

Committee on the Internal Market and Consumer Protection

- Secretariat -

Version FINAL

22/01/13

SvH/gf

Vu:PK

COMPROMIDSE AMENDMENTS

on the Draft Report

**on Proposal for a Directive of the European Parliament and of the Council
amending Directive 2005/36/EC on the recognition of professional qualifications
and Regulation on administrative cooperation through the Internal Market
Information System**

(COM(2011)0883 – C7 0512/2011 – 2011/0435(COD))

Rapporteur: Bernadette Vergnaud

CA 1: Partial access

Proposal for a directive – amending act

Recital 4

Covering: IDR, 97, 98, 99, 100, 101, 102, 103, 104, 105, 106, EMPL 4, ENVI 3, 107, 109

Text proposed by the Commission

(4) Directive 2005/36/EC only applies to professionals who want to pursue the same profession in another Member State. There are cases where the activities concerned are part of a profession with a larger scope of activities in the host Member State. ***If*** the differences between the fields of activity are so large that in reality a full programme of education and training is required from the professional to compensate for shortcomings and if the professional so requests, a host Member State should under these particular circumstances grant partial access. However, ***in case of overriding reasons of general interest, such as in the case of a doctor of medicine or other health professionals, a Member State should be able to refuse partial access.***

CA 1

(4) Directive 2005/36/EC only applies to professionals who want to pursue the same profession in another Member State. There are cases where the activities concerned are part of a profession with a larger scope of activities in the host Member State. ***Only if*** the differences between the fields of activity are so large that in reality a full programme of education and training is required from the professional to compensate for shortcomings and if the professional so requests, a host Member State should under these particular circumstances grant partial access. However, ***partial access may be refused by the host Member State based on overriding reasons of general interest and shall not be granted for profession benefiting of automatic recognition.***

CA 2: Partial access

Proposal for a directive – amending act

Recital 4 a (new)

Covering: 110, 216

Text proposed by the Commission

CA 2

The following recital 4(a) is inserted

4(a) The concept of overriding reasons of general interest to which reference is made in certain provisions of this Directive was developed by the Court of Justice in its case law relating to Articles 49 and 56 TFEU and may continue to evolve.

Proposal for a directive – amending act

Article 1 – point 3 – point a – point ii a (new)

Directive 2005/36/EC

Article 3 – paragraph 1 – point n (new)

Text proposed by the Commission

CA 2

(iia) The following point is added:

(n) ‘overriding reasons of general interest’: means reasons recognised as such in the case law of the Court of Justice, including the following grounds: public policy; public security; public safety; public health; preserving the financial equilibrium of the social security system; the protection of consumers, recipients of services and workers; fairness of trade transactions; combating fraud; safeguarding the sound administration of justice; the protection of the environment and the urban environment; the health of animals; intellectual property; the conservation of the national historic and artistic heritage; social policy objectives and cultural policy objectives;

CA 4: Partial access

Proposal for a directive – amending act

Article 1 – point 5

Directive 2005/36/EC

Article 4f

Covering: 329, 330, 331, EMPL 37, EMPL 38, 333, 334, 335, ENVI 40, 336, 337, 339, EMPL 39, 340, 341, EMPL 40, 343, 344, 345, 34DR, 347, 348, 349, 350, 351, 352, 353, ENVI 41, 354, 355, 356, 357, 358, 359, 360, 361, 362, 363, EMPL 41, 364, 365, EMPL 42, 367, 369, 370, 372

Text proposed by the Commission

CA 4

1. The competent authority of the host Member State shall grant partial access to a professional activity in its territory provided that the following conditions are fulfilled:

(a) differences between the professional activity legally exercised in the home Member State and the regulated profession in the host Member State as such are so large that in reality the application of compensatory measures would amount to requiring the applicant to complete the full programme of education and training required in the host Member State to have access to the full regulated profession in the host Member State;

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

For the purposes of point (b), an activity shall be deemed to be separable if it is exercised as an autonomous activity in the home Member State.

2. Partial access may be rejected if such rejection is justified by an overriding reason of general interest, ***such as public health***, it would secure the attainment of the objective pursued and it would not go beyond what is strictly necessary.

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 provided that the following ***cumulative*** conditions are fulfilled:

(a) differences between the professional activity legally exercised in the home Member State and the regulated profession in the host Member State as such are so large that in reality the application of compensatory measures would amount to requiring the applicant to complete the full programme of education and training required in the host Member State to have access to the full regulated profession in the host Member State;

(a a) the professional is fully qualified to exercise in the home Member State the professional activity for which partial access is requested.

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

For the purposes of point (b), an activity shall be deemed to be separable if it is exercised as an autonomous activity in the home Member State.

2. Partial access may be rejected if such rejection is justified by an overriding reason of general interest it would secure the attainment of the objective pursued and it would not go beyond what is strictly necessary. ***However, partial access shall not be granted to professions which benefit from automatic recognition under***

Chapters III and IIIa of Title III.

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

4. Applications for provision of temporary services in the host Member State concerning professional activities having public health and safety implications shall be examined in accordance with Title II.

