course;

(e) a diploma certifying that the holder has successfully completed a post-secondary course of *at least* four years' duration, or of an equivalent duration on a part-time basis, *which may in addition be expressed with* an equivalent number of ECTS credits, at a university or establishment of higher education or another establishment of equivalent level and, where appropriate, that he has successfully completed the professional training required in addition to the post-secondary course.";

(d) the second paragraph is deleted.

(10) In Article 12, the first paragraph is replaced by the following:

"Any evidence of formal qualifications or set of evidence of formal qualifications issued by a competent authority in a Member State, certifying successful completion of training in the Union, on a full or part-time basis, within or outside formal programs, which is recognised by that Member State as being of an equivalent level and which confers on the holder the same rights of access to or pursuit of a profession or prepares for the pursuit of that profession, shall be treated as evidence of formal qualifications of the type covered by Article 11, including the level in question.".

(11) Article 13 is replaced by the following:

"Article 13

Conditions for recognition

1. If access to or pursuit of a regulated profession in a host Member State is contingent upon possession of specific professional qualifications, the competent authority of that Member State shall permit access to and pursuit of that profession, under the same conditions as apply to its nationals, to applicants possessing an attestation of competence or evidence of formal qualifications referred to in Article 11, required by another Member State, in order to gain access to and pursue that profession on its territory.

Attestations of competence or evidence of formal qualifications shall be issued by a competent authority in a Member State, designated in accordance with the legislative, regulatory or administrative provisions of that Member State.

2. Access to and pursuit of the profession referred to in paragraph 1 shall also be granted to applicants *who have pursued the profession referred to in that paragraph on a full time basis for one year or for an equivalent overall duration on a part-time basis during the previous ten years in another Member State which does not regulate that profession, providing they possess one or more* attestations of competence or *documents providing* evidence of formal qualifications ■ issued by another Member State which does not regulate the profession.

Attestations of competence and evidence of formal qualifications shall satisfy the following conditions:

- (a) they are issued by a competent authority in a Member State, designated in accordance with the legislative, regulatory or administrative provisions of that Member State;
- (b) they attest that the holder has been prepared for the pursuit of the profession in question.

The one year professional experience referred to in the first subparagraph may not, however, be required if the evidence of formal qualifications which the applicant possesses certifies regulated education and training.

- 3. **■** The host Member State shall accept the level attested *under Article 11* by the home Member State, ***as well as the certificate by which the home Member State certifies that regulated education and training or a vocational training with special structure referred to in point (ii) of point (c) of Article 11 is equivalent to the level provided for in point (i) of point (c) of Article 11.***
- 4. By derogation to paragraphs 1 and 2 of this Article ***and of Article 14***, the competent authority of the host Member State may refuse access to and pursuit of the profession to holders of an attestation of competence ***classified under level (a) of Article 11*** where the national qualification required to exercise the profession on its territory is classified under point (e) of Article 11."

(12) Article 14 is amended as follows:

(a) paragraph 1 is replaced by the following:

"1. Article 13 shall not preclude the host Member State from requiring the applicant to complete an adaptation period of up to three years or to take an aptitude test if:

(a) the training *the applicant* has received covers substantially different matters than those covered by the evidence of formal qualifications required in the host Member State;

(b) *the regulated profession in the host Member State comprises one or more regulated professional activities which do not exist in the corresponding profession in the applicant's home Member State within the meaning of Article 4(2), and that difference consists in training which is required in the host Member State and which covers substantially different matters from those covered by the applicant's attestation of competence or evidence of formal qualifications.*";

(b) in paragraph 2, the third subparagraph is replaced by the following:

"Where the Commission considers that the derogation referred to in the second subparagraph is inappropriate or that it is not in accordance with Union law, it shall adopt an implementing *act*, within *three* months of receiving all necessary information, to ask the relevant Member State to refrain from taking the envisaged measure. In the absence of a response from the Commission within that deadline, the derogation may be applied.";

- (c) in paragraph 3, the following subparagraph is inserted **■** :

"By way of derogation from the principle of the right of the applicant to choose, as laid down in paragraph 2, the host Member State may specify either an adaptation period or an aptitude test in the case of:

- (a) a holder of a professional qualification referred to in point (a) of Article 11, who applies for recognition of his professional qualifications where the national qualification required is classified under point (c) of Article 11;*
- (b) a holder of a professional qualification referred to in point (b) of Article 11, who applies for recognition of his professional qualifications where the national qualification required is classified under point (d) or (e) of Article 11.*

In the case of a holder of qualification referred to in point (a) of Article 11, who applies for recognition of his professional qualifications where the national qualification required is classified under point (d) Article 11, the host Member State may impose an adaptation period and an aptitude test."

- (d) paragraphs 4 and 5 are replaced by the following:

"4. For the purposes of paragraphs 1 and 5, 'substantially different matters' means matters of which knowledge, ***acquired skills and competences are*** essential for pursuing the profession and with regard to which the training received by the migrant shows important differences in terms of content from the training required by the host Member State.

5. Paragraph 1 shall be applied with due regard to the principle of proportionality. In particular, if the host Member State intends to require the applicant to complete an adaptation period or take an aptitude test, it must first ascertain whether the knowledge, skills and competences acquired by the applicant in the course of his professional experience *or acquired* through lifelong learning, *and formally validated to that end by a relevant body*, in any Member State or in a third country is of a nature to cover, in full or in part, the substantially different matters referred to in paragraph 4.";

(e) the following paragraphs ■ are added:

- "6. The decision imposing an adaptation period or an aptitude test shall be duly *justified*. In particular, *the applicant shall be informed of the following information*:

- (a) the level of the qualification required in the host Member State and the level of the qualification held by the applicant in accordance with the classification set out in Article 11; *and*
- (b) *the substantial differences which matter for the pursuit of the profession in terms of subjects and contents and the reasons for which these differences cannot be compensated by knowledge, skills and competences acquired in the course of professional experience or through lifelong learning formally validated to that end by a relevant body.*

■

7. ***Member States shall ensure that applicants have the possibility of sitting the aptitude test referred to in paragraph 1 not later than six months after the initial decision imposing an aptitude test on a specific applicant for recognition."***

(13) Article 15 is deleted.

(14) Article 20 is replaced by the following:

"Article 20

Adaptation of lists of activities in Annex IV

The Commission shall be empowered to adopt delegated acts in accordance with Article 57c concerning ***the*** adaptations of the lists of activities set out in Annex IV which are the subject of recognition of professional experience pursuant to Article 16, ***with a view to updating or clarifying the activities listed in Annex IV in particular to further specify their scope and to take due account of the latest developments in the field of activity-based nomenclatures*** provided that this does not involve any narrowing of the scope of the activities related to the individual categories ***and that there is no shift of activities between the existing lists I, II and III of Annex IV."***

(15) ■ Article 21 *is amended as follows*:

(a) *paragraph 4 is replaced by the following*:

"4. When no territorial restrictions in the operation of a pharmacy are imposed, a Member State may decide not to give effect to evidence of formal qualifications referred to in point 5.6.2. of Annex V, for the setting up of new pharmacies open to the public. For the purposes of this paragraph, pharmacies which have been open for less than three years shall also be considered as new pharmacies.

This derogation may not apply to pharmacists whose formal qualifications have already been recognised by its competent authorities for other purposes and who have been effectively and lawfully engaged in the professional activities as pharmacist for at least three consecutive years in that Member State";

(b) *paragraph 6 is replaced by the following*:

"6. Each Member State shall make access to and pursuit of the professional activities of doctors, nurses responsible for general care, dental practitioners, veterinary surgeons, midwives and pharmacists subject to possession of evidence of formal qualifications referred to in points 5.1.1, 5.1.2, 5.1.4, 5.2.2, 5.3.2, 5.3.3, 5.4.2, 5.5.2 and 5.6.2 of Annex V respectively, attesting that the professional concerned has acquired, over the duration of his training, and where appropriate, the knowledge, skills and competences referred to in Articles 24(3), 31(6), 34(3), 31(7), 38(3), 40(3) and 44(3).

