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From: Secretary-General of the European Commission, signed by Ms Martine DEPREZ, Director

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To: Ms Thérèse BLANCHET, Secretary-General of the Council of the European Union

No. Cion doc.: C(2023) 3276 final

Subject: COMMISSION DELEGATED DECISION of 23.5.2023 amending and correcting Directive 2005/36/EC of the European Parliament and of the Council as regards the evidence of formal qualifications and the titles of training courses

Delegations will find attached document C(2023) 3276 final.

Encl.: C(2023) 3276 final



Brussels, 23.5.2023
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COMMISSION DELEGATED DECISION

of 23.5.2023

amending and correcting Directive 2005/36/EC of the European Parliament and of the Council as regards the evidence of formal qualifications and the titles of training courses

(Text with EEA relevance)

EXPLANATORY MEMORANDUM

1. CONTEXT OF THE DELEGATED ACT

This delegated act amends Annex V to Directive 2005/36/EC on the recognition of professional qualifications.¹ This follows notifications from Member States of the list of professional titles that qualify for automatic recognition in accordance with Title III, Chapter III of the Directive.

Directive 2005/36/EC, which entered into force on 20 October 2005, provides that seven sectoral professions (architect, doctor of medicine, dental practitioner, midwife, nurse responsible for general care, pharmacist and veterinary surgeon) may qualify for automatic recognition of their qualification in another Member State. One pre-condition for that automatic recognition is that the qualification meets the minimum training requirements set out in Title III, Chapter III, Sections 2 to 8 of that Directive.

Article 21(7) of that Directive requires Member States to notify to the Commission any legislative, regulatory and administrative provisions that Member States adopt for issuing evidence of formal qualifications benefiting from automatic recognition. The Commission then evaluates these submissions against agreed minimum training requirements.

Directive 2005/36/EC was amended by Directive 2013/55/EU, which entered into force on 17 January 2014². Article 21a(3) of Directive 2005/36/EC stipulates that Member States shall use the Internal Market Information System to notify the laws, regulations and administrative provisions with regard to the issuing of evidence of formal qualifications in the professions covered by Chapter III. Article 21a(4) of that Directive empowers the Commission to adopt delegated acts to update the relevant points of Annex V.

So far, five Delegated Decisions³ have been adopted under the new regime instituted with the entry into force of Directive 2013/55/EU.

In line with the Member States' request that Annex V be updated on a regular basis, ideally once a year, with new and amended titles that they have notified, a new delegated decision is needed. This Delegated Decision therefore consolidates all old, new and amended professional titles notified until August 2022.

The proposed changes to Annex V reflect programmes which the Member States have notified to the Commission, and which the Commission has approved as meeting agreed harmonised minimum training requirements. A different procedure applies in the case of architects, where the Member States are consulted on whether new titles or programmes should be included in Annex V.

¹ Directive 2005/36/EC of the European Parliament and of the Council of 7 September 2005 on the recognition of professional qualifications (OJ L 255, 30.9.2005, p. 22).

² 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') (OJ L 354, 28.12.2013, p. 132).

³ Commission Delegated Decision (EU) 2016/790 of 13 January 2016 (OJ L 134, 24.5.2016, p. 135), Commission Delegated Decision (EU) 2017/2113 of 11 September 2017 (OJ L 317, 1.12.2017, p. 119), Commission Delegated Decision (EU) 2019/608 of 16 January 2019 (OJ L 104, 15.4.2019, p. 1), Commission Delegated Decision (EU) 2020/548 of 23 January 2020 (OJ L 131/1, 24.4.2020, p. 1) and Commission Delegated Decision (EU) 2021/2183 of 25 August 2021 (OJ L 444, 10.12.2021, p. 16).

2. CONSULTATIONS PRIOR TO THE ADOPTION OF THE ACT

The Commission consulted Member States' authorities on these amendments to Annex V through the relevant expert group ('Group of coordinators for the recognition of professional qualifications'⁴) and the Member States did not raise any objections.

3. LEGAL ELEMENTS OF THE DELEGATED ACT

This Delegated Decision is based on Article 21a(4) of Directive 2005/36/EC, as amended. That Article empowers the Commission to adopt delegated acts in accordance with Article 57c of that Directive 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. These points concern 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 As set up by Commission Decision 2007/172/EC of 19 March 2007 setting up the group of coordinators for the recognition of professional qualifications (OJ L 79, 20.3.2007, p. 38).

Commission Delegated Decision of 23.5.2023 amending and correcting Directive 2005/36/EC of the European Parliament and of the Council as regards the evidence of formal qualifications and the titles of training courses

(Text with EEA relevance)

THE EUROPEAN COMMISSION,

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

Having regard to Directive 2005/36/EC of the European Parliament and of the Council of 7 September 2005 on the recognition of professional qualifications⁵, and in particular Article 21a(4) thereof,

Whereas:

- (1) Annex V to Directive 2005/36/EC contains lists of the evidence of formal qualifications of doctors of medicine, nurses responsible for general care, dental practitioners, veterinary surgeons, midwives, pharmacists and architects.
- (2) The amended provisions notified comply with the conditions set out in Articles 24, 25, 28, 31, 34, 35, 38, 40, 41, 44 and 46 of Directive 2005/36/EC.
- (3) Annex V to Directive 2005/36/EC should therefore be updated.
- (4) Commission Delegated Decision (EU) 2021/2183⁶ altered the spelling of several Maltese entries and one Swedish entry of evidence of formal qualifications in Annex V to Directive 2005/36/EC, as a result of an error during the translation of that Delegated Decision. This concerns the Maltese entries for basic medical training, obstetrics and gynaecology, physiotherapy, dermato-venereology, venerology, accident and emergency medicine, orthodontics, nurse responsible for general care, dental practitioner, pharmacist, midwife and architect, and the Swedish entry for medical genetics. Those errors should be corrected.
- (5) For reasons of clarity and legal certainty, all relevant points of Annex V to Directive 2005/36/EC as regards the evidence of formal qualifications and titles of training courses should be replaced.
- (6) Directive 2005/36/EC should therefore be amended accordingly,

HAS ADOPTED THIS DECISION:

Article 1

Annex V to Directive 2005/36/EC is amended and corrected in accordance with the Annex to this Decision.

Article 2

This Decision is addressed to the Member States.

⁵ OJ L 255, 30.9.2005, p. 22.

⁶ Commission Delegated Decision (EU) 2021/2183 of 25 August 2021 amending Annex V to Directive 2005/36/EC of the European Parliament and of the Council as regards the evidence of formal qualifications and titles of training courses (OJ L 444, 10.12.2021, p. 16).

Done at Brussels, 23.5.2023

For the Commission
Thierry BRETON
Member of the Commission