

**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')**

**(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 Committee <sup>(1)</sup>,

Acting in accordance with the ordinary legislative procedure <sup>(2)</sup>,

Whereas:

(1) Directive 2005/36/EC of the European Parliament and of the Council of 7 September 2005 on the recognition of professional qualifications <sup>(3)</sup> 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 States <sup>(4)</sup>. 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, under specific Union legal acts such as those on long-term residence, refugees, 'blue card holders' and scientific researchers.

(2) In its Communication of 27 October 2010 entitled 'Single Market Act, Twelve levers to boost growth and strengthen confidence, 'Working together to create new growth', the Commission identified the need to modernise Union law in this area. On 23 October 2011, the European Council in its conclusions supported such a modernisation and urged the European Parliament and the Council to reach a political agreement on the revision of Directive 2005/36/EC by the end of 2012. In its resolution of 15 November 2011 on the implementation of the Professional Qualifications Directive (2005/36/EC) <sup>(5)</sup>, the European Parliament also invited the Commission to come forward with a proposal. The EU Citizenship report 2010 of 27 October 2010 entitled 'Dismantling the obstacles to EU citizens' rights' underlines the need to lighten the administrative burden linked to the recognition of professional qualifications.

(3) Notaries who are appointed by an official act of government should be excluded from the scope of Directive 2005/36/EC in view of the specific and differing regimes applicable to them in individual Member States for accessing and pursuing the profession.

(4) For the purposes of strengthening the internal market and promoting the free movement of professionals while ensuring a more efficient and transparent recognition of professional 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 at the request of a professional and after submission of necessary documents and completion of related verification procedures by the competent authorities. Where the European Professional Card is issued for the purpose of establishment, it should constitute a recognition

<sup>(1)</sup> OJ C 191, 29.6.2012, p. 103.

<sup>(2)</sup> Position of the European Parliament of 9 October 2013 (not yet published in the Official Journal) and decision of the Council of 15 November 2013.

<sup>(3)</sup> OJ L 255, 30.9.2005, p. 22.

<sup>(4)</sup> OJ L 158, 30.4.2004, p. 77.

<sup>(5)</sup> OJ C 153 E, 31.5.2013, p. 15.

decision and be treated as any other recognition decision under Directive 2005/36/EC. It should complement rather than replace any registration requirements associated with access to a particular profession. There is no need to introduce 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 services<sup>(1)</sup> 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 obtained<sup>(2)</sup>.

- (5) 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 Council<sup>(3)</sup>. The Card and IMI 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.
- (6) 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.
- (7) Directive 2005/36/EC applies only to professionals who want to pursue the same profession in another Member State. There are cases where, in the host Member State, the activities concerned are part of a profession with a larger scope of activities than in the home Member State. If the differences between the fields of activity are so large that a full programme of education and training would be 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, where there are 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 of the Treaty on the

Functioning of the European Union (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 partial access should be without prejudice to the right of social partners to organise themselves.

- (8) In the interest of protecting local consumers in the host Member State, temporary and occasional provision of services in Member States should be subject to safeguards, in particular a requirement of a minimum of one year's professional experience during the last 10 years preceding the provision of services, in cases where 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 should be able to 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 service provider.
- (9) 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 that have public health or safety implications. This has led to legal uncertainty leaving it to the discretion of a competent authority to decide on the need for such a prior check. In order to ensure legal certainty, professionals should know from the outset whether a prior check of professional 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 that have public health or safety implications, Directive 2005/36/EC should be without prejudice to the possibility for Member States to impose an insurance cover obligation related to the professional acts in accordance with 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 healthcare<sup>(4)</sup> and Directive 2006/123/EC of the European Parliament and of the Council of 12 December 2006 on services in the internal market<sup>(5)</sup>.
- (10) 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.

<sup>(1)</sup> OJ L 78, 26.3.1977, p. 17.

<sup>(2)</sup> OJ L 77, 14.3.1998, p. 36.

<sup>(3)</sup> OJ L 316, 14.11.2012, p. 1.

<sup>(4)</sup> OJ L 88, 4.4.2011, p. 45.

<sup>(5)</sup> OJ L 376, 27.12.2006, p. 36.

- (11) 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 no effect on the national education and training structures or on the competence of Member States in that field, including national policy for implementing the European Qualifications Framework (EQF). The EQF is a tool designed to promote the transparency and comparability of professional qualifications and can be a useful additional source of information for the competent authorities examining professional 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 Directive 2005/36/EC 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.
- (12) Applications for recognition from professionals who come from non-regulating Member States and who have one year of professional experience should be treated in the same way as those of professionals who come from a regulating Member State. Their professional qualifications should be compared to the professional qualifications required in the host Member State on the basis of the professional qualification levels set out in Directive 2005/36/EC. In the event 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.
- (13) 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. Any such measure should be proportionate and, in particular, take account of the knowledge, skills and competences acquired 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 judicial review before national courts under Directive 2005/36/EC.
- (14) 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 a system of automatic recognition for those activities 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.
- (15) Continuous professional development contributes to the safe and effective practice of professionals who benefit from the automatic recognition of their professional qualifications. 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 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.
- (16) 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 laid down in Directive 2005/36/EC.
- (17) 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. That possibility should not affect the other requirements for automatic recognition. One ECTS credit corresponds to 25-30 hours of study whereas 60 credits are normally required for the completion of one academic year.