5. By derogation from the sixth subparagraph of Article 7(4) and Article 52(1), the professional activity shall be exercised under the professional title of the home Member State once partial access has been granted.

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

4. Applications for provision of temporary services in the host Member State concerning professional activities having public health and safety implications shall be examined in accordance with Title II.

5. By derogation from the sixth subparagraph of Article 7(4) and Article 52(1), the professional activity shall be exercised under the professional title of the home Member State once partial access has been granted.

Proposal for a directive – amending act

Article 1 – point 1 - point 48a (new)

Directive 2005/36/EC

Article 60 – paragraph 1

Text proposed by the Commission

CA 4

(48a) In Article 60(1) the following subparagraph is added:

As from [insert the date] that statistical summary of decisions taken shall also include decisions to reject partial access adopted in accordance with Article 4f(2).

CA 5: Traineeships

Proposal for a directive – amending act

Recital 20

Covering: 7DR, 142, 143, 144, 145, 146, 147, 148, 149, 150, EMPL 11

Text proposed by the Commission

CA 5

(20) Graduates wishing to pursue a **remunerated** traineeship in another Member State where such traineeship is possible should be covered by Directive 2005/36/EC in order to foster their mobility. It is also necessary to provide for the recognition of their traineeship by the home Member State.

(20) Graduates wishing to pursue a traineeship in another Member State where such traineeship is possible should be covered by Directive 2005/36/EC in order to foster their mobility. It is also necessary to provide for the recognition of their traineeship by the home Member State. ***However, by enlarging the scope to partially qualified professionals, this Directive should also properly take into account compliance with the fundamental social rights set out in Article 151 TFEU which provides that the Union is to have as its objectives the promotion of improved working conditions, which also apply to traineeships, and should be without prejudice to national rules regulating traineeships.***

CA 6: Traineeships

Proposal for a directive – amending act

Article 1 – point 1

Directive 2005/36/EC

Article 1 – paragraph 2

Covering: 11 DR, 177, 178, 179, 180, 181, 182, 183, 184, 185, 186, EMPL 15

Text proposed by the Commission

CA 6

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

This Directive also establishes rules concerning partial access to *certain* regulated profession and access to and recognition of traineeships, pursued in another Member State.

CA 7: Traineeships

Proposal for a directive – amending act

Article 1 – point 2

Directive 2005/36/EC

Article 2 – paragraph 1

Covering: 12DR, 12DR, 187, 188, 189, 190, 191, 192, 193, 194, EMPL 16

Text proposed by the Commission

CA 7

1. This Directive shall apply to all nationals of a Member State wishing to pursue a regulated profession or a **remunerated** traineeship in a Member State, including those belonging to the liberal professions, other than that in which they obtained their professional qualifications, on either a self-employed or employed basis.

1. This Directive shall apply to all nationals of a Member State wishing to pursue a regulated profession or a traineeship in a Member State, including those belonging to the liberal professions, other than that in which they obtained their professional qualifications, on either a self-employed or employed basis.

CA 8: Traineeships

Proposal for a directive – amending act

Article 1 – point 3 – point a – point ii

Directive 2005/36/EC

Article 3 – paragraph 1 – point j

Covering: 16DR, 197, 198, 199, 200, 201, 202, 203, EMPL 19, ENVI 12

Text proposed by the Commission

CA 8

(j) '**remunerated** traineeship': the pursuit of supervised **and remunerated** activities, with a view to access to a regulated profession granted on the basis of an examination;

(j) 'traineeship: the pursuit of supervised activities **completed in the framework of a contract which form a mandatory part of the training with a view to gaining access to or being granted the right to exercise a regulated profession**;

CA 9: Traineeships

Proposal for a directive – amending act

Article 1 – point 39

Directive 2005/36/EC

Article 55 a

Covering: 622, 73DR, 625, 626, ENVI 84, 627, 628, 629, 630, 631, 632, EMPL 75, 74DR, 634, 635, 636, 637, 638, 639, 640 641, EMPL 76

Text proposed by the Commission

CA 9

Article 55a

Recognition of **remunerated** traineeship

With a view to grant access to a regulated profession, the home Member State shall recognise the **remunerated** traineeship pursued in another Member State and certified by a competent authority of that Member State.

Article 55a

Recognition of traineeship

With a view to grant access to a regulated profession, the home Member State shall recognise the traineeship pursued in another Member State and certified by a competent authority of that Member State. ***Member States may limit the maximum duration of a traineeship in another Member State. Recognition of the traineeship shall not replace an examination which must be passed in order to gain access to the profession in question.***

Proposal for a directive – amending act

Recital 20 a (new)

Text proposed by the Commission

CA 9

(20) a (new) A traineeship contract shall specify at least the learning objectives and assigned tasks.