In order to take account of generally acknowledged scientific and technical progress, the Commission shall be empowered to adopt delegated acts in accordance with Article 57c to update the knowledge and skills referred to in Articles 24(3), 31(6), 34(3), 38(3), 40(3), 44(3) and 46(4) to reflect the evolution of Union law affecting directly the professionals concerned.

Such updates shall not entail an amendment of existing essential legislative principles in Member States regarding the structure of professions as regards training and conditions of access by natural persons. Such updates shall respect the responsibility of the Member States for the organisation of education systems, as referred to in Article 165(1) TFEU."

(c) *paragraph 7 is deleted.*

(16) The following article ■ is inserted:

"Article 21a

Notification procedure

1. Each Member State shall notify the Commission of the legislative, regulatory and administrative provisions which it adopts with regard to the issuing of evidence of formal qualifications in the area covered by this Chapter.

In the case of evidence of formal qualifications referred to in Section 8, notification in accordance with the first subparagraph shall also be addressed to the other Member States.

2. The notification referred to in paragraph 1 shall be ***completed with information about the duration and content of the training programmes.***
- 2a. ***The notification referred to in paragraph 1 and the information referred to in paragraph 2 shall be transmitted via IMI.***
3. ***In order to take due account of legislative and administrative developments in the Member States and where the legislative, regulatory and administrative provisions notified pursuant to paragraph 1 are in conformity with the conditions set out in this Chapter,*** the Commission shall be empowered to adopt delegated acts in accordance with Article 57c in order to ***amend*** points 5.1.1 to 5.1.4, 5.2.2, 5.3.2, 5.3.3, 5.4.2, 5.5.2, 5.6.2 and 5.7.1 of Annex V, ***concerning the*** updating ***of*** the titles adopted by the Member States for evidence of formal qualifications and, where appropriate, the body which issues the evidence of formal qualifications, the certificate which accompanies it and the corresponding professional title.
4. Where ***the legislative, regulatory and administrative provisions notified pursuant to paragraph 1 are not in conformity with the conditions set out in this Chapter,*** the Commission ***shall adopt an implementing act in order to reject the requested amendment of points 5.1.1 to 5.1.4, 5.2.2, 5.3.2, 5.3.3, 5.4.2, 5.5.2, 5.6.2 or 5.7.1 of Annex V."***

(17) *Article 22 is amended as follows:*

(a) *in the first paragraph, point (b) is replaced by the following:*

"(b) in accordance with the procedures specific to each Member State, Member States shall ensure, by encouraging continuous professional development, that professionals whose qualification is covered by Chapter III of this Title are able to update their knowledge, skills, and competences in order to maintain a safe and effective practice and keep abreast of professional developments.";

(b) *the following paragraph is added:*

"Member States shall communicate to the Commission the measures taken in accordance with point (b) of the first paragraph by ...⁺."

(18) *In Article 24, paragraph 2 is replaced by the following:*

"2. Basic medical training shall comprise a total of at least five years of study, which may **in addition** be expressed with the equivalent ECTS credits, and shall consist of at least 5500 hours of theoretical and practical training provided by, or under the supervision of, a university.

For persons who began their studies before 1 January 1972, the course of training referred to in the first subparagraph may comprise six months of full-time practical training at university level under the supervision of the competent authorities."

■

⁺ OJ: Please insert date: two years after entry into force of this Directive.

(19) Article 25 is amended as follows:

(a) paragraph 1 is replaced by the following:

"1. Admission to specialist medical training shall be contingent upon completion and validation of a basic medical training programme as referred to in Article 24(2) in the course of which the trainee has acquired the relevant knowledge of basic medicine.";

(b) the following paragraph ■ is inserted:

"3a. Member States may lay down in their national legislations partial exemptions from parts of the specialist medical training *listed in point 5.1.3 of Annex V*, if that part of the training has been followed already during the completion of another specialist training programme which is listed in point 5.1.3 of Annex V and provided that the former specialist qualification has already been obtained by the professional in *a* Member State. Member States shall ensure that the granted exemption is not more than *half* of the minimum duration of specialist medical training courses as referred to in point 5.1.3 of Annex V.

Each Member State shall notify the Commission and the other Member States of their national legislation concerned ■ for such partial exemptions.";

(c) paragraph 5 is replaced by the following:

"5. The Commission shall be empowered to adopt delegated acts in accordance with Article 57c concerning the adaptations of the minimum periods of training referred to in point 5.1.3 of Annex V to scientific and technical progress."

(20) In Article 26, the second paragraph is replaced by the following:

"In order to take due account of changes in national legislation, the Commission shall be empowered to adopt delegated acts in accordance with Article 57c concerning the inclusion in point 5.1.3 of Annex V of new medical specialties common to at least *two-fifths* of the Member States with a view to updating this Directive **■** .".

(20a) *In Article 27, the following paragraph is inserted:*

"2a. Member States shall recognise the qualifications of specialised doctors awarded in Italy, and listed in points 5.1.2 and 5.1.3 of Annex V, to doctors who started their specialist training after 31 December 1983 and before 1 January 1991, where the training concerned does not satisfy all the training requirements referred to in Article 25, insofar as the qualification is accompanied by a certificate issued by the competent Italian authorities stating that the doctor concerned has effectively and lawfully been engaged, in Italy, in the activities of a medical specialist in the same specialist area concerned, for at least seven consecutive years during the ten years preceding the award of the certificate."

(21) In Article 28, ■ paragraph **I** is replaced by the following:

"1. Admission to specific training in general medical practice shall be contingent upon completion and validation of a basic medical training programme as referred to in Article 24(2).".

(22) Article 31 is amended as follows:

(a) paragraph 1 is replaced by the following:

"1. Admission to training for nurses responsible for general care shall be contingent upon *either*:

(a) *completion of general education of 12 years, as attested by a diploma, certificate or other evidence issued by the competent authorities or bodies in a Member State or by a certificate attesting success in an examination of an equivalent level, giving access to universities or higher education institutes of a level recognised as equivalent; or*

(b) completion of general education of *at least ten* years, as attested by a diploma, certificate or other evidence issued by the competent authorities or bodies in a Member State or by a certificate attesting success in an examination of an equivalent level, *and giving access to a vocational school or vocational training programme for nursing*.";

- (b) in paragraph 2, the second ***and third subparagraphs are*** replaced by the following:

"The Commission shall be empowered to adopt delegated acts in accordance with Article 57c concerning amendments to the list set out in point 5.2.1 of Annex V with a view to adapting it to the **■** scientific and technical progress.

The amendments referred to in the second subparagraph shall not entail an amendment of existing essential legislative principles in Member States regarding the structure of professions as regards training and conditions of access by natural persons. Such amendments shall respect the responsibility of the Member States for the organisation of education systems, as referred to in Article 165(1) TFEU";

- (c) in paragraph 3, the first subparagraph is replaced by the following:

"The training of nurses responsible for general care shall comprise ***a total of*** at least three years of study, ***which may in addition be expressed with the equivalent ECTS credits, and shall consist*** of at least 4 600 hours of theoretical and clinical training, the duration of the theoretical training representing at least one third and the duration of the clinical training at least one half of the minimum duration of the training. Member States may grant partial exemptions to persons who have received part of their training on courses which are of at least an equivalent level.";

- (ca) ***paragraph 4 is replaced by the following:***

"4. Theoretical education is that part of nurse training from which trainee nurses acquire the professional knowledge, skills and competences required under paragraphs 6 and 7. The training shall be given by teachers of nursing care and by other competent persons, at universities, at higher education institutes of a level recognised as equivalent or at vocational schools or through vocational training programmes for nursing.";

(cb) in paragraph 5, the first subparagraph is replaced by the following:

"5. Clinical training is that part of nurse training in which trainee nurses learn, as part of a team and in direct contact with a healthy or sick individual and/or community, to organise, dispense and evaluate the required comprehensive nursing care, on the basis of the knowledge, skills and competences which they have acquired. The trainee nurse shall learn not only how to work in a team, but also how to lead a team and organise overall nursing care, including health education for individuals and small groups, within the health institute or in the community.";

(cc) paragraph 6 is replaced by the following:

"6. Training for nurses responsible for general care shall provide an assurance that the professional has acquired the following knowledge and skills:

- (a) comprehensive knowledge of the sciences on which general nursing is based, including sufficient understanding of the structure, physiological functions and behaviour of healthy and sick persons, and of the relationship between the state of health and the physical and social environment of the human being;*
- (b) knowledge of the nature and ethics of the profession and of the general principles of health and nursing;*
- (c) adequate clinical experience; such experience, which should be selected for its training value, should be gained under the supervision of qualified nursing staff and in places where the number of qualified staff and equipment are appropriate for the nursing care of the patient;*

- (d) the ability to participate in the practical training of health personnel and experience of working with such personnel;*
- (e) experience of working together with members of other professions in the health sector.";*

(d) the following paragraph 7 is added:

"7. Formal qualifications as a general care nurse shall provide evidence that the professional in question is able to apply at least the following competences regardless of whether the training took place at a university, a higher education institute at a level recognised as equivalent, a vocational training programme or at a vocational school of nursing:

- (a) competence to independently diagnose the nursing care required using current theoretical and clinical knowledge and to plan, organise and implement nursing care when treating patients on the basis of the knowledge and skills acquired in accordance with points (a), (b) and (c) of paragraph 6 in order to improve professional practice;*
- (b) competence to work together effectively with other actors in the health sector, including participation in the practical training of health personnel on the basis of the knowledge and skills acquired in accordance with points (d) and (e) of paragraph 6;*

- (c) *competence to empower individuals, families and groups towards healthy lifestyles and self-care on the basis of the knowledge and skills acquired in accordance with points (a) and (b) of paragraph 6;*
- (d) *competence to independently initiate life-preserving immediate measures and to carry out measures in crises and disaster situations;*
- (e) *competence to independently give advice to, instruct and support persons needing care and their attachment figures;*
- (f) *competence to independently assure quality of and to evaluate nursing care;*
- (g) *competence to comprehensively communicate professionally and to cooperate with members of other professions in the health sector;*
- (h) *competence to analyse the care quality to improve their own professional practice as a general care nurse."*

(23) Article 33 is amended as follows:

- (a) *paragraph 2 is deleted;*
- (b) paragraph 3 is replaced by the following:

- "3. Member States shall recognise evidence of formal qualifications in nursing awarded in Poland, to nurses who completed training before 1 May 2004, which did not comply with the minimum training requirements laid down in Article 31, attested by the diploma 'bachelor' which has been obtained on the basis of a special upgrading programme contained in Article 11 of the Act of 20 April 2004 on the amendment of the Act on professions of nurse and midwife and on some other legal acts (Official Journal of the Republic of Poland of 30 April 2004 No 92, pos. 885), and the Regulation of the Minister of Health of 12 April 2010 amending the Regulation of the Minister of Health of 11 May 2004 on the detailed conditions of delivering studies for nurses and midwives, who hold a certificate of secondary school (final examination — matura) and are graduates of medical lyceum and medical vocational schools teaching in a profession of a nurse and a midwife (*Official Journal of the Republic of Poland of 13 May 2004 No 110, pos. 1170 with further amendments*), as subsequently replaced by Article 55.2 of the Act of 15 July 2011 on professions of nurse and midwife (*Official Journal of the Republic of Poland of 23 August 2011 No 174, pos. 1039*), and the Regulation of the Minister of Health of 14 June 2012 on the detailed conditions of delivering higher education courses for nurses and midwives who hold a certificate of secondary school (final examination – matura) and are graduates of a medical secondary school or a post-secondary school teaching in a profession of a nurse and a midwife (*Official Journal of the Republic of Poland of 6 July 2012, pos. 770*), with the aim of verifying that the *professional* concerned has a level of knowledge and competence comparable to that of nurses holding the qualifications which, in the case of Poland, are defined in point 5.2.2. of Annex V."

(23a) Article 33a is replaced by the following:

“As regards the Romanian qualification of nurse responsible for general care, only the following acquired rights provisions shall apply:

In the case of nationals of the Member States who were trained as nurse responsible for general care in Romania and whose training does not satisfy the minimum training requirements laid down in Article 31, Member States shall recognise the following evidence of formal qualifications as nurse responsible for general care as being sufficient proof if accompanied by a certificate stating that those Member State nationals have effectively and lawfully been engaged in the activities of a nurse responsible for general care in Romania, including taking full responsibility for the planning, organisation and carrying out of the nursing care of the patient, for a period of at least three consecutive years during the five years prior to the date of issue of the certificate:

- (a) Certificat de competențe profesionale de asistent medical generalist with post-secondary education obtained from a școală postliceală, attesting training started before 1 January 2007,***
- (b) Diplomă de absolvire de asistent medical generalist with short-time higher education studies, attesting training started before 1 October 2003,***
- (c) Diplomă de licență de asistent medical generalist with long-time higher education studies, attesting training started before 1 October 2003.”.***

(24) *In Article 34, paragraph 2 is replaced by the following:*

"2. Basic dental training shall comprise a total of at least five years of study, *which may in addition be expressed with the equivalent ECTS credits, shall consist of at least 5 000 hours* of full-time theoretical and practical *training, and shall comprise* at least the programme described in Annex V, point 5.3.1 and given in a university, in a higher institute providing training recognised as being of an equivalent level or under the supervision of a university.

The Commission shall be empowered to adopt delegated acts in accordance with Article 57c concerning the *amendments* of the list set out in point 5.3.1. of Annex V with a view to adapting it to scientific and technical progress

The amendments referred to in the second subparagraph shall not entail an amendment of existing essential legislative principles in Member States regarding the structure of professions as regards training and conditions of access by natural persons. Such amendments shall respect the responsibility of the Member States for the organisation of education systems, as referred to in Article 165(1) TFEU."

I

(25) Article 35 is amended as follows:

(-a) paragraph 1 is replaced by the following:

"1. Admission to specialist dental training shall be contingent upon completion and validation of basic dental training referred to in Article 34, or possession of the documents referred to in Articles 23 and 37."

(a) ■ paragraph 2 is *amended as follows*:

(i) the second subparagraph is replaced by the following:

"Full-time specialist dental courses shall be of a minimum of three years' duration ■ and shall be supervised by the competent authorities or bodies. It shall involve the personal participation of the dental practitioner training to be a specialist in the activity and in the responsibilities of the establishment concerned.";

(ii) the third subparagraph is deleted;

(c) the following *paragraphs are* added:

"4. The Commission shall be empowered to adopt delegated acts in accordance with Article 57c concerning the adaptation of the minimum period of training referred to in paragraph 2 to scientific and technical progress.

4a. In order to take due account of changes in national legislation, the Commission shall be empowered to adopt delegated acts in accordance with Article 57c concerning the inclusion in point 5.3.3. of Annex V of new dental specialties common to at least **two-fifths** of the Member States, with a view to updating this Directive **■** ".

(25a) In Article 37, the following paragraphs are added:

"3. As regards evidence of formal qualifications of dental practitioners, Member States shall recognise such evidence pursuant to the provisions of Article 21 in those cases where the applicant began his or her training on or before ...⁺".

3a. Each Member State shall recognise evidence of formal qualifications as a doctor issued in Spain to professionals who began their university medical training between 1 January 1986 and 31 December 1997, accompanied by a certificate issued by the competent Spanish authorities.

The certificate shall show that the three following conditions are met:

- (a) that the professional in question has successfully completed at least three years of study, certified by the Spanish competent authorities as being equivalent to the training referred to in Article 34;**
- (b) that they were effectively, lawfully and principally engaged in the activities referred to in Article 36 in Spain for at least three consecutive years during the five years preceding the award of the certificate;**
- (c) that they are authorised to engage in or are effectively, lawfully and principally engaged in the activities referred to in Article 36, under the same conditions as the holders of evidence of formal qualifications listed for Spain in point 5.3.2 of Annex V."**

⁺ OJ: Please insert date: two years after entry into force of this Directive.