- (18) 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 relating 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.
- (19) 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 specialties which are covered by the automatic recognition system.
- (20) 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. 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.
- (21) In order to prepare midwives to meet complex healthcare needs relating to their activities, midwifery trainees should have a solid general education background before they start midwifery training. Therefore, admission to midwifery training should be increased to 12 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 activities of a midwife referred to in Directive 2005/36/EC.
- (22) To simplify the system for automatic recognition of medical and dental specialties, such specialties should be covered by Directive 2005/36/EC if they are common to at least two-fifths of the Member States.
- (23) A significant number of Member States have 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 professional qualification acquired in another Member State should not, however, 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 from the automatic recognition of qualifications 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 have already been lawfully and effectively practising as a pharmacist for a certain period on the territory of that Member State.
- (24) 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, in particular 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.
- (25) Directive 2005/36/EC should, through the introduction of common training principles, promote a more automatic character of recognition of professional qualifications for those professions which do not currently benefit from it. This should take account of the competence of Member States to decide the professional 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 common training tests. It should be possible for common training frameworks also to cover specialties that currently do not benefit from automatic recognition provisions under Directive 2005/36/EC and that relate to professions encompassed by Chapter III of Title III and that have clearly defined specific activities reserved to them. Common training frameworks on such specialties, in particular medical specialties, should offer a high level of public health and patient safety. Professional 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 suggestions for common training principles to the Commission, in order to allow for an assessment with the national coordinators of the possible consequences of such principles for the national education and training systems, as well as for the national rules governing access to regulated professions.

- (26) Directive 2005/36/EC already provides for the obligation for professionals to have the necessary language skills. The review of the application of that obligation has shown a need to clarify the role of competent authorities and employers, in particular in the interest of better ensuring patient safety. Competent authorities should be able to apply language controls after recognition of professional qualifications. It is important for professions that have patient safety implications in particular that language controls under Directive 2005/36/EC be applied before the professional accesses the profession in the host Member State. Language controls should however be reasonable and necessary for the professions in question and should not aim at excluding professionals from other Member States 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 carried out by, or under the supervision of, a competent authority should be limited to the knowledge of one official language of the host Member State, or one administrative language of the host Member State, provided that it 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.
- (27) 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 professional traineeship completed in another Member State should be based on a clear written description of learning objectives and assigned tasks, to be determined by the trainee's supervisor in the host Member State. Professional traineeships completed in third countries should be taken into account by Member States when considering a request to access a regulated profession.
- (28) 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 the 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. In respect of the European Professional Card, Member States should be free to decide whether the assistance centres are either to act as a competent authority in the home Member State or to support the relevant competent authority in the handling of applications for a European Professional Card and processing of the applicant's individual file created within IMI (IMI file). In the context of free provision of services, if the profession concerned is not regulated in the home Member State, the assistance centres may also participate in the exchange of information envisaged for the purpose of administrative cooperation.
- (29) This Directive contributes to ensuring a high level of health and consumer protection. Directive 2005/36/EC already provides for detailed obligations for Member States to exchange information. Those 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 practise 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 relating to the education of minors, including professionals working in childcare and early childhood education. The obligation to send an alert should apply only to the Member States where such professions are regulated. All Member States should be alerted if a professional is no longer entitled, due to a disciplinary action or criminal conviction, to practise, 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 IMI regardless of whether the professional has exercised any of the rights under Directive 2005/36/EC or 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 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. Competent authorities under Directive 2005/36/EC should also not be required to contribute to such cooperation via alerts provided for under that Directive.
- (30) One of the major difficulties faced by a citizen who is interested in working in another Member State is the complexity and uncertainty of administrative procedures with which they have to comply. Directive 2006/123/EC already obliges Member States to provide easy access to information and to make it possible to complete procedures through the points of single contact. Citizens seeking recognition of their professional 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, from the user's perspective, to specify that information 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 easy access to user-friendly and multilingual information and are able to easily complete procedures through the points of single contact or the relevant competent authorities. Links should be made available through other websites, such as the Your Europe portal.

present a complete application, procedures for making and processing payments for that Card, rules for how, 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.

- (31) 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 TFEU should be delegated to the Commission in respect of the updating of knowledge and skills referred to in Article 21(6), the updating of Annex I, the updating and clarifying the activities listed in Annex IV, 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 specialties, 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, the inclusion in point 5.3.3 of Annex V of new dental specialties, 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 carry 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.
- (32) 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 powers<sup>(1)</sup>.
- (33) Due to the technical nature of those implementing acts, 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 to support any application for a European Professional Card, details of documents required under Directive 2005/36/EC to
- (34) The Commission should, by means of implementing acts and, given their specific features, acting without the application of Regulation (EU) No 182/2011, decide to reject a 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 professional qualifications and national professional titles benefiting from automatic recognition under common training framework, list the Member States in which the common training tests are to 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.
- (35) 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 a system would contribute to more transparency in the professional services market.
- (36) The Commission should in due course assess the recognition regime applicable to the evidence of formal qualifications as a nurse responsible for general care issued in Romania. Such an assessment should be based on the results of a special upgrading programme, which Romania should set up in accordance with its national laws, regulations and administrative provisions, 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 professional qualification to successfully satisfy all the minimum training requirements set out in Directive 2005/36/EC.