CA 10: Deadlines and tacit authorisation

Proposal for a directive – amending act

Article 1 – point 5

Directive 2005/36/EC

Article 4c

Covering: 24DR, 261, 262, 263, 264, 265, 266, 267, 268, 269, EMPL 29, ENVI 25, EMPL 27, 25DR, 271, 272, 273, 274, 275, 276, ENVI 26, EMPL30, 26 DR, 277, 279, ENVI 27

Text proposed by the Commission

CA 10

1. The competent authority of the home Member State shall verify the application, create and validate a European Professional Card within **two weeks** from the date it receives a complete application. It shall inform the applicant and the Member State in which the applicant envisages to provide services, of the validation of the European Professional Card. The transmission of the validation information to the host Member States concerned shall constitute the declaration provided for in Article 7. The host Member State may not require a further declaration under Article 7 for the following two years.

2. The decision of the home Member State, or the absence of a decision within the period of **two 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 informed pursuant to paragraph 1 or wishes to continue providing services beyond the period of two years referred to in paragraph 1, he may continue to use the European Professional Card referred to in paragraph 1. In those cases the holder of the European Professional Card shall make the declaration provided in Article 7.

1. The competent authority of the home Member State shall verify the application, create and validate a European Professional Card within **three weeks** from the date it receives a complete application. It shall inform the applicant and the Member State in which the applicant envisages to provide services, of the validation of the European Professional Card. The transmission of the validation information to the host Member States concerned shall constitute the declaration provided for in Article 7. The host Member State may not require a further declaration under Article 7 for the following two years.

2. The decision 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 informed pursuant to paragraph 1 or wishes to continue providing services beyond the period of two years referred to in paragraph 1, he may continue to use the European Professional Card referred to in paragraph 1. In those cases the holder of the European Professional Card shall make the declaration provided in Article 7.

CA 11: Deadlines and tacit authorisation

Proposal for a directive – amending act

Article 1 – point 5

Directive 2005/36/EC

Article 4d

Covering: 28DR, 281, 282, 283, 284, ENVI 30, EMPL 31, 29DR, 286, 287, 288, 289, ENVI 31, EMPL 32, 290, 30DR, 291, 292, 293, 294, 295, 296, ENVI 32, 31DR, 297, 298, 299, 300, 301, 302, 303, 304, 305, 306, 307, 308, 309, 310, ENVI 33, 311, ENVI 34

Text proposed by the Commission

CA 11

1. Upon receipt of a complete application for a European Professional Card, the competent authority of the home Member State shall, within **two weeks**, verify and confirm the authenticity and validity of the submitted supporting documents, create the European Professional Card, transmit it for validation to the competent authority of the host Member State and inform that authority on the corresponding IMI file. The applicant shall be informed by the home Member State of the state of the procedure.

2. In the cases referred to in Article 16, 21 and 49a, a host Member State shall decide on validation of a European Professional Card under paragraph 1 within one month as from the date of receipt of the European Professional Card transmitted by the home Member State. In case of justified doubts, the host Member State may request additional information from the home Member State. **That request shall not** suspend the period of one month.

3. In the cases referred to in Articles 7(4) and 14, a host Member State shall decide on whether to recognise the holder's

1. The host Member State shall acknowledge to the professional concerned receipt of an application for validation of the European Professional Card within five days.

1. Upon receipt of a complete application for a European Professional Card, the competent authority of the home Member State shall, within **three weeks**, verify and confirm the authenticity and validity of the submitted supporting documents, create the European Professional Card, transmit it for validation to the competent authority of the host Member State and inform that authority on the corresponding IMI file. The applicant shall be informed by the home Member State of the state of the procedure.

2. In the cases referred to in Article 16, 21 and 49a, a host Member State shall decide on validation of a European Professional Card under paragraph 1 within one month as from the date of receipt of the European Professional Card transmitted by the home Member State. In case of justified doubts, the host Member State may request additional information from the home Member State. ***With regard to professions with patient safety implications, that request may suspend the period of one month by two weeks. The home Member State shall provide a reply within one week. The professional concerned shall be informed of any such suspension.***

3. In the cases referred to in Articles 7(4) and 14, a host Member State shall decide on whether to recognise the holder's

qualifications or to subject him to compensation measures within two months from the date of receipt for validation of the European Professional Card transmitted by the home Member State. In case of justified doubts, the host Member State may request additional information from the home Member State. That request ***shall not*** suspend the period of two months.

5. Where the host Member State fails to take a decision within the time limits set out in the paragraphs 2 and 3 or to request additional information within one month from the date of receipt of the European Professional Card by the home Member State, the European Professional Card shall be deemed to be validated by the host Member State and to constitute recognition of the professional qualification to the regulated profession concerned in the host Member State.

qualifications or to subject him to compensation measures within two months from the date of receipt for validation of the European Professional Card transmitted by the home Member State. In case of justified doubts, the host Member State may request additional information from the home Member State. ***With regard to professions with patient safety implications, that request may suspend the period of two months by two weeks. The home Member State shall provide a reply within one week. The professional concerned shall be informed of any such suspension.***

5. Where the host Member State fails to take a decision within the time limits set out in the paragraphs 2 and 3 or to request additional information within one month from the date of receipt of the European Professional Card by the home Member State, the European Professional Card shall be deemed to be validated by the host Member State and to constitute recognition of the professional qualification to the regulated profession concerned in the host Member State. ***Such tacit recognition of qualifications shall not constitute automatic recognition of the right to practise.***