(26) Article 38 is amended as follows:

"(a) **■** paragraph 1 *is* replaced by the following:

"1. The training of veterinary surgeons shall comprise a total of at least five years of full-time theoretical and practical study, which may ***in addition*** be expressed with the equivalent ECTS credits, at a university or at a higher institute providing training recognized as being of an equivalent level, or under the supervision of a university, covering at least the study programme referred to in point 5.4.1 of Annex V .

The Commission shall be empowered to adopt delegated acts in accordance with Article 57c concerning the ***amendments*** of the list in point 5.4.1. of Annex V with a view to adapting it to scientific and technical progress.

The amendments referred to in the second subparagraph shall not entail an amendment of existing essential legislative principles in Member States regarding the structure of professions as regards training and conditions of access by natural persons. Such amendments shall respect the responsibility of the Member States for the organisation of education systems, as referred to in Article 165(1) TFEU";

(b) *paragraph 3 is replaced by the following:*

"3. Training as a veterinary surgeon shall provide an assurance that the person in question has acquired the following knowledge and skills:

(a) adequate knowledge of the sciences on which the activities of the veterinary surgeon are based and of the Union law relating to these activities;

(b) adequate knowledge of the structure, functions, behaviour and physiological needs of animals, as well as the skills and competences needed for their husbandry, feeding, welfare, reproduction and hygiene in general;

- (c) *the clinical, epidemiological, analytical skills and competences required for the prevention, diagnosis and treatment of the diseases of animals, including anaesthesia, aseptic surgery and painless death, whether considered individually or in groups, including a special knowledge of the diseases which may be transmitted to humans;*
- (d) *adequate knowledge, skills and competences for preventive medicine, including competences dealing with inquiries and certification;*
- (e) *adequate knowledge of the hygiene and technology involved in the production, manufacture and putting into circulation of animal foodstuffs or foodstuffs of animal origin intended for human consumption, including the skills and competences required to understand and explain good practice in this regard;*
- (f) *the knowledge, skills and competences required for the responsible and sensible use of veterinary medicinal products, in order to treat the animals and to ensure the safety of the food chain and the protection of the environment."*

(27) Article 40 is amended as follows:

- (a) in paragraph 1, the second *and third subparagraphs are* replaced by the following:

"The Commission shall be empowered to adopt delegated acts in accordance with Article 57c concerning the amendments of the list in point 5.5.1. of Annex V with a view to adapting it to the  scientific and technical progress.

The amendments referred to in the second subparagraph shall not entail an amendment of existing essential legislative principles in Member States regarding the structure of professions as regards training and conditions of access by natural persons. Such amendments shall respect the responsibility of the Member States for the organisation of education systems, as referred to in Article 165(1) TFEU";

(b) paragraph 2 is replaced by the following:

"2. Access to training as a midwife shall be contingent upon one of the following conditions:

- (a) completion of at least 12 years of general school education or a certificate attesting success in an examination, of an equivalent level, for admission to a midwifery school for route I;
- (b) possession of evidence of formal qualifications as a nurse responsible for general care referred to in point 5.2.2. of Annex V for route II.";

(c) ***paragraph 3 is replaced by the following:***

"3. ***Training as a midwife shall provide an assurance that the person in question has acquired the following knowledge and skills:***

- (a) ***detailed knowledge of the sciences on which the activities of midwives are based, particularly midwifery, obstetrics and gynaecology;***
- (b) ***adequate knowledge of the ethics of the profession and the professional legislation;***

- (c) *adequate knowledge of general medical knowledge (biological functions, anatomy and physiology) and of pharmacology in the field of obstetrics and of the newly born, and also a knowledge of the relationship between the state of health and the physical and social environment of the human being, and of his behaviour;*
- (d) *adequate clinical experience gained in approved institutions allowing the midwife to be able independently and in her own responsibility, to the extent necessary and besides a pathological situation, to manage the antenatal care, to conduct the delivery and its consequences in approved institutions, and to supervise labour and birth, postnatal care and neonatal resuscitation while awaiting a medical practitioner;*
- (e) *adequate understanding of the training of health personnel and experience of working with such."*

(28) In Article 41, paragraph 1 is replaced by the following:

"1. The evidence of formal qualifications as a midwife referred to in *point 5.5.2 of Annex V* , shall be subject to automatic recognition pursuant to Article 21 in so far as they satisfy one of the following criteria:

- (a) *full-time training of at least three years as a midwife, which may in addition be expressed with the equivalent ECTS credits, consisting of at least 4 600 hours of theoretical and practical training, with at least one third of the minimum duration representing clinical training;*

- (b) full-time training as a midwife of at least two years, *which may in addition be expressed with the equivalent ECTS credits*, consisting of at least 3 600 hours, contingent upon possession of evidence of formal qualifications as a nurse responsible for general care referred to in *point 5.2.2 of Annex V* ;
- (c) full-time training as a midwife of at least 18 months, *which may in addition be expressed with the equivalent ECTS credits* consisting of at least 3 000 hours, contingent upon possession of evidence of formal qualifications as a nurse responsible for general care referred to in *point 5.2.2 of Annex V* , and followed by one year's professional practice for which a certificate has been issued in accordance with paragraph 2."

(29) **Article 43 is amended as follows:**

(a) the following paragraph **1** is inserted:

"1a. As regards evidence of formal qualifications of midwives, Member States shall recognize automatically those qualifications where the applicant started the training before ...⁺, and the admission requirement for such training was ten years or equivalent level of general education for route I, or a completed general care nurse training *as attested by an evidence of formal qualification referred to in point 5.2.2. of Annex V* before starting a midwifery training falling under route II.";

(aa) *paragraph 3 is deleted.*

(b) *paragraph 4 is replaced by the following:*

⁺ OJ: Please insert date: two years after entry into force of this Directive.

"4. Member States shall recognise evidence of formal qualifications in midwifery awarded in Poland, to midwives who completed training before 1 May 2004, which did not comply with the minimum training requirements laid down in Article 40, attested by the diploma 'bachelor' which has been obtained on the basis of a special upgrading programme contained in Article 11 of the Act of 20 April 2004 on the amendment of the Act on professions of nurse and midwife and on some other legal acts (Official Journal of the Republic of Poland of 30 April 2004 No 92, pos. 885), and the Regulation of the Minister of Health of 11 May 2004 on the detailed conditions of delivering studies for nurses and midwives, who hold a certificate of secondary school (final examination — matura) and are graduates of medical lyceum and medical vocational schools teaching in a profession of a nurse and a midwife (Official Journal of the Republic of Poland of 13 May 2004 No 110, pos. 1170, with further amendments), replaced by Article 55.2 of the Act of 15 July 2011 on professions of nurse and midwife (Official Journal of the Republic of Poland of 23 August 2011 No 174, pos. 1039), and the Regulation of the Minister of Health of 14 June 2012 on the detailed conditions of delivering higher education courses for nurses and midwives who hold a certificate of secondary school (final examination – matura) and are graduates of a medical secondary school or a post-secondary school teaching in a profession of a nurse and a midwife (Official Journal of the Republic of Poland of 6 July 2012, pos. 770), with the aim of verifying that the professional concerned has a level of knowledge and competence comparable to that of midwives holding the qualifications which, in the case of Poland, are defined in point 5.5.2. of Annex V. "

(30) In Article 44, paragraph 2 is replaced by the following:

"2. Evidence of formal qualifications as a pharmacist shall attest to training of at least five years' duration, which may *in addition* be expressed with the equivalent ECTS credits, including at least:

- (a) four years of full-time theoretical and practical training at a university or at a higher institute of a level recognised as equivalent, or under the supervision of a university;
- (b) ■ six-month traineeship in a pharmacy which is open to the public or in a hospital under the supervision of that hospital's pharmaceutical department.

The training cycle referred to in this paragraph shall include at least the programme described in point 5.6.1 of Annex V. The Commission shall be empowered to adopt delegated acts in accordance with Article 57c concerning the amendments of the list in point 5.6.1 of Annex V with a view to adapting it to scientific and technical progress, *including the evolution of pharmacological practice*.

The amendments referred to in the second subparagraph *shall* not entail *an* amendment of existing *essential* legislative principles *in Member States regarding the structure of professions* as regards training and ■ conditions of access by natural persons. *Such amendments shall respect the responsibility of the Member States for the organisation of education systems, as referred to in Article 165(1) TFEU.*".