(<sup>1</sup>) OJ L 55, 28.2.2011, p. 13.

(37) 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 but can rather, 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.

(38) In accordance with the Joint Political Declaration of Member States and the Commission of 28 September 2011 on explanatory documents <sup>(1)</sup>, 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.

(39) 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 data <sup>(2)</sup> and delivered an opinion on 8 March 2012 <sup>(3)</sup>.

(40) Directive 2005/36/EC and Regulation (EU) No 1024/2012 should therefore be amended accordingly,

HAVE ADOPTED THIS DIRECTIVE:

#### 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, carried out 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 host 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

<sup>(1)</sup> OJ C 369, 17.12.2011, p. 14.

<sup>(2)</sup> OJ L 8, 12.1.2001, p. 1.

<sup>(3)</sup> OJ C 137, 12.5.2012, p. 1.

able to pursue the profession in question in the host Member State. The test may also cover 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 Member 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 that the professional has met all the necessary conditions to provide services in a host Member State on a temporary and occasional basis or the recognition of professional qualifications for establishment in a host Member State;

(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;

(m) 'overriding reasons of general interest': reasons recognised as such in the case-law of the Court of Justice of the European Union;

(n) '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, 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 satisfied.

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 7.



2. When a European Professional Card has been introduced for a particular profession by means of relevant implementing acts adopted pursuant to paragraph 7, 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.

3. Member States shall ensure that the holder of a European Professional Card benefits from all the rights conferred by Articles 4b to 4e.

4. 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.

5. 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.

6. 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. 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.

7. 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 of this paragraph, 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 a European Professional Card, details of the documents required pursuant to Article 7(2) or Annex VII to present a complete application and procedures for making and processing payments for a European Professional Card, 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 the adoption of relevant implementing acts referred to in the first subparagraph shall be subject to all of 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).

8. 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 the 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 acts to be adopted pursuant to Article 4a(7).

3. Within one week of 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 the 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 States 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, and 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 referred to in the first subparagraph of Article 4b(3) or, if no further documents were requested, upon the expiry of the one-week period referred to in that subparagraph. 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 of 18 months 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(7). 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, verify the authenticity and validity of the supporting documents in the IMI file for the purpose of issuing a European Professional Card for establishment or for the temporary and occasional provision of services under Article 7(4). That time period shall start upon receipt of the missing documents referred to in the first subparagraph of Article 4b(3) or, if no further documents were requested, upon the expiry of

the one-week period referred to in that subparagraph. 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 Articles 16, 21, 49a and 49b, a host Member State shall decide whether to issue a European Professional Card under paragraph 1 within one month 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 no later than two weeks after the submission of the request. Subject to the second subparagraph of paragraph 5, the period of one month shall apply, notwithstanding any such request.

3. In the cases referred to in Articles 7(4) and 14, a host Member State shall decide whether to issue a European Professional Card or to subject the holder of a professional qualification to compensation measures within two months 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 no later than two weeks after the submission of the request. Subject to the second subparagraph of paragraph 5, the period of two months shall apply, notwithstanding any such request.

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 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 by two weeks the deadlines set out in paragraphs 2 and 3 for the automatic issuance of the European Professional Card. It shall explain the reason for the extension and

inform the applicant accordingly. Such an extension 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 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. In so doing they shall respect 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.

2. 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 the restriction or the prohibition; and
- (e) the period for which the restriction or the prohibition applies.

3. Access to the information in the IMI file shall be limited to the competent authorities of the home and the host Member States, 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, namely the holder's name, surname, date and place of birth, profession, formal qualifications, and the 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 and occasional provision of services under Article 7(4), the competent authorities of the host Member State concerned shall issue the holder of professional qualifications with evidence attesting to the recognition of his professional 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 point (d) of Article 2 of Directive 95/46/EC. In relation to its responsibilities under paragraphs 1 to 4 of this Article and the processing of personal data involved therein, the Commission shall be regarded as a controller within the meaning of point (d) of Article 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 data (\*\*\*) .

7. Without prejudice to paragraph 3, 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.

The Commission shall, by means of implementing acts, lay down rules concerning access to the IMI file, and 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;
- (b) 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 compensation 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;
- (c) 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 (c), 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 overriding reasons of general interest, suitable for securing the attainment of the objective pursued, and does not go beyond what is necessary to attain that objective.

3. Applications for the purpose of establishment in a host Member State shall be examined in accordance with Chapters I and IV of Title III.

4. Applications for the purpose of providing temporary and occasional services in the host Member State concerning professional activities that have public health or 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.