CA 12: Alert mechanism

Proposal for a directive – amending act

Recital 22

Covering: 9DR, 153, 154, 155, 156, 157, 158, EMPL 12, ENVI 8

Text proposed by the Commission

CA 12

(22) Whilst the Directive already provides for detailed obligations for Member States to exchange information, such obligations should be reinforced. Member States should not only react to request for information but also alert other Member States in a proactive manner. Such alert system should be similar to that of Directive 2006/123/EC. ***A specific alert mechanism is however necessary*** for health professionals benefiting from automatic recognition under Directive 2005/36/EC. This should also apply to veterinary surgeons unless the Member States have already triggered the alert mechanism provided for in Directive 2006/123/EC. All Member States should be alerted if a professional due to a disciplinary action or criminal conviction is ***no longer entitled to move to another Member State***. This alert should be activated through the IMI regardless of whether the professional has exercised any of the rights under Directive 2005/36/EC or of whether he has applied for recognition of his professional qualifications through the issuance of a European Professional Card or through any other method provided for by that Directive. The alert procedure should comply with Union law on the protection of personal data and other fundamental rights.

(22) Whilst the Directive already provides for detailed obligations for Member States to exchange information, such obligations should be reinforced. Member States should not only react to request for information but also alert other Member States in a proactive manner. Such alert system should be similar to that of Directive 2006/123/EC. ***This Directive provides for a specific alert mechanism*** for health professionals benefiting from automatic recognition under Directive 2005/36/EC. This should also apply to veterinary surgeons unless the Member States have already triggered the alert mechanism provided for in Directive 2006/123/EC. All Member States should be alerted if a professional due to a disciplinary action or criminal conviction is ***temporarily or permanently restricted or prohibited in his or her right to practice in a Member State***. This alert should be activated through the IMI regardless of whether the professional has exercised any of the rights under Directive 2005/36/EC or of whether he has applied for recognition of his professional qualifications through the issuance of a European Professional Card or through any other method provided for by that Directive. The alert procedure should comply with Union law on the protection of personal data and other fundamental rights.

CA 13: Alert mechanism

Proposal for a directive – amending act

Article 1 – point 42

Directive 2005/36/EC

Article 56 a – paragraph 1 – subparagraph 1 – introductory part

Covering: 76DR, 644, 645, 646, 77DR, 647, 648, 649, 650, 651, 652, EMPL 77, ENVI 85

Text proposed by the Commission

CA 13

1. The competent authorities of a Member State shall inform the competent authorities of all other Member States and the Commission about the identity of a professional who has been prohibited by national authorities or courts from pursuing, even temporarily, on the territory of that Member State the following professional activities:

1. The competent authorities of a Member State shall inform the competent authorities of all other Member States and the Commission about the identity of a professional who has been ***restricted or*** prohibited by national authorities or courts from pursuing, even temporarily, on the territory of that Member State the following professional activities:

CA 14: Alert mechanism

Proposal for a directive – amending act

Article 1 – point 42

Directive 2005/36/EC

Article 56 a – paragraph 1 – subparagraph 2

Covering: 81DR, 658, 659, 660, ENVI 91, 82DR, 661, EMPL 79, ENVI 92, 662, 663, ENVI 93, ENVI 94, ENVI 95

Text proposed by the Commission

The information referred to in the first subparagraph shall be sent at the latest within **three days** from the date of adoption of the decision prohibiting the professional concerned from exercising a professional activity.

CA 14

The information referred to in the first subparagraph shall be sent at the latest within **48 hours** from the date of adoption of the decision **restricting or** prohibiting the professional concerned from exercising a professional activity **via the Internal Market Information System (IMI)**.

Proposal for a directive – amending act

Article 1 – point 42

Directive 2005/36/EC

Article 56 a – paragraph 1 a (new)

Text proposed by the Commission

CA 14

1 a Paragraph 1 shall also apply to the exchange of data relating to applicants convicted of presenting false information including false evidence of training, education or professional experience.

CA 16: Language checks

Proposal for a directive – amending act

Recital 19

Covering: 135, 136, 137, 138, 139, 140, EMPL 10, ENVI 7

Text proposed by the Commission

CA 16

(19) Directive 2005/36/EC already provides for clear obligations for professionals to have the necessary language skills. ***The review of that obligation has shown a need to clarify the role of competent authorities and employers*** notably in the interest of patients' safety. Language controls should however be reasonable and necessary for the jobs in question and should not constitute grounds for excluding professionals from the labour market in the host Member State.

(19) Directive 2005/36/EC already provides for clear obligations for professionals to have the necessary language skills. ***A competent authority may check or supervise the checking of the language skills*** notably in the interest of patients' safety ***and public health***. Language ***checks*** should however be reasonable and necessary for the jobs in question and should not constitute grounds for excluding professionals from the labour market in the host Member State. ***The principle of proportionality should inter alia apply to professionals who provide evidence attesting the necessary language skills. In this regard, Member states could promote professional-oriented standardised language tests, which could be based on the Common European framework of reference for languages.***

Proposal for a directive – amending act

Recital 19 a (new)

Text proposed by the Commission

CA 16

(19a) In Member States with more than one official or administrative language, the knowledge of an additional language should be promoted by employers and the competent authorities.

