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From: Secretary-General of the European Commission,
signed by Mr Jordi AYET PUIGARNAU, Director

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To: Mr Jeppe TRANHOLM-MIKKELSEN, Secretary-General of the Council of
the European Union

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Subject: REPORT FROM THE COMMISSION TO THE EUROPEAN PARLIAMENT
AND THE COUNCIL on the exercise of the power to adopt delegated acts
conferred on the Commission pursuant to Directive 2013/55/EU of the
European Parliament and of the Council of 20 November 2013 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')

Delegations will find attached document COM(2018) 263 final.

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1. INTRODUCTION

Directive 2005/36/EC of the European Parliament and of the Council of 7 September 2005 on the recognition of professional qualifications¹ consolidated the mutual recognition regime which was based on 15 Directives.

In its Communication of 27 October 2011², the Commission identified the need to modernise Union law in this area. This resulted in the adoption of Directive 2013/55/EU³ on 20 November 2013.

For the purpose of achieving its objectives, Directive 2013/55/EU amending Directive 2005/36/EC confers on the Commission the power to adopt delegated acts in a number of matters listed in Article 57c(2) of Directive 2005/36/EC ("the Directive") and subject to the conditions laid down in this Article, in accordance with Article 290 TFEU.

2. LEGAL BASIS

Article 57c(2) of Directive 2005/36/EC as amended by Directive 2013/55/EU confers the power on the Commission to adopt delegated acts concerning the matters listed therein for a period of five years from 17 January 2014. Furthermore, it puts the Commission under the obligation to prepare a report in respect of the delegation of power at the latest nine months before the end of the five-year period.

The delegated powers shall be tacitly extended for five-year periods, unless the European Parliament or the Council opposes such extension not later than three months before the end of each period.

The power to adopt delegated acts is conferred on the Commission subject to the conditions laid down in Article 57c of Directive 2005/36/EC as amended by Directive 2013/55/EU. It may be revoked at any time by the European Parliament or by the Council.

¹ OJ L 255, 30.09.2005, p.22

² Single Market Act, Twelve levers to boost growth and strengthen confidence, 'Working together to create new growth', COM (2011)206 final

³ OJ L 354, 28.12.2013, p. 132

Article 57c(2) of Directive 2005/36/EC as amended by Directive 2013/55/EU empowers the Commission to adopt delegated acts concerning, in particular, the following matters:

- a) updating of titles for evidence of formal qualifications and, where appropriate, the body which issues said evidence, the certificate which accompanies it and the corresponding professional title which are referred to in 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;
- b) updating of minimum training requirements established under the Directive for six professions;
- c) Establishing common training frameworks or common training tests.

As soon as the Commission adopts a delegated act, it shall notify it simultaneously to the European Parliament and to the Council (Article 57c (4) of Directive 2005/36/EC as amended by Directive 2013/55/EU).

Under Article 57c(5) of Directive 2005/36/EC as amended by Directive 2013/55/EU, a delegated act 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.

3. EXERCISE OF THE DELEGATION

3.1 Delegated acts already adopted

The Commission has exercised the following delegated powers in the reference period:

On the basis of Article 21a(4) of Directive 2005/36/EC as amended by Directive 2013/55/EU, two Commission Delegated Decisions have been adopted amending Annex V to Directive 2005/36/EC as regards evidence of formal qualifications (see point 2.a) above).

The first Delegated Decision amending Annex V to incorporate modifications of national diplomas in the sectorial professions which Member States had notified to the Commission was adopted on 13 January 2016⁴ and the second Delegated Decision was adopted on 1 December 2017⁵.

⁴ OJ L134, 24.05.2016, p. 135

⁵ OJ L 317, 1.12.2017, p. 119

3.2 Consultation prior to adoption

In line with its commitments in the Interinstitutional Agreement on Better Law-Making⁶ the Commission consulted experts nominated by Member States and relevant stakeholders, via regular dedicated expert meetings and written consultations, in the preparation of the delegated acts.

The expert group involved in the preparation of the delegated acts was the Group of Coordinators on the recognition of professional qualifications, as created by Commission Decision of 19 March 2007⁷. The observations presented in these consultations were taken into consideration when preparing the final versions of delegated acts.

The documents relevant to these consultations were transmitted simultaneously to the European Parliament and to the Council, and both institutions had the opportunity to send experts to the meetings of the expert group.

3.3 No objections to delegated acts

According to Article 57c(5) of Directive 2005/36/EC as amended by Directive 2013/55/EU, the European Parliament or the Council may object to a delegated act within a period of two months from the date of notification, extendable by another two months at the initiative of the European Parliament or of the Council. If either the European Parliament or the Council objects to a delegated act within this period, it shall not enter into force.

Neither the European Parliament nor the Council objected to any of the delegated acts mentioned under section 3.1. above and the delegated acts were therefore published and entered into force at the end of the objection period.

3.4 Possible future delegated acts

Further delegated acts will have to be adopted regularly on the basis of Article 21a(4) in order to amend Annex V of Directive 2005/36/EC as regards evidence of formal qualifications. The Commission services are currently preparing the third Delegated Decision.

In addition, the Commission services are working on a possible delegated Regulation establishing a common training test for ski instructors under Article 49b of the Directive.

4. CONCLUSION

The Commission considers that it has exercised the delegated powers conferred upon it within the limits and in respect of the conditions laid down in Article 57c of Directive 2005/36/EC as amended by Directive 2013/55/EU. The Commission sees the need to extend

⁶ OJ L 123, 12.05.2016

⁷ OJ L79, 20.03.2007, p. 38

the empowerments because further delegated acts amending amongst others Annex V of Directive 2005/36/EC as regards evidence of formal qualifications will be required in the future. With this report the Commission complies with the reporting requirement under Article 57c(2) of Directive 2005/36/EC as amended by Directive 2013/55/EU. The Commission invites the European Parliament and the Council to take note of this Report.