6. This Article shall not apply to professionals benefiting from automatic recognition of their professional qualifications 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 8, 12.1.2001, p. 1.;

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 10 years;

(e) for professions in the security sector, in the health sector and professions related to the education of minors, including in childcare and early childhood education, where the Member State so requires for its own nationals, an attestation confirming the absence of temporary or final suspensions from exercising the profession or of criminal convictions;’;

(ii) the following points are added:

‘(f) for professions that have patient safety implications, a declaration about the applicant’s knowledge of the language necessary for practising the profession in the host Member State;

(g) for professions covering the activities referred to in Article 16 and which were notified by a Member State in accordance with Article 59(2), 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.;

(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 10 years preceding the provision of services when the profession is not regulated in the Member State of establishment. The condition of one year’s pursuit shall not apply if the

(b) the following paragraph is inserted:

‘2a. Submission of a required declaration by the service provider in accordance with paragraph 1 shall entitle that 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 paragraph 2 concerning the professional qualifications of the service provider if:

- (a) the profession is regulated in parts of that Member State's 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 by overriding reasons of general interest relating to public health or safety of service recipients; and
  - (d) the Member State has no other means of obtaining such information.;
- (c) paragraph 4 is replaced by the following:

'4. For the first provision of services, in the case of regulated professions that have 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 the check does not go beyond what is necessary for that purpose.

No later than one month after receipt of the declaration and accompanying documents, referred to in paragraphs 1 and 2, the competent authority shall inform the service provider of its decision:

- (a) not to check his professional qualifications;
- (b) having checked his professional qualifications:
  - (i) to require the service provider to take an aptitude test; or
  - (ii) to allow the provision of services.

Where there is a difficulty which would result in delay in taking a decision under the second subparagraph,

the competent authority shall notify the service provider of the reason for the delay within the same deadline. The difficulty shall be solved within one month of that notification and the decision finalised within two months of 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 the service provider's professional experience or by knowledge, skills and competences acquired through lifelong learning formally validated to that end by a relevant body, the host Member State shall give that service provider the opportunity to show, by means of an aptitude test, as referred to in point (b) of the second subparagraph, that they have acquired the knowledge, skills or competence that were lacking. The host Member State shall take a decision on that basis on whether to allow the provision of services. 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 out in the second and third subparagraphs, the service may be provided.

In cases where professional qualifications have been verified under this paragraph, 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 good conduct, as well as the absence of any disciplinary or criminal sanctions of a professional nature. In the event that the competent authorities of the host Member State decide to check the service provider's professional qualifications, they may ask the competent authorities of the Member State of establishment for information about the service provider's 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 centres referred to in Article 57b may also provide such information.;

(9) Article 11 is amended as follows:

(a) the first paragraph is amended as follows:

(i) the introductory part is replaced by the following:

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

(ii) 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 that the diploma is accompanied by a certificate from the home Member State;’

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

‘(d) a diploma certifying that the holder has successfully completed 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.’;

(b) 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 programmes, 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 referred to in 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 applicants to access and pursue that profession, under the same conditions as apply to its nationals, if they possess 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 laws, regulations or administrative provisions of that Member State.

2. Access to, and pursuit of, a profession as described in paragraph 1 shall also be granted to applicants who have pursued the profession in question on a full-time basis for one year or for an equivalent overall duration on a part-time basis during the previous 10 years in another Member State which does not regulate that profession, and who possess one or more attestations of competence or 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 laws, regulations 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 of 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 vocational training with a special structure referred to in point (c)(ii) of Article 11 is equivalent to the level provided for in point (c)(i) of Article 11.

4. By way of derogation from paragraphs 1 and 2 of this Article and from 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 point (a) of Article 11 where the national professional 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, and the training required in the host Member State 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 subparagraphs are added:

‘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 stipulate 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 professional qualification required is classified under point (c) of Article 11; or
- (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 professional qualification required is classified under point (d) or (e) of Article 11.

In the case of 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 professional qualification required is classified under point (d) of Article 11, the host Member State may impose both 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 in respect of which knowledge, skills and competences acquired are essential for pursuing the profession and with regard to which the training received by the migrant shows significant 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 through lifelong learning, and formally validated to that end by a relevant body, in any Member State or in a third country, is of such nature as to cover, in full or in part, the substantially different matters defined 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 provided with the following information:

(a) the level of the professional qualification required in the host Member State and the level of the professional qualification held by the applicant in accordance with the classification set out in Article 11; and

(b) the substantial differences referred to in paragraph 4 and the reasons for which those 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 an applicant has the possibility of taking the aptitude test referred to in paragraph 1 not later than six months after the initial decision imposing an aptitude test on the applicant.’;

(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 adaptation 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 in order 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. In respect of the operation of pharmacies that are not subject to territorial restrictions, a Member State may, by way of derogation, 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.