To this end, employers should offer opportunities for language training and development, e.g. by providing language courses relevant to the professional carried out.

Proposal for a directive – amending act

Recital 19 b (new)

(19b) Employers continue to play an important role in ensuring and in verifying the knowledge of the language necessary to carry out professional activities, inter alia when interviewing applicants, and should alert the competent authority in case of any serious doubts.

CA 17: Alert mechanism

Proposal for a directive – amending act

Recital 19 c (new)

Covering: 595, 70DR, 596, 597, 598, 599, 600, EMPL 72, ENVI 81, 601, 602, 71DR, 603, 604, 605, 606, 607, 608, 609, 610, 611, EMPL 73, ENVI 82, 72DR, 612, 613, 614, 615, 616, 617, 618, 619, 620, EMPL 74, ENVI 83

Text proposed by the Commission

CA 17

(19c) The language check should seek to determine how well professionals can communicate, both orally and in writing, for the purposes of exercising their professional activity, particularly with regard to patient safety and safeguarding public health.

Proposal for a directive

Article 1 – point 38

Directive 2005/36/EC

Article 53 – paragraph 2

Text proposed by the Commission

CA 17

A Member State shall ensure that ***any controls of the knowledge of a language are*** carried out ***by*** a competent authority after the decisions referred to in Articles 4d, 7(4) and 51(3) have been taken and if there is a serious and concrete doubt about the professional's sufficient language knowledge in respect of the professional activities this person intends to pursue.

A Member State shall ensure that ***the language check is*** carried out ***under the supervision of*** a competent authority after the decisions referred to in Articles 4d, 7(4) and 51(3) have been taken and if there is a serious and concrete doubt about the professional's sufficient language knowledge in respect of the professional activities this person intends to pursue. ***If there is no competent authority for a particular profession, Member States should ensure that there is a recognised body that can undertake language testing.***

The language check shall be carried out after the recognition of the professional qualifications but before granting access to the profession.

In case of professions with patient safety implications, Member States may confer to the competent authorities the right to carry out language checking covering all professionals concerned if it is expressly requested by the national health care system, or in case of self-employed professionals not affiliated to the

For professions with public health or patient safety implications, language checks covering all professionals concerned may be organised under the supervision of the competent authority.

nationals health care system, by representative national patient organisations.

Any language ***control*** shall be limited to the knowledge of one of the official languages of ***the Member State*** according to the choice of the person concerned, it shall be proportionate to the activity to be pursued and free of charge for the professional. The person concerned shall be allowed to appeal such ***controls*** before national courts.

The language ***check*** shall be limited to the knowledge of one of the official languages of ***the place where the applicant seeks to be established or to provide services*** according to the choice of the person concerned, it shall be proportionate to the activity to be pursued and free of charge for the professional. ***Evidence attesting knowledge of the language shall be taken into account.*** The person concerned shall be allowed to appeal such ***check*** before national courts.

CA 18: Continuous Professional Development

Proposal for a directive – amending act

Recital 13 a (new)

Covering: 123, 141, EMPL 57, 440

Text proposed by the Commission

CA 18

(13a) In order to enhance patient safety, doctors of medicine, medical specialists, nurses responsible for general care, dental practitioners, specialised dental practitioners, midwives and pharmacists should update their competencies through continuous professional education and training. Member States should make publicly available an assessment report on the continuing education and training procedures which those professionals undergo, and exchange best practices.

CA 19: Continuous Professional Development

Proposal for a directive

Article 1 – paragraph 1 – point 17

Directive 2005/36/EC

Article 22 – paragraph 2

Covering: 47DR, 48DR, 450, 451, 452, 453, 454, 455, ENVI 50

Text proposed by the Commission

CA 19

(17) ***In Article 22, the following paragraph 2 is added:***

"For the purposes of point (b) of the first paragraph, as from [insert date - the day after the date set out in first subparagraph of paragraph 1 of Article 3] and every five years thereafter, the competent authorities in Member States shall submit publicly available reports to the Commission and to the other Member States on their continuing education and training procedures related to doctors of medicine, medical specialists, nurses responsible for general care, dental practitioners, specialised dental practitioners, veterinary surgeons, midwives and pharmacists."

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

(b) in accordance with the procedures specific to each Member State, continuing education and training shall ensure that persons who have completed their studies are able to keep abreast of professional developments to the extent necessary to maintain safe and effective practice;

(c) By [5 years after the entry into force of the directive], Member States shall introduce schemes for mandatory continuing education and training for doctors of medicine, medical specialists, nurses responsible for general care, dental practitioners, specialised dental practitioners, midwives and pharmacists

(b) The following paragraphs 2 and 3 are added:

"For the purposes of point (b) and (c) of the first paragraph, as from [insert date - the day after the date set out in first subparagraph of paragraph 1 of Article 3] and every five years thereafter, the competent authorities in Member States shall submit publicly available ***assessment*** reports to the Commission and to the other Member States ***for the purposes of optimising the continuing education and training*** related to doctors of medicine, medical specialists, nurses responsible for general care, dental practitioners, specialised dental practitioners, veterinary surgeons, midwives and pharmacists."