■

(31) In ■ Article 45, *paragraph 2 is replaced by the following:*

“2. The Member States shall ensure that the holders of evidence of formal qualifications in pharmacy at university level or a level deemed to be equivalent, which satisfies the requirements of Article 44, are able to gain access to and pursue at least the following activities, subject to the requirement, where appropriate, of supplementary professional experience:

- (a) preparation of the pharmaceutical form of medicinal products;***
- (b) manufacture and testing of medicinal products;***
- (c) testing of medicinal products in a laboratory for the testing of medicinal products;***
- (d) storage, preservation and distribution of medicinal products at the wholesale stage;***
- (e) supply, preparation, testing, storage, distribution and dispensing of safe and efficacious medicinal products of the required quality in pharmacies open to the public;***
- (f) preparation, testing, storage and dispensing of safe and efficacious medicinal products of the required quality in hospitals;***
- (g) provision of information and advice on medicinal products as such, including on their appropriate use;***

(h) **reporting** of adverse reactions of pharmaceutical products to the competent authorities;

(i) **personalised support for patients who administer their medication;**

(j) **contribution to local or national public health campaigns."**

(32) Article 46 is replaced by the following:

"Article 46

Training of architects

1. **Training as an architect shall comprise:**

(a) **a total of at least five years of full-time study at a university or a comparable teaching institution, leading to successful completion of a university-level examination; or**

(b) **not less than four years of full-time study at a university or a comparable teaching institution leading to successful completion of a university-level examination, accompanied by a certificate attesting to the completion of two years of professional traineeship in accordance with paragraph 5.**

2. **Architecture must be the principal component of the study referred to in paragraphs 1 and 2.** The study shall ■ maintain a balance between theoretical and practical aspects of architectural training and **shall at least** guarantee the acquisition of the following knowledge, skills and competences:

- (a) ability to create architectural designs that satisfy both aesthetic and technical requirements;
- (b) adequate knowledge of the history and theories of architecture and the related arts, technologies and human sciences;
- (c) knowledge of the fine arts as an influence on the quality of architectural design;
- (d) adequate knowledge of urban design, planning and the skills involved in the planning process;
- (e) 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;
- (f) 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;
- (g) understanding of the methods of investigation and preparation of the brief for a design project;
- (h) understanding of the structural design, constructional and engineering problems associated with building design;
- (i) 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, *in the framework of sustainable development*;
- (j) the necessary design skills to meet building users' requirements within the constraints imposed by cost factors and building regulations;

- (k) adequate knowledge of the industries, organisations, regulations and procedures involved in translating design concepts into buildings and integrating plans into overall planning.
3. *The number of years of academic study referred to in paragraphs 1 and 2 may in addition be expressed with the equivalent ECTS credits.*
4. *The professional traineeship referred to in point (b) of paragraph 1 shall take place no sooner than after the completion of the first three years of the study. At least one year of the professional traineeship shall build upon knowledge, skills and competences acquired during the study in accordance with paragraph 2. To that end, the professional traineeship shall be carried out ■ under the supervision of a person or a body that has been authorised by the competent authority in the home Member State. Such supervised traineeship may take place in any State. The professional traineeship shall be evaluated by the competent authority in the home Member State."*

(33) Article 47 is replaced by the following:

"Article 47

Derogations from the conditions for the training of architects

By way of derogation from Article 46, the following shall also be recognised as satisfying Article 21: training as part of social betterment schemes or part-time university studies which satisfies the requirements referred to in Article 46, as attested by an examination in architecture passed by a person who has been working for seven years or more in the field of architecture under the supervision of an architect or architectural bureau. The examination must be of university level and be equivalent to the final examination referred to in the first subparagraph of Article 46(1)."

(34) **■** Article 49 *is amended as follows*:

(a) the following paragraph *is* inserted:

"1a. Paragraph 1 shall also apply to evidence of formal qualifications as an architect listed in Annex V, where the training started before ...⁺.";

⁺ OJ: Please insert date: two years after entry into force of this Directive.

(b) the following paragraph is inserted:

"3. Each Member State shall give the following evidence the same effect on its territory as evidence of formal qualifications it itself issues for the purposes of access to and pursuit of the professional activities of an architect: evidence of completion of training existing as of 5 August 1985 and commenced no later than ...⁺⁺, provided by 'Fachhochschulen' in the Federal Republic of Germany over a period of three years, satisfying the requirements set out in in Article 46(2) and giving access to the activities referred to in Article 48 in that Member State under the professional title of 'architect', in so far as the training was followed by a four-year period of professional experience in the Federal Republic of Germany, as attested by a certificate issued by the competent authority in whose roll the name of the architect wishing to benefit from the provisions of this Directive appears."

⁺⁺ OJ: Please insert date: date of entry into force of this Directive.

(35) In Title III, the following Chapter ■ is inserted:

"Chapter IIIA

Automatic recognition on the basis of common training principles

Article 49a

Common training framework

1. For the purpose of this Article, 'common training framework' shall mean a common set of **minimum** knowledge, skills and competences necessary for the pursuit of a specific profession. ***A common training framework shall not replace national training programmes unless a Member State decides otherwise under its national law.*** For the purpose of access to and pursuit of a profession ***in Member States which regulate that profession***, a Member State shall give evidence of qualifications acquired on the basis of such a framework the same effect in its territory as the evidence of formal qualifications which it itself issues, on condition that such framework fulfils the ***conditions laid down in*** paragraph 2. ■ .

2. A common training framework shall comply with the following conditions:
- (a) the common training framework enables more professionals to move across Member States ■ ;
 - (b) the profession ■ is regulated, *or the education and training leading to the profession is regulated* in at least one third of *the* Member States;
 - (c) the common set of knowledge, skills and competences combines the knowledge, skills and competences *required* in the systems of education and training applicable in at least one third of all Member States; *in that regard it shall be irrelevant whether the knowledge, skills and competences have been acquired as part of a general training course at a university of higher education institution or as part of a vocational training course;*
 - (d) the ■ common training framework shall *be based on* levels of the European Qualifications Framework, as defined in Annex II of the Recommendation of the European Parliament and of the Council on the establishment of the European Qualifications Framework for lifelong learning;^{*}
 - (e) the profession concerned is neither covered by another common training framework nor *subject to automatic recognition* under Chapter III of Title III;
 - (f) the common training framework has been prepared following a transparent due process, including the *relevant* stakeholders from Member States where the profession is not regulated;

- (g) the common training framework permits nationals from any Member State to be eligible for acquiring the qualification under such framework without *first* being required to be a member of any professional organisation or to be registered with such organisation.
- 2a. *Representative professional organisations at the Union level as well as national professional organisations or competent authorities from at least one third of the Member States may submit to the Commission suggestions for common training frameworks which meet the conditions laid down in paragraph 2.***
3. The Commission shall be empowered to adopt delegated acts in accordance with Article 57c *to establish a common training framework for a given profession based on the conditions laid down in paragraph 2.*
4. *A Member State shall be exempted from the obligation of introducing the common training framework referred to in paragraph 3 on its territory and from the obligation of granting automatic recognition to the qualifications acquired under this common training framework if one of the following conditions is fulfilled:*
- (a) there are no education or training institutions available in its territory to offer such training for the profession concerned;*
 - (b) the introduction of the common training framework would adversely affect the organisation of its system of education and professional training;*
 - (c) there are substantial differences between the common training framework and the training required in its territory, which entail serious risks for public policy, public security, public health or for the safety of the service recipients, or the protection of the environment.*

5. *Member States shall, within six months of the entry into force of the delegated act referred to in paragraph 3, notify to the Commission and to the other Member States:*
- (a) the national qualifications, and where applicable, the national professional titles, compliant with the common training framework; or*
 - (b) the use of the exemption referred to in paragraph 4, with the necessary justification against one of the conditions referred to in points (a), (b) and (c) of paragraph 4. The Commission may, within three months, ask for further clarification if it considers that a Member State has provided no or insufficient justification that one of these conditions is satisfied. The Member State shall reply within three months.*

The Commission may adopt an implementing act to list the national qualifications and national professional titles benefiting from automatic recognition under the common training framework adopted in accordance with paragraph 3.