That derogation may not be applied in respect of pharmacists whose formal qualifications have already been recognised by the competent authorities of the host Member State for other purposes and who have been effectively and lawfully engaged in the professional activities of a 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, over the duration of his training, has acquired, as appropriate, the knowledge, skills and competences referred to in Articles 24(3), 31(6), 31(7), 34(3), 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 directly affecting 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 set out in Article 165(1) of the Treaty on the Functioning of the European Union (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 laws, regulations and administrative provisions which it adopts with regard to the issuing of evidence of formal qualifications in the professions 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 include information about the duration and content of the training programmes.

3. The notification referred to in paragraph 1 shall be transmitted via IMI.

4. In order to take due account of legislative and administrative developments in the Member States, and on condition that the laws, regulations and administrative provisions notified pursuant to paragraph 1 of this Article 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.

5. 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) Member States shall, in accordance with the procedures specific to each Member State, ensure, by encouraging continuous professional development, that professionals whose professional 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 pursuant to point (b) of the first paragraph by 18 January 2016.;

(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 5 500 hours of theoretical and practical training provided by, or under the supervision of, a university.

For professionals 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.;

'In order to take due account of changes in national legislation and with a view to updating this Directive, 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.;

(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 provide, in national legislation, for partial exemptions from parts of the specialist medical training courses listed in point 5.1.3 of Annex V, to be applied on a case-by-case basis provided that that part of the training has been followed already during another specialist training course listed in point 5.1.3 of Annex V, for which the professional has already obtained the professional qualification in a Member State. Member States shall ensure that the granted exemption equates to not more than half of the minimum duration of the specialist medical training course in question.

Each Member State shall notify the Commission and the other Member States of the national legislation concerned for any 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 adaptation 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:

(21) 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, despite the training concerned not satisfying all the training requirements set out in Article 25, if 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 10 years preceding the award of the certificate.;

(22) in Article 28, paragraph 1 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) in the course of which the trainee has acquired the relevant knowledge of basic medicine.;

(23) 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 a certificate attesting success in an examination of an equivalent level and giving access to universities or to higher education institutions of a level recognised as equivalent; or

(b) completion of general education of at least 10 years, as attested by a diploma, certificate or other evidence issued by the competent authorities or bodies in a Member State or 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 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 set out 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 professionals who have received part of their training on courses which are of at least an equivalent level.’;

(d) 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, higher education institutions of a level recognised as equivalent or at vocational schools or through vocational training programmes for nursing.’;

(e) 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 health institutes or in the community.’;

(f) paragraph 6 is replaced by the following:

‘6. Training for nurses responsible for general care shall provide an assurance that the professional in question 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.;
- (g) the following paragraph is added:
- ‘7. Formal qualifications as a nurse responsible for general care 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 universities, higher education institutions of a level recognised as equivalent or at vocational schools or through vocational training programmes for 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 the 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 his own professional practice as a nurse responsible for general care.’;
- (24) 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 that:
- (a) were 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; and
- (b) are attested by the diploma ‘bachelor’ which was obtained on the basis of a special upgrading programme contained in:
- (i) 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 2004 No 92, pos. 885 and of 2007, No 176, pos. 1237) 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 2004 No 110, pos. 1170 and of 2010 No 65, pos. 420); or
- (ii) Article 52.3 point 2 of the Act of 15 July 2011 on professions of nurse and midwife (Official Journal of the Republic of Poland of 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 2012, pos. 770),

for the purpose of verifying that the nurse concerned has a level of knowledge and competence comparable to that of nurses holding the qualifications listed for Poland in point 5.2.2 of Annex V.;

(25) 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 Member States who were trained as a 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 a nurse responsible for general care as being sufficient proof, provided that that evidence is 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 patients, 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 to training started before 1 January 2007;
- (b) Diplomă de absolvire de asistent medical generalist with short-time higher education studies, attesting to training started before 1 October 2003;
- (c) Diplomă de licență de asistent medical generalist with long-time higher education studies, attesting to training started before 1 October 2003.;

(26) 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, and shall consist of at least 5 000 hours of full-time theoretical and practical training that comprises at least the programme described in point 5.3.1 of Annex V and that is provided 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 amendment 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 set out in Article 165(1) TFEU.;

(27) 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.;

(b) 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. They 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.

5. In order to take due account of changes in national legislation, and with a view to updating this Directive, 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.;

(28) 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 Article 21 in cases where the applicants began their training on or before 18 January 2016.

4. 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 Spanish competent authorities.

The certificate shall confirm that the following conditions have been met:

(a) 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) the professional in question was 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) the professional in question is authorised to engage in or is 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.;

(29) 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 recognised 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 amendment of the list set out 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 set out 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 professional in question has acquired the following knowledge and skills:

(a) adequate knowledge of the sciences on which the activities of a veterinary surgeon are based and of the Union law relating to those 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 and 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 specific knowledge of the diseases which may be transmitted to humans;
- (d) adequate knowledge, skills and competences for preventive medicine, including competences relating to inquiries and certification;
- (e) adequate knowledge of the hygiene and technology involved in the production, manufacture and putting into circulation of animal feedstuffs 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.;

(30) Article 40 is amended as follows:

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

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

The amendments referred to in the third 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 set out in Article 165(1) TFEU.’;

- (b) paragraph 2 is replaced by the following:

‘2. Admission 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 possession of 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 professional 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 legislation relevant for the practice of the profession;

- (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 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 under his own responsibility, to the extent necessary and excluding pathological situations, 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 personnel.;

(b) paragraph 3 is deleted;

(31) 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.;

(32) Article 43 is amended as follows:

(a) the following paragraph is inserted:

'1a. As regards evidence of formal qualifications of midwives, Member States shall recognise automatically those qualifications where the applicant started the training before 18 January 2016, and the admission requirement for such training was 10 years of general education or an equivalent level for route I, or completed training as a nurse responsible for general care as attested by evidence of formal qualification referred to in point 5.2.2 of Annex V before starting a midwifery training falling under route II.;

(c) paragraph 4 is replaced by the following:

'4. Member States shall recognise evidence of formal qualifications in midwifery that:

- (a) were 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; and
- (b) are attested by the diploma 'bachelor' which was obtained on the basis of a special upgrading programme contained in:
  - (i) 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 2004 No 92, pos. 885 and of 2007 No 176, pos. 1237) 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 2004 No 110, pos. 1170 and of 2010 No 65, pos. 420); or
  - (ii) Article 53.3 point 3 of the Act of 15 July 2011 on professions of nurse and midwife (Official Journal of the Republic of Poland of 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 2012, pos. 770),

for the purpose of verifying that the midwife concerned has a level of knowledge and competence comparable to that of midwives holding the qualifications listed for Poland in point 5.5.2 of Annex V.;

(33) 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, comprising 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) during or at the end of the theoretical and practical training, 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 amendment of the list set out 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 set out in Article 165(1) TFEU.;

(34) 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 recognised as 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.;

(35) 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 4.

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

(a) the 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 architect 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, and 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 only after 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 referred to in paragraph 2. To that end, the professional traineeship shall be carried out under the supervision of a person or body that has been authorised by the competent authority in the home Member State. Such supervised traineeship may take place in any country. The professional traineeship shall be evaluated by the competent authority in the home Member State.;

(36) 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 complying with Article 21: training as part of social betterment schemes or part-time university studies which satisfies the requirements set out

in Article 46(2), as attested by an examination in architecture passed by a professional 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 point (b) of Article 46(1).';

(37) 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 18 January 2016.;

(b) the following paragraph is added:

'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 17 January 2014, provided by 'Fachhochschulen' in the Federal Republic of Germany over a period of three years, satisfying the requirements set out 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.;

(38) 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' means 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 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 professional 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 to which the common training framework applies 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 the Member States; it shall be irrelevant whether the knowledge, skills and competences have been acquired as part of a general training course at a university or higher education institution or as part of a vocational training course;

(d) the common training framework shall be based on levels of the EQF, as defined in Annex II of the Recommendation of the European Parliament and of the Council of 23 April 2008 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 professional qualification under such framework without first being required to be a member of any professional organisation or to be registered with such organisation.

3. Representative professional organisations at 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.

4. 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 of this Article.

5. A Member State shall be exempted from the obligation of introducing the common training framework referred to in paragraph 4 on its territory and from the obligation of granting automatic recognition to the professional qualifications acquired under that 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.

6. Member States shall, within six months of the entry into force of the delegated act referred to in paragraph 4, notify to the Commission and to the other Member States:

(a) the national qualifications, and where applicable the national professional titles, that comply with the common training framework; or

(b) any use of the exemption referred to in paragraph 5, along with a justification of which conditions under that paragraph were fulfilled. The Commission may, within three months, request further clarification if it considers that a Member State has provided no or insufficient justification that one of these conditions has been fulfilled. The Member State shall reply within three months of any such request.

The Commission may adopt an implementing act to list the national professional qualifications and national professional titles benefiting from automatic recognition under the common training framework adopted in accordance with paragraph 4.

7. This Article also applies to specialties of a profession, provided such specialties 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, but not the specialty concerned.

#### *Article 49b*

#### **Common training tests**

1. For the purpose of this Article, a 'common training test' means a standardised aptitude test available across participating Member States and reserved to holders of a particular professional qualification. Passing 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.

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 to which the common training test applies is regulated, or the education and training leading to the profession concerned is regulated in at least one third of the Member States;

(c) the common training test has been prepared following a transparent due process, including 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.

3. Representative professional organisations at 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 tests which meet the conditions laid down in paragraph 2.

4. The Commission shall be empowered to adopt delegated acts in accordance with Article 57c to establish the contents of a common training test, and the conditions required for taking and passing the test.

5. A Member State shall be exempted from the obligation of organising the common training test referred to in paragraph 4 on its territory and from the obligation of granting automatic recognition to professionals who have passed 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 significantly less attractive compared to national requirements.

6. Member States shall, within six months of the entry into force of the delegated act referred to in paragraph 4, notify to the Commission and to the other Member States:

(a) the available capacity for organising such tests; or

(b) any use of the exemption referred to in paragraph 5, along with the justification of which conditions under that paragraph were fulfilled. The Commission may, within three months, request further clarification, if it considers that a Member State has provided no or insufficient justification that one of these conditions has been fulfilled. The Member State shall reply within three months of any such request.