Establishments providing continuous education or training shall be assessed by a body listed on the European Quality Assurance Register (EQAR), which shall forward its conclusions to the Commission

and the Member State concerned."

CA 20: Common Training Framework

Proposal for a directive – amending act

Article 1 – point 35

Directive 2005/36/EC

Article 49 a – paragraph 1

Covering: 560, 561, 562,

Text proposed by the Commission

1. For the purpose of this Article, “common training framework” shall mean a common set of knowledge, skills and competences necessary for the pursuit of a specific profession. For the purpose of access to and pursuit of such profession, a Member State shall give evidence of qualifications acquired on the basis of such framework the same effect in its territory as the evidence of formal qualifications which it itself issues, on condition that such framework fulfils the criteria set under paragraph 2. Such criteria shall respect the specifications referred to in paragraph 3.

CA 20

1. For the purpose of this Article, “common training framework” shall mean a common set of knowledge, skills and competences necessary for the pursuit of a specific profession ***or post-graduate speciality of a profession regulated under Chapter III of Title III. Requirements may include the number of ECTS credits, but ECTS credits shall not form the only criteria.*** For the purpose of access to and pursuit of such profession, a Member State shall give evidence of qualifications acquired on the basis of such framework the same effect in its territory as the evidence of formal qualifications which it itself issues, on condition that such framework fulfils the criteria set under paragraph 2. Such criteria shall respect the specifications referred to in paragraph 3.

CA 21: Common Training Framework

Proposal for a directive – amending act

Article 1 – point 35

Directive 2005/36/EC

Article 49 a – paragraph 2 – point b

Covering: 565, 566, 567

Text proposed by the Commission

CA 21

(b) the profession ***concerned is already***
regulated in at least one third of all
Member States;

***(b) the exercise of the profession and/or
the training giving access to the
profession is regulated in at least one third
of all Member States;***

CA 22: Common Training Framework

Proposal for a directive – amending act

Article 1 – point 35

Directive 2005/36/EC

Article 49 a – paragraph 2 – point e

Covering: 575, 576, 577, EMPL 69, ENVI 75, 578, 579, 563, ENVI 76

Text proposed by the Commission

CA 22

(e) the profession concerned ***is*** neither covered by another common training framework nor regulated already under Chapter III of Title III;

(e) the profession ***or post graduate speciality of a profession regulated under Chapter III of Title III*** concerned ***are*** neither covered by another common training framework nor regulated already under Chapter III of Title III;

CA 23: Common Training Framework

Proposal for a directive – amending act

Article 1 – point 35

Directive 2005/36/EC

Article 49 a – paragraph 2 – point f

Covering: AM 578, AM 579, EMPL 70

Text proposed by the Commission

CA 23

(f) the common training framework has been prepared following a transparent due process, including with stakeholders from Member States where the profession is not regulated;

(f) the common training framework has been prepared following a transparent due process, ***which means that initiatives in this regard are published and undertaken in close co-operation with professional organisations and other representative including, where applicable, in cooperation*** with stakeholders from Member States where the profession is not regulated;

CA 24: Basic medical training

Proposal for a directive – amending act

Article 1 – point 18– point a

Directive 2005/36/EC

Article 24 - paragraph 2

Covering: 456, 457, 458, 459, ENVI 51

Text proposed by the Commission

CA 24

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

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

Proposal for a directive – amending act

Article 1 – point 18– point b (a) new

Directive 2005/36/EC

Article 24 - paragraph 3 (new)

Text proposed by the Commission

CA 24

(b) (a) The following paragraph 3(a) is inserted:

3a. The implementation of this Directive shall under no circumstances constitute grounds for reducing the training requirements already applicable in the Member States when this Directive enters into force.

CA 25: Dental practitioners

Proposal for a directive – amending act

Article 1 – point 24 – point a

Directive 2005/36/EC

Article 34 – paragraph 2– subparagraph 1

Covering: 57DR, 58DR, 499, 500, 501, EMPL 64, 502

Text proposed by the Commission

CA 25

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

Basic dental training shall comprise a total of at least five years of full-time study, which may, ***as a complement***, be expressed with the equivalent ECTS credits, ***consisting of at least 5000 hours of theoretical and practical study, and*** comprising at least the programme described in Annex V, point 5.3.1 and given in a university, in a higher institute providing training recognised as being of an equivalent level or under the supervision of a university.

CA 29: Midwives

Proposal for a directive – amending act

Article 1 – point 27 – point b

Directive 2005/36/EC

Article 40 – paragraph 2 – point b

Covering: AM 517, 518, 519, 520, ENVI 63, 58 DR, 59 DR, 61DR, 522, 523, 524, 525, ENVI 65, ENVI 66, 60DR, 526, 527

Text proposed by the Commission

CA 29

(a) completion of at least the 12 years of general school education or a certificate attesting success in an examination, of an equivalent level, for admission to a midwifery school for route I;

Proposal to keep the EC text.

