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COVER NOTE

From:	Secretary-General of the European Commission, signed by Ms Martine DEPREZ, Director
date of receipt:	25 August 2021
To:	Mr Jeppe TRANHOLM-MIKKELSEN, Secretary-General of the Council of the European Union

No. Cion doc.:	C(2021) 6111 final
Subject:	COMMISSION DELEGATED DECISION of 25.8.2021 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

Delegations will find attached document C(2021) 6111 final.

Encl.: C(2021) 6111 final



Brussels, 25.8.2021
C(2021) 6111 final

COMMISSION DELEGATED DECISION

of 25.8.2021

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

(Text with EEA relevance)

EXPLANATORY MEMORANDUM

1. CONTEXT OF THE DELEGATED ACT

This delegated act replaces Annex V to Directive 2005/36/EC on the recognition of professional qualifications¹ with an updated version. 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.

The Directive, 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. One pre-condition for that automatic recognition is that the qualification meets the minimum training standards set out in Title III, Chapter III, Sections 2 to 8 of the Directive.

Article 21(7) of the Directive required Member States to notify the Commission of legislative, regulatory and administrative provisions they adopt for issuing evidence of formal qualifications benefiting from automatic recognition. These submissions are then evaluated against agreed minimum training standards.

Directive 2005/36/EC was amended by Directive 2013/55/EU, which entered into force on 17 January 2014². Article 21a(3) of the amended Directive stipulates that the Internal Market Information System must be used to notify new or amended evidence of formal qualifications. Article 21a(4) provides the legal basis for using delegated acts to update the relevant points of Annex V.

So far, four delegated decisions have been adopted under the new regime instituted with the entry into force of Directive 2013/55/EU³.

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 decision therefore consolidates all old, new and amended professional titles notified between May 2019 and May 2020.

The proposed changes to Annex V reflect programmes of which the Commission has been notified and which it has approved as meeting agreed harmonised minimum training standards. 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.

Due to the United Kingdom's withdrawal from the Union and the end of the transition period provided for in the Agreement on the withdrawal of the United Kingdom of Great Britain and Northern Ireland from the European Union and the European Atomic Energy Community⁴, as

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) and Commission Delegated Decision (EU) 2020/548 of 23 January 2020 (L 131/1 dated 24.4.2020).

⁴ Agreement on the withdrawal of the United Kingdom of Great Britain and Northern Ireland from the European Union and the European Atomic Energy Community (OJ C 384I, 12.11.2019, p. 1).

of 1 January 2021 no evidence of formal qualifications, as defined in Directive 2005/36/EC, can be issued in the UK.

Any ongoing procedures for recognising professional qualifications under the Withdrawal Agreement should be processed by reference to the rules mentioned in Article 28 of the Withdrawal Agreement as they stand on 31 December 2020, including Commission Delegated Decision (EU) 2020/548 of 23 January 2020.

2. CONSULTATIONS PRIOR TO THE ADOPTION OF THE ACT

Member States' authorities were consulted on these amendments to Annex V and no objections were raised.

3. LEGAL ELEMENTS OF THE DELEGATED ACT

The proposed measure 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.

COMMISSION DELEGATED DECISION of 25.8.2021 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

(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 qualifications¹, 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 notified amended provisions comply with the conditions set out in Articles 24, 25, 28, 31, 34, 35, 38, 40, 41, 44 and 46 under Title III, Chapter III of Directive 2005/36/EC.
- (3) One change, notified by France, concerns the withdrawal of a diploma added in error to Annex V, point 5.1.3, “‘Accident and emergency medicine’” by Commission Delegated Decision (EU) 2020/548². The diploma notified by France should not have been added to Annex V, point 5.1.3, ‘Accident and emergency medicine’ by Commission Delegated Decision (EU) 2020/548 as training for this diploma is shorter than the required minimum and therefore does not fulfil the substantive requirement of complying with the minimum standards of Directive 2005/36/EC.
- (4) Due to the withdrawal of the United Kingdom from the Union and the end of the transition period provided for in the Agreement on the withdrawal of the United Kingdom of Great Britain and Northern Ireland from the European Union and the European Atomic Energy Community³, as of 1 January 2021 no evidence of formal qualifications, as defined in Directive 2005/36/EC, can be issued in the UK.
- (5) Annex V to Directive 2005/36/EC should therefore be updated. 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,

¹ OJ L 255, 30.9.2005, p. 22.

² Commission Delegated Decision (EU) 2020/548 of 23 January 2020 amending Annex V to Directive 2005/36/EC of the European Parliament and of the Council as regards evidence of formal qualifications and the titles of training courses (OJ L 131, 24.4.2020, p. 1).

³ Agreement on the withdrawal of the United Kingdom of Great Britain and Northern Ireland from the European Union and the European Atomic Energy Community (OJ C 384I, 12.11.2019, p. 1).

HAS ADOPTED THIS DECISION:

Article 1

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

Article 2

This Decision is addressed to the Member States.

Done at Brussels, 25.8.2021

For the Commission
Thierry BRETON
Member of the Commission