The Commission may adopt an implementing act to list the Member States in which the common training tests adopted in accordance with paragraph 4 are to 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.;

(39) 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 professional activities.

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

(40) 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).;

(41) Article 53 is replaced by the following:

*'Article 53*

**Knowledge of languages**

1. Professionals benefiting from the recognition of professional qualifications shall have a knowledge of languages necessary for practising the profession in the host Member State.

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

3. Controls carried out in accordance with 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 about the sufficiency of the professional's language knowledge in respect of the professional activities that that professional intends to pursue.

Controls may be carried out only after the issuance of a European Professional Card in accordance with Article 4d or after the recognition of a professional qualification, as the case may be.

4. Any language controls shall be proportionate to the activity to be pursued. The professional concerned shall be allowed to appeal such controls under national law.;

(42) 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, when considering a request for authorisation to exercise the regulated profession, recognise

professional traineeships carried out in another Member State provided the traineeship is in accordance with the published guidelines referred to in paragraph 2, and shall take into account professional traineeships carried out in a third country. However, Member States may, in national legislation, set a reasonable limit on the duration of the part of the professional traineeship which can be carried out abroad.

2. Recognition of the professional traineeship shall not replace any requirements 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.;

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

TITLE V

**ADMINISTRATIVE COOPERATION AND RESPONSIBILITY TOWARDS CITIZENS FOR IMPLEMENTATION';**

(44) Article 56 is amended as follows:

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

*'The competent authorities of the home and the host 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. In so doing, they shall respect personal data protection rules 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 referred to in Article 14.

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

(45) 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 whose pursuit on the

territory of that Member State of the following professional activities in their entirety or parts thereof has been restricted or prohibited, even temporarily, by national authorities or courts:

- (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 evidence of a formal qualification referred to 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 qualification 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 of 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, 33a, 37, 43 and 43a;



(k) other professionals exercising activities that have patient safety implications, where the professional is pursuing a profession regulated in that Member State;

(l) professionals exercising activities relating to the education of minors, including in childcare and early childhood education, where the professional is pursuing a profession regulated in that Member State.

2. Competent authorities shall send the information referred to in paragraph 1 by way of alert via IMI at the latest within three days from the date of adoption of the decision restricting or prohibiting pursuit of the professional activity in its entirety or in part by the professional concerned. 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 the restriction or the prohibition; and

(e) the period during which the restriction or the prohibition applies.

3. 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, by way of alert via IMI, about the identity of professionals who have applied for the recognition of a qualification under this Directive and who have subsequently been found by courts to have used falsified evidence of professional qualifications in this context.

4. The processing of personal data for the purpose of the exchange of information referred to in paragraphs 1 and 3 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.

5. The competent authorities of all Member States shall be informed without delay when a prohibition or a restriction referred to in paragraph 1 has expired. For that purpose, the competent authority of the Member State which provides the information in accordance with paragraph 1 shall also be required to provide the date of expiry as well as any subsequent change to that date.

6. Member States shall provide that professionals, in respect of whom alerts are sent to other Member States, are informed in writing of decisions on alerts at the same time as the alert itself, 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 sent 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.

7. 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 the restriction referred to in paragraph 1.

8. The Commission shall adopt implementing acts for the application of the alert mechanism. Those implementing acts shall include provisions on the authorities entitled to send or receive alerts and 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).;

(46) 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 centres referred to in Article 57b;

(b) a list of the professions for which a European Professional Card is available, the functioning of that Card, including all related fees to be paid by professionals, and the competent authorities for issuing that Card;

(c) a list of all professions for which the Member State applies Article 7(4) under national laws, regulations and administrative provisions;

(d) a list of regulated education and training, and training with a special structure, referred to in point (c)(ii) of Article 11;

(e) the requirements and procedures referred to in 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) details on how to appeal, under national laws, regulations and administrative provisions, decisions of competent authorities adopted under this Directive.

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 remotely 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 points of single contact to 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.;

(47) 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, remotely 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 adaptation period or aptitude test.

3. Where it is justified for Member States to ask for advanced electronic signatures, as defined in point 2 of Article 2 of Directive 1999/93/EC of the European Parliament and of the Council of 13 December 1999 on a Community framework for electronic signatures (\*), for the completion of procedures referred to in paragraph 1 of this Article, Member States shall accept electronic signatures in compliance with Commission Decision 2009/767/EC of 16 October 2009 setting out measures facilitating the use of procedures by electronic means through the points of single contact under Directive 2006/123/EC of the European Parliament and of the Council on services in the internal market (\*\*), and provide for technical means to process documents with advanced electronic signature in formats defined by Commission Decision 2011/130/EU of 25 February 2011 establishing minimum requirements for the cross-border processing of documents signed electronically by competent authorities under Directive 2006/123/EC of the European Parliament and of the Council on services in the internal market (\*\*\*)).

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 in Article 7(4) and Article 51 of this Directive 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 of this Article shall not be considered as a request for missing documents.