Proposal for a directive – amending act

Article 1 – point 28

Directive 2005/36/EC

Article 41 – paragraph 1 – points a–c

Text proposed by the Commission

CA 29

(a) full-time training of at least three years as a midwife;

(a) full-time training of at least three years as a midwife, ***which may, as a complement, be expressed with the equivalent ECTS credits, consisting of at least 4500 hours of theoretical and practical training, with at least one third of those hours being spent in direct clinical practice.***;

(b) full-time training as a midwife of at least two years 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 Annex V, point 5.2.2;

(b) full-time training as a midwife of at least two years ***which may, as a complement, 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 Annex V, point 5.2.2;

(c) full-time training as a midwife of at least 18 months 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 Annex V, point 5.2.2 and followed by one year's professional practice for which a certificate has been issued in accordance with paragraph 2.

(c) full-time training as a midwife of at least 18 months ***which may, as a complement, 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 Annex V, point 5.2.2 and followed by one year's professional practice for which a certificate has been issued in accordance with

paragraph 2.

CA 30: Pharmacists

Proposal for a directive – amending act

Article 1 – point 30 – point a

Directive 2005/36/EC

Article 44 – paragraph 2 – point b

Covering: 63DR, 532, 533, EMPL 65, ENVI 68

Text proposed by the Commission

CA 30

(b) at the end of the theoretical and practical training, a 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.

(b) **during or** at the end of the theoretical and practical training, a 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.

CA 31: Pharmacists

Proposal for a directive – amending act

Article 1 – point 31

Directive 2005/36/EC

Article 45 - paragraph 2

Covering: 64DR, 65DR, 536, ENVI 70, ENVI 71, ENVI 72, ENVI 73

Text proposed by the Commission

CA 31

31) *In* Article 45(2), the following ***point (h) is added***:

(h) report the adverse reactions of pharmaceutical products to the competent authorities.

31) Article 45(2) ***is replaced*** by the following:

2. The Member States shall ensure that the holders of evidence of formal qualifications in pharmacy at university level or a level deemed to be equivalent, which satisfies the provisions 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 and distribution of safe and high-quality medicinal products in pharmacies open to the public;

(f) preparation, testing, storage and dispensing of medicinal products in hospitals;

(g) monitoring of medicinal treatments and provision of information and advice on medicinal products and health-related issues, in cooperation with medical practitioners;

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

(ha) personalised support for patients who administer their own medication;

***(hb) contribution to institutional public
health campaigns.***

CA 32: Architects

Proposal for a directive – amending act

Article 1 – point 32

Directive 2005/36/EC

Article 46 – paragraph 1

Covering: 66DR, 537, 538, 67DR, 539, 540, 541, 542, 543 544, EMPL 66, 68DR, 545, 546, 547, 548, 549, 550, 551

Text proposed by the Commission

CA 32

1. The duration of the training as an architect must be at least six years which may also be expressed with the equivalent ECTS credits. The training in a Member State shall comprise any of the following:

(a) at least four years of full-time study at a university or comparable teaching institution leading to successful completion of a university-level examination and at least two years of remunerated traineeship;

(b) at least five years of full-time study at a university or comparable teaching institution leading to successful completion of a university-level examination and at least one year of remunerated traineeship.

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, involving at least one fifth of traineeship which shall take place during the last two years. It must lead 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 traineeship in accordance with paragraph 5

CA 33: Nurses responsible for general care

Proposal for a directive – amending act

Article 1 – paragraph 1 – point 22 – point a

Directive 2005/36/EC

Article 31

1. Admission to training for nurses responsible for general care shall be contingent upon

- a. possession of a diploma, certificate or other evidence of qualification giving access, on the basis of general education of 12 years, to universities or higher education institutes 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 by a certificate attesting success in an examination, of an equivalent level, and giving access to a vocational school of nursing.*

2. Training of nurses responsible for general care shall be given on a full-time basis and shall include at least the programme described in Annex V, point 5.2.1.

The Commission shall adopt delegated acts in accordance with Article 58 concerning amendments to the list set out in point 5.2.1 of Annex V with a view to adapting it to the educational, scientific and technical progress.

Such updates may not entail, for any Member State, any amendment of its existing legislative principles relating to the structure of professions as regards training and the conditions of access by natural persons.

3. The training of nurses responsible for general care shall comprise at least three years of study consisting of at least 4 600 hours of theoretical and clinical education, the duration of the theoretical training representing at least one third and the duration of the clinical education at least one half of the minimum duration of the training. Member States may grant partial exemptions to persons who have received part of their training on courses which are of at least an equivalent level. The Member States shall ensure that institutions providing nursing training are responsible for the coordination of theoretical and clinical education throughout the entire study programme.

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

(5) Clinical education is that part of nurse training in which trainee nurses learn, as part of a team and in direct contact with a healthy or sick individual and/or community, to organise, dispense and evaluate the required comprehensive nursing care, on the basis of the knowledge, skills and competences which they have

acquired. The trainee nurse shall learn not only how to work in a team, but also how to lead a team and organise overall nursing care, including health education for individuals and small groups, within the health institute or in the community.