- 5a. *This Article also applies to specialities of a profession, provided such specialities concern professional activities the access to and the pursuit of which are regulated in Member States, where the profession is already subject to automatic recognition under Chapter III of Title III of this Directive, but not the speciality concerned.*

Article 49b

Common training tests

1. For the purpose of this Article, a common training test shall mean ***a standardised aptitude test available across participating Member States and reserved to holders of a particular professional qualification***. Successful completion of ***such*** a test in a Member State ***shall entitle the holder of a particular professional qualification to pursue the profession in any host Member State concerned*** under the same conditions as the holders of professional qualifications acquired in that Member State. ***Details of such tests shall be laid down in accordance with the conditions set out in paragraph 2.***
2. The common training test shall comply with the following conditions:
 - (a) the common training test enables more professionals to move across Member States ■ ;
 - (b) the profession ***is regulated, or the education and training leading to the profession*** concerned is regulated ***within the meaning of Article 3(1)(e)***, in at least one third of all Member States;
 - (c) the common training test has been prepared following a transparent due process, including with the ***relevant*** stakeholders from Member States where the profession is not regulated;
 - (d) the common training test permits nationals from any Member State to participate in such a test and in the practical organisation of such tests in Member States without ***first*** being required to be a member of any professional organisation or to be registered with such organisation.

- 2a. Representative professional organisations at the level of the Union as well as national professional organisations or competent authorities from at least one third of the Member States may submit to the Commission suggestions for common training tests which meet the conditions laid down in paragraph 2.*
3. The Commission shall be empowered to adopt delegated acts in accordance with Article 57c *to establish the contents of a common training test, the conditions required for sitting the test and for a successful completion thereof.*
- 3a. A Member State shall be exempted from the obligation of organising the common training test referred to in paragraph 3 on its territory and from the obligation of granting automatic recognition to the the professionals who successfully completed the common training test if one of the following conditions is fulfilled:*
- (a) the profession concerned is not regulated on its territory;*
 - (b) the contents of the common training test will not sufficiently mitigate serious risks for public health or the safety of the service recipients, which are relevant on its territory;*
 - (c) the contents of the common training test would render access to the profession seriously less attractive compared to national requirements.*

3b. Member States shall, within six months of the entry into force of the delegated act referred to in paragraph 3, notify to the Commission and to the other Member States:

- (a) the available capacities for organising such tests; or**
- (b) the use of the exemption referred to in paragraph 3a, with the necessary justification against one of the conditions referred to in points (a), (b) and (c) of paragraph 3a. The Commission may, within three months, ask for further clarification, if it considers that a Member State has provided no or insufficient justification that one of these conditions is satisfied. The Member State shall reply within three months.**

The Commission may adopt an implementing act to list the Member States in which the common training tests adopted in accordance with paragraph 3 shall be organised, the frequency during a calendar year and other arrangements necessary for organising common training tests across Member States.

*** OJ C 111, 6.5.2008, p. 1."**

(36) In Article 50, the following *paragraphs are* inserted:

"3a. In the event of justified doubts, the host Member State may require from the competent authorities of a Member State confirmation of the fact that the applicant is not suspended or prohibited from the pursuit of the profession as a result of serious professional misconduct or conviction of criminal offences relating to the pursuit of any of his/her professional activities.

3b. Exchange of information between competent authorities of different Member States under this Article shall take place via the IMI."

(37) In Article 52, the following paragraph ■ is added:

"3. A Member State may not reserve the use of the professional title to the holders of professional qualifications if it has not notified the association or organisation to the Commission and to the other Member States in accordance with Article 3(2)".

(38) In Article 53, the following *paragraphs are* added:

"A Member State shall ensure that any controls ■ carried out by *the* competent authority *or under its supervision for controlling compliance with the obligation under paragraph 1 shall be limited to the knowledge of one official or administrative language of the Member State, provided that the administrative language concerned is also an official language of the Union.*

.Controls under paragraph 2 may be imposed if the profession to be practised has patient safety implications. Controls may be imposed in respect of other professions in cases where there is a serious and concrete doubt.

Controls may take place only after the issuance of a European Professional Card in accordance with Article 4d or respectively after the recognition of a professional qualification.

Any language controls ■ shall be proportionate to the activity to be pursued ■ . The person concerned shall be allowed to appeal such controls *under national law*."

(39) In Title IV the following article **■** is inserted:

"Article 55a

Recognition of *professional* traineeship

1. *If access to a regulated profession in the home Member State is contingent upon completion of a professional traineeship, the competent authority of the home Member State shall recognise the traineeship carried out another Member State provided the traineeship is in accordance with the published guidelines referred to in paragraph 2, and take into account the traineeship carried out in a third country when considering a request for authorisation to exercise the regulated profession. However, Member States may limit the duration of the part of the professional traineeship which can be carried out abroad up to a reasonable period required under their national legislation.*
2. *Recognition of the traineeship shall not replace any requirements that may be in place to pass an examination in order to gain access to the profession in question. The competent authorities shall publish guidelines on the organisation and recognition of professional traineeships carried out in another Member State or in a third country, in particular on the role of the supervisor of the professional traineeship."*

(40) The title of Title V is replaced by the following:

"Title V

ADMINISTRATIVE COOPERATION AND RESPONSIBILITY TOWARDS CITIZENS
FOR IMPLEMENTATION".

(41) **■** Article 56 *is amended as follows*:

(a) in paragraph 2, the first subparagraph **■** is replaced by the following:

"The competent authorities of the host and home Member States shall exchange information regarding disciplinary action or criminal sanctions taken or any other serious, specific circumstances which are likely to have consequences for the pursuit of activities under this Directive, respecting personal data protection legislation provided for in Directives 95/46/EC and 2002/58/EC.";

(b) the following paragraph is inserted:

"2a. For the purposes of paragraphs 1 and 2, the competent authorities shall use IMI.";

(c) paragraph 4 is replaced by the following:

"4. Each Member State shall designate a coordinator for the activities of the competent authorities referred to in paragraph 1 and shall inform other Member States and the Commission thereof.

The coordinators' tasks shall be:

- (a) to promote uniform application of this Directive;*
- (b) to collect all the information which is relevant for application of this Directive, such as on the conditions for access to regulated professions in the Member States;*
- (c) to examine suggestions for common training frameworks and common training tests;*
- (d) to exchange information and best practice for the purpose of optimising continuous professional development in Member States;*
- (e) to exchange information and best practice on the application of compensation measures, as referred to in Article 14.*

For the purpose of carrying out the task set out in point (b), the coordinators may solicit the help of the assistance centres referred to in Article 57b."

(42) The following article ■ is inserted:

"Article 56a

Alert mechanism

1. The competent authorities of a Member State shall inform the competent authorities of all other Member States ■ about ■ a professional who has been *restricted or* prohibited by national authorities or courts from pursuing, even temporarily, on the territory of that Member State the following professional activities *in their entirety or parts thereof*:
 - (a) doctor of medicine *and* of general practice possessing evidence of a formal qualification referred to in *points 5.1.1 and 5.1.4* of Annex V;
 - (b) specialist doctor of medicine possessing a title referred to in point 5.1.3 of Annex V;
 - (c) nurse responsible for general care possessing evidence of a formal qualification referred to in point 5.2.2 of Annex V;
 - (d) dental practitioner possessing a professional qualifications listed in, point 5.3.2 of Annex V;
 - (e) specialist dentists possessing evidence of a formal qualification referred to in point 5.3.3 of Annex V;
 - (f) veterinary surgeon possessing evidence of a formal qualifications referred to in point 5.4.2 of Annex V ■ ;