*Article 57b***Assistance centres**

1. Each Member State shall designate, no later than 18 January 2016, an assistance centre whose remit shall be to provide citizens, as well as assistance 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.

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 of the result of enquiries with which they are 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 the third subparagraph of Article 3(2), Article 20, the second subparagraph of Article 21(6), Article 21a(4), Article 25(5), the second paragraph of Article 26, the second subparagraph of Article 31(2), the second subparagraph of Article 34(2), Article 35(4) and (5), the second subparagraph of Article 38(1), the third subparagraph of Article 40(1), the second subparagraph of Article 44(2), Article 49a(4) and Article 49b(4) shall be conferred on the Commission for a period of five years from 17 January 2014. 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 the third subparagraph of Article 3(2), Article 20, the second subparagraph of Article 21(6), Article 21a(4), Article 25(5), the second paragraph of Article 26, the second subparagraph of Article 31(2), the second subparagraph of Article 34(2), Article 35(4) and (5), the second subparagraph of Article 38(1), the third subparagraph of Article 40(1), the second subparagraph of Article 44(2), Article 49a(4) and Article 49b(4) 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.

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 the third subparagraph of Article 3(2), Article 20, the second subparagraph of Article 21(6), Article 21a(4), Article 25(5), the second paragraph of Article 26, the second subparagraph of Article 31(2), the second subparagraph of Article 34(2), Article 35(4) and (5), the second subparagraph of Article 38(1), the third subparagraph of Article 40(1), the second subparagraph of Article 44(2), Article 49a(4) and Article 49b(4) 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.

(\*) OJ L 13, 19.1.2000, p. 12.

(\*\*) OJ L 274, 20.10.2009, p. 36.

(\*\*\*) OJ L 53, 26.2.2011, p. 66.;

(48) 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.;

(49) 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 (c)(ii) of Article 11, in their territory by 18 January 2016. Any change to those 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 a general description of activities covered by each profession.

2. By 18 January 2016, 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 on that list.

3. 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 overriding reasons of general interest;
- (c) requirements must be suitable for securing the attainment of the objective pursued and must not go beyond what is necessary to attain that objective.

4. 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.

5. By 18 January 2016, Member States shall provide the Commission with information on the requirements they intend to maintain and the reasons for considering that those requirements comply with paragraph 3. Member States shall provide information on the requirements they subsequently introduced, and the reasons for considering that those requirements comply with paragraph 3, within six months of the adoption of the measure.

6. By 18 January 2016, and every two years thereafter, Member States shall also submit a report to the Commission about the requirements which have been removed or made less stringent.

7. The Commission shall forward the reports referred to in paragraph 6 to the other Member States which shall submit their observations within six months. Within the same period of six months, the Commission shall consult interested parties, including the professions concerned.

8. The Commission shall provide a summary report based on the information provided by Member States to the Group of Coordinators established under Commission Decision 2007/172/EC of 19 March 2007 setting up the group of coordinators for the recognition of professional qualifications (\*), which may make observations.

9. In light of the observations provided for in paragraphs 7 and 8, the Commission shall, by 18 January 2017, submit its final findings to the European Parliament and the Council, accompanied where appropriate by proposals for further initiatives.

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(\*) OJ L 79, 20.3.2007, p. 38.;

(50) Article 60 is amended as follows:

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

'As from 18 January 2016 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 the main problems arising from application of this Directive.;

(b) paragraph 2 is replaced by the following:

temporary or final suspensions from exercising the profession or of criminal convictions.’

‘2. By 18 January 2019, and every five years thereafter, the Commission shall publish a report on the implementation of this Directive.

#### Article 2

#### Amendment to Regulation (EU) No 1024/2012

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

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

(a) the functioning of the European Professional Card;

‘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.

(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);

(\*) OJ L 255, 30.9.2005, p. 22.’

(c) the functioning of the common training frameworks and common training tests;

#### Article 3

#### Transposition

(d) the results of the special upgrading programme laid down under Romanian laws, regulations and administrative provisions 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.

1. Member States shall bring into force the laws, regulations and administrative provisions necessary to comply with this Directive by 18 January 2016.

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

2. Any Member State which on 17 January 2014 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 10 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 18 January 2020.

(51) 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.’;

3. Member States shall forthwith communicate to the Commission the text of the measures referred to in paragraphs 1 and 2.

(52) Annexes II and III are deleted;

4. When Member States adopt the measures referred to in paragraphs 1 and 2, 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.

(53) in point 1 of Annex VII, the following point is added:

(g) Where the Member State so requires for its own nationals, an attestation confirming the absence of

5. 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 Strasbourg, 20 November 2013.

*For the European Parliament*  
*The President*  
M. SCHULZ

*For the Council*  
*The President*  
V. LEŠKEVIČIUS

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**Commission statement**

The Commission will, when preparing the delegated acts referred to in Article 57c(2), ensure a simultaneous, timely and appropriate transmission of relevant documents to the European Parliament and the Council, and will carry out appropriate and transparent consultations well in advance, in particular with experts from competent authorities and bodies, professional associations and educational establishments of all the Member States, and where appropriate with experts from social partners.

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