This training shall take place in hospitals and other health institutions and in the community, under the responsibility of nursing teachers, in cooperation with and assisted by other qualified nurses. Other qualified personnel may also take part in the teaching process.

Trainee nurses shall participate in the activities of the department in question insofar as those activities are appropriate to their training, enabling them to learn to assume the responsibilities involved in nursing care.

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

- (a) adequate 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) sufficient 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 with members of other professions in the health sector.

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

- (a) ***competence to independently diagnose the nursing care required using current theoretical and clinical knowledge and to plan, organise and implement nursing care when treating patients on the basis of the knowledge and skills acquired in accordance with paragraph 6 letters a, b and c;***
- (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 paragraph 6 letter d and e;***
- (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 paragraph 6 letters a and b;***
- (d) ***competence to independently initiate life-preserving immediate measures and to carry out measures in crises and disaster situations;***
- (e) ***competence to independently give advice to, instruct and support persons needing care and their attachment figures;***

- (f) *competence to independently assure quality of and to evaluate nursing care;*
- (g) *competence to comprehensively communicate professionally and to cooperate with members of other professions in the health sector.*

8. The Commission shall be empowered to adopt delegated acts in accordance with Article 58a to specify:

- a) *the adequacy of knowledge of the sciences of general nursing, as referred to in point (a) of paragraph 6 and paragraph 7, in line with scientific and technological progress as well as the necessary competences such knowledge should entail in line with scientific and technological progress and recent developments in education;*
- b) *the degree of sufficiency of understanding of the items referred to in point (a) of paragraph 6 and paragraph 7 and the necessary competences following from such understanding in line with scientific and technological progress and recent developments in education;*
- c) *the degree of sufficiency of knowledge about the items referred to in point (b) of paragraph 6 and paragraph 7 and the necessary competences following from such knowledge in line with scientific progress and recent developments in education;*
- d) *the adequacy of clinical experience referred to in point (c) of paragraph 6 and paragraph 7 and the necessary competences following from such adequate clinical experience in line with scientific and technological progress and recent developments in education.*

CA 34: Delegated acts

Proposal for a directive

Article 1 – point 47 a

Directive 2005/36/EC

Article 58 a – paragraph 1 a (new)

Covering: 86 DR, AM 697, AM 698, AM 699, AM 705, AM 710

Text proposed by the Commission

CA 34

1 a (new) When drawing-up of delegated acts, the Commission shall endeavour to consult the relevant stakeholders, which may include competent authorities, professional associations, scientific organisations, academia and social partners.

CA 35: Delegated acts

Proposal for a directive

Recital 24

Covering: 10 DR, AM 161, AM 162, AM 163, AM 164, AM 165, AM 166, ENVI 9

Text proposed by the Commission

CA 35

(24) In order to supplement or amend certain non-essential elements of Directive 2005/36/EC, the power to adopt acts in accordance with Article 290 of the Treaty on the Functioning of the European Union should be delegated to the Commission in respect of updating of Annex I, setting the criteria for the calculation of fees related to the European Professional Card, establishing the details of the documentation necessary for the European Professional Card, the adaptations of the list of activities set out 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, clarifying the knowledge and skills for medical doctors, nurses responsible for general care, dental practitioners, veterinary surgeons, midwives, pharmacists and architects, adapting the minimum periods of training for specialist medical trainings and specialist dental training, the inclusion in point 5.1.3 of Annex V of new medical specialities, the amendments to the list set out in points 5.2.1, 5.3.1, 5.4.1, 5.5.1 and 5.6.1 of Annex V, inclusion in point 5.3.3 of Annex V of new dental specialities, specifying the conditions of application of common training frameworks, and specifying the conditions of application of common training tests. It is of particular importance that the Commission carries out appropriate consultations during its preparatory work, including at expert level. The Commission, when preparing and drawing-up delegated acts, should ensure a simultaneous, timely and appropriate transmission of relevant documents to the European Parliament and to the Council.

(24) In order to supplement or amend certain non-essential elements of Directive 2005/36/EC, the power to adopt acts in accordance with Article 290 of the Treaty on the Functioning of the European Union should be delegated to the Commission in respect of updating of Annex I, setting the criteria for the calculation of fees related to the European Professional Card, establishing the details of the documentation necessary for the European Professional Card, the adaptations of the list of activities set out 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, clarifying the knowledge and skills for medical doctors, nurses responsible for general care, dental practitioners, veterinary surgeons, midwives, pharmacists and architects, adapting the minimum periods of training for specialist medical trainings and specialist dental training, the inclusion in point 5.1.3 of Annex V of new medical specialities, the amendments to the list set out in points 5.2.1, 5.3.1, 5.4.1, 5.5.1 and 5.6.1 of Annex V, inclusion in point 5.3.3 of Annex V of new dental specialities, specifying the conditions of application of common training frameworks, and specifying the conditions of application of common training tests. It is of particular importance that the Commission carries out appropriate consultations during