- (g) midwife possessing evidence of a formal qualification referred to in point 5.5.2 Annex V;
- (h) pharmacist possessing evidence of a formal qualification listed in point 5.6.2 of Annex V;
- (i) holders of certificates mentioned in point 2 of Annex VII attesting that the holder completed a training which satisfies the minimum requirements listed in Articles 24, 25, 31, 34, 35, 38, 40, or 44 respectively, but which started earlier than the reference dates of the qualifications listed in points 5.1.3, 5.1.4, 5.2.2, 5.3.2, 5.3.3, 5.4.2, 5.5.2, 5.6.2 of Annex V;
- (j) holders of certificates of acquired rights as referred to in Articles 23, 27, 29, 33, 37 and 43;
- (ja) other professionals exercising activities with patient safety implications, where the person pursues a profession regulated in that Member State;*
- (jb) professionals exercising activities related to the education of minors, including in childcare and early childhood education, where the person pursues a profession regulated in that Member State.*

- 1a. Competent authorities shall send the** information referred to in **paragraph 1** at the latest within three days from the date of adoption of the decision **restricting or prohibiting** the professional concerned from exercising a professional activity **in its entirety or parts thereof via the IMI. That information shall be limited to the following:**
- (a) the identity of the professional;**
 - (b) the profession concerned;**
 - (c) information about the national authority or court adopting the decision on restriction or prohibition;**
 - (d) the scope of restriction or prohibition; and**
 - (e) the period during which the restriction or the prohibition decided by the national authority or court applies.**
- 2. The competent authorities of a Member State concerned shall, at the latest within three days from the date of adoption of the court decision, inform the competent authorities of all other Member States, via IMI, about the identity of professionals who have applied for the recognition of a qualification under Directive 2005/36/EC and who have subsequently been found by courts to have used falsified evidence of professional qualifications in this context.**

3. The processing of personal data for the purpose of the exchange of information *referred to in* paragraphs 1 and 2 shall be carried out in accordance with Directives 95/46/EC and 2002/58/EC. The processing of personal data by the Commission shall be carried out in accordance with Regulation (EC) No 45/2001.
- 3a. The competent authorities of all Member States shall without delay be informed when a prohibition or a restriction referred to in paragraph 1 has expired. For this purpose, the competent authority of the Member State which provides the information according to paragraph 1 shall be also required to provide the date of expiry as well as any subsequent change to this date.*
4. Member States shall provide that professionals on which alerts are sent to other Member States are informed in writing of decisions on alerts at the same time as the alert as such, may appeal *under national law* against the decision or apply for rectification of such decisions and shall have access to remedies in respect of any damage caused by false alerts to other Member States and in such cases the decision *on the alert* shall be qualified to indicate that it is subject to proceedings by the professional.
- 4a. Data regarding alerts may be processed within IMI for as long as they are valid. Alerts shall be deleted within three days from the date of adoption of the revoking decision or from the expiry of the prohibition or restrictions referred to in paragraph 1.*

5. The Commission shall adopt implementing acts for the application of the alert mechanism. The implementing act shall include provisions on the [] authorities entitled to sending and/or receiving alerts [] on the withdrawal and closure of alerts, [] and measures to ensure the security of processing []. Those implementing acts shall be adopted in accordance with the *examination* procedure referred to in Article 58(2).".

(43) Article 57 is replaced by the following:

"Article 57

Central online access to information

1. Member States shall ensure that the following information is available online *through the Points of Single Contact, referred to in Article 6 of Directive 2006/123/EC of the European Parliament and of the Council of 12 December 2006 on services in the internal market*^{*}, and regularly updated [] :
 - (a) a list of all regulated professions [] in the Member State including contact details of the competent authorities for each regulated profession and the assistance centre referred to in Article 57b;
 - (b) a list of the professions for which a European Professional Card is available, the functioning, *including all related fees to be paid by professionals*, and the competent authorities for issuing the Card;
 - (c) a list of all professions for which the Member State applies Article 7(4) in the national laws and regulation;
 - (d) a list of regulated education and training and training with a special structure, referred to in *point (ii) of point (c) of Article 11* [] ;

- (e) *the* requirements *and* procedures ■ referred to *under Articles 7, 50, 51 and 53* for *the* professions regulated in the Member State, including all related fees to be paid by citizens and documents to be submitted by citizens *to competent authorities*;
 - (f) how to appeal decisions *made under this Directive* of competent authorities under national laws and regulations.
- 2. Member States shall ensure that the information referred to in paragraph 1 is provided in a clear and comprehensive way for users, that it is easily accessible at a distance and by electronic means and that it is kept up to date.
 - 3. Member States shall ensure that ■ any request for information addressed to the point of single contact *is replied to as soon as possible*.
 - 4. Member States and the Commission shall take accompanying measures in order to *encourage* that points of single contact make the information provided for in paragraph 1 available in other official languages of the Union. This shall not affect the legislation of Member States on the use of languages in their territory.
 - 5. Member States shall cooperate with each other and the Commission for the purpose of implementing paragraphs 1, 2 and 4.

* OJ L 376, 27.12.2006, p. 36."

(44) The following *articles are* inserted:

"Article 57a

Procedures by electronic means

1. Member States shall ensure that all requirements, procedures and formalities relating to matters covered by this Directive may be easily completed, at a distance and by electronic means, through the relevant point of single contact *or the relevant competent authorities. This shall not prevent competent authorities of Member States from requesting certified copies at a later stage in the event of justified doubts and where strictly necessary.*
2. Paragraph 1 shall not apply to the carrying out of an aptitude test or the adaptation period within the meaning of Article 14(1).
3. Where it is justified for Member States to ask for advanced electronic signatures, within the meaning of Directive 1999/93/EC of the European Parliament and of the Council^{*}, for the completion of procedures referred to in paragraph 1, Member States shall accept electronic signatures in compliance with Commission Decision 2009/767/EC^{**} and provide for technical measures to process advanced e-signature formats defined by Commission Decision 2011/130/EU^{***}.

4. All procedures shall be carried out in accordance with *Article 8* of Directive 2006/123/EC relating to the points of single contact. *The procedural time limits set out Article 7(4) and Article 51* shall commence at the point when an application *or any missing document* has been submitted by a citizen to a point of single contact *or directly to the relevant competent authority. Any request for certified copies referred to in paragraph 1 shall not be considered as a request for missing documents.*

* OJ L 13, 19.1.2000, p. 12.

** OJ L 274, 20.10.2009, p. 36.

*** OJ L 53, 26.2.2011, p. 66."

Article 57b

Assistance centres

1. Each Member State shall designate, no later than ...⁺ an assistance centre whose remit shall be to provide citizens, *as well as* centres of the other Member States, with assistance concerning the recognition of professional qualifications provided for in this Directive, including information on the national legislation governing the professions and the pursuit of those professions, social legislation, and, where appropriate, the rules of ethics.

⁺ OJ: Please insert date: two years after entry into force of this Directive.

2. The assistance centres in host Member States shall assist citizens in exercising the rights conferred on them by this Directive, in cooperation, where appropriate, with the assistance centre in the home Member State and the competent authorities and the points of single contact in the host Member State.
3. Any competent authority in the *home or* host Member State shall be required to fully cooperate with *the* assistance centre in the host Member State and *where appropriate the home Member State, and* provide *all relevant* information about individual cases to such assistance centres upon their request *and subject to data protection rules in accordance with Directives 95/46/EC and 2002/58/EC.*
4. At the Commission's request, the assistance centres shall inform the Commission concerning enquiries with which the Commission is dealing within two months after receiving such a request.

Article 57c

Exercise of the delegation

1. *The power to adopt delegated acts is conferred on the Commission subject to the conditions laid down in this Article.*

2. *The power to adopt delegated acts referred to in third subparagraph of Article 3(2), Article 20, second subparagraph of Article 21(6), Articles 21a(3), 25(5), second subparagraph of Article 26, second subparagraph of Article 31(2),), second subparagraph of Article 34(2), Articles 35(4), 35(4a), second subparagraph of Article 38(1), second subparagraph of Article 40(1), second subparagraph of Article 44(2), Articles 49a(3) and 49b(3) shall be conferred on the Commission for a period of five years from ...⁺. The Commission shall draw up a report in respect of the delegation of power not later than nine months before the end of the five-year period. The delegation of power shall be tacitly extended for periods of an identical duration, unless the European Parliament or the Council opposes such extension not later than three months before the end of each period.*
3. *The power to adopt delegated acts referred to in third subparagraph of Article 3(2), Article 20, second subparagraph of Article 21(6), Articles 21a(3), 25(5), second subparagraph of Article 26, second subparagraph of Article 31(2), second subparagraph of Article 34(2), Articles 35(4), 35(4a), second subparagraph of Article 38(1), second subparagraph of Article 40(1), second subparagraph of Article 44(2), Articles 49a(3) and 49b(3) may be revoked at any time by the European Parliament or by the Council. A decision to revoke shall put an end to the delegation of the power specified in that decision. It shall take effect the day following the publication of the decision in the Official Journal of the European Union or at a later date specified therein. It shall not affect the validity of any delegated acts already in force.*

⁺ OJ: Please insert date: date of entry into force of this Directive.

4. *As soon as it adopts a delegated act, the Commission shall notify it simultaneously to the European Parliament and to the Council.*

5. *A delegated act adopted pursuant to third subparagraph of Article 3(2), Article 20, second subparagraph of Article 21(6), Articles 21a(3), 25(5), second subparagraph of Article 26, second subparagraph of Article 31(2), second subparagraph of Article 34(2), Articles 35(4), 35(4a), second subparagraph of Article 38(1), second subparagraph of Article 40(1), second subparagraph of Article 44(2), Articles 49a(3) and 49b(3) shall enter into force only if no objection has been expressed either by the European Parliament or the Council within a period of two months of notification of that act to the European Parliament and the Council or if, before the expiry of that period, the European Parliament and the Council have both informed the Commission that they will not object. That period shall be extended by two months at the initiative of the European Parliament or of the Council."*(46) Article 58 is replaced by the following:

"Article 58

Committee procedure

1. The Commission shall be assisted by a Committee on the recognition of professional qualifications. That Committee shall be a committee within the meaning of Regulation (EU) No 182/2011.
2. Where reference is made to this paragraph, Article 5 of Regulation (EU) No 182/2011 shall apply."

I

(48) Article 59 is replaced by the following:

"Article 59

Transparency

1. Member States shall notify to the Commission a list of existing regulated professions, *specifying the activities covered by each profession, and a list of regulated education and training and training with a special structure, referred to in point (ii) of point (c) of Article 11, in their territory* by ...⁺. Any change to *these lists* shall also be notified to the Commission without *undue* delay. The Commission shall set up and maintain a publicly available database *of regulated professions, including general description of activities covered by each profession*.
- 1a. *By ...⁺⁺, Member States shall notify to the Commission the list of professions for which a prior check of qualifications is necessary under Article 7(4). Member States shall provide the Commission with a specific justification for the inclusion of each of those professions in the list.*
2. Member States shall examine whether requirements *under their legal system* restricting the access to a profession or its pursuit to the holders of a specific professional qualification, including the use of professional titles and the professional activities allowed under such title, *referred to in this Article as "requirements"* are compatible with the following principles:
 - (a) requirements must be neither directly nor indirectly discriminatory *on the basis of* nationality or residence;
 - (b) requirements must be justified by an overriding reason relating to *the* public interest;

⁺ OJ: Please insert date: two years after entry into force of this Directive.

⁺⁺ OJ: Please insert date: two years after entry into force of this Directive.

- (c) requirements must be suitable for securing the attainment of the objectives pursued and must not go beyond what is necessary to attain the objective.
3. Paragraph 1 shall also apply to professions regulated in a Member State by an association or organisation within the meaning of Article 3(2) and any requirements **■** for membership *of those associations or organisations*.
4. By ...⁺⁺⁺, Member States shall provide information on the requirements they intend to maintain and the reasons for considering that *those* requirements comply with paragraph 2. Member States shall provide information on the requirements they subsequently introduced and the reasons for considering that those requirements comply with paragraph 2 within six months of the adoption of the measure.
5. By ...⁺⁺⁺⁺, and every two years thereafter, Member States shall also provide a report about the requirements which have been removed or made less stringent.
6. The Commission shall forward the reports to the other Member States which shall submit their observations within six months. Within the same period, the Commission shall consult interested parties, including the professions concerned.
7. The Commission shall provide a summary report based on the information provided by Member States to the Group of Coordinators established under Commission Decision No 2007/172/EC*, which may make observations.

⁺⁺⁺ OJ: Please insert date: two years after entry into force of this Directive.

⁺⁺⁺⁺ OJ: Please insert date: two years after entry into force of this Directive.

8. In light of the observations provided for in paragraphs 6 and 7, the Commission shall ...⁺⁺⁺⁺ submit its final findings to the *European Parliament and the* Council, accompanied where appropriate by proposals for further initiatives.

* OJ L 79, 20.3.2007, p. 38."

⁺⁺⁺⁺ OJ: Please insert date: one year after two years after entry into force of this Directive.

(48a) Article 60 is amended as follows:

(a) in paragraph 1, the following subparagraph is added:

"As from ...⁺ the statistical summary of decisions taken referred to in the first subparagraph shall contain detailed information on the number and types of decisions taken in accordance with this Directive, including the types of decisions on partial access taken by competent authorities in accordance with Article 4f, and a description of main problems arising from the application of this Directive".

(b) paragraph 2 is replaced by the following:

"2. On ...⁺⁺ at the latest, and every five years thereafter, the Commission shall publish a report on the implementation of this Directive.

The first such report shall focus in particular on the new elements introduced in this Directive and consider in particular the following issues:

(a) the functioning of the European Professional Card;

(b) the modernisation of the knowledge, skills and competences for the professions covered by Chapter III of Title III, including the list of competences referred to in Article 31(7);

(c) the functioning of the Common Training Frameworks and Tests;

⁺ OJ: Please insert date: two years after entry into force of this Directive.

⁺⁺ OJ: Please insert date: five years after the entry into force of this Directive.

(d) the results of the special upgrading programme laid down under Romanian legislation or regulations for holders of the evidence of formal qualifications mentioned in Article 33a, as well as for holders of evidence of formal qualifications of post-secondary level, with a view to assessing the need to review the current provisions governing the acquired rights regime applicable to the Romanian evidence of formal qualifications as nurse responsible for general care.

Member States shall provide all necessary information for the preparation of that report."

(49) In Article 61, the second paragraph is replaced by the following:

"Where appropriate, the Commission shall adopt an implementing **act** to permit the Member State in question to derogate from the relevant provision for a limited period of time."

(50) Annexes II and III are deleted.

(51) In point 1 of Annex VII, the following point ■ is added:

"(g) where the Member State requires so for its own nationals, evidence of neither temporary suspension from exercising the profession nor criminal convictions."

Article 2

Amendment to Regulation (EU) No 1024/2012

Point 2 of Annex I to ***the Regulation (EU) No 1024/2012*** is replaced by the following:

"2. Directive 2005/36/EC of the European Parliament and of the Council^{*}: Articles 4a to 4e, Article 8, Article 21a, Article 50, ■ Article 56 and Article 56a.

^{*} OJ L 255, 30.9.2005, p. 22."

Article 3
Transposition

1. Member States shall bring into force the laws, regulations and administrative provisions necessary to comply with this Directive by ...^{*} **■** .
- 1a.** *Any Member State which, on the day of the entry into force of this Directive, provides access to training as a midwife for route I under Article 40(2) of Directive 2005/36/EC after completion of at least the first ten years of general school education, shall bring into force the laws, regulations and administrative provisions necessary to comply with the admission requirements of training as a midwife under point (a) of Article 40(2) of that Directive by ...^{**} .*
- 1b.** *Member States* shall forthwith communicate to the Commission the text of those *measures referred to in paragraphs 1 and 1a*.
- 1c.** When Member States adopt those *measures referred to in paragraphs 1 and 1a*, they shall contain a reference to this Directive or be accompanied by such a reference on the occasion of their official publication. *The methods of making such reference shall be laid down by Member States.*

^{*} OJ: Please insert date: two years after the entry into force.
^{**} OJ: Please insert date: six years after the entry into force.

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

Article 4

Entry into force

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

Article 5

Addressees

This Directive is addressed to the Member States.

Done at ...,

For the European Parliament
The President

For the Council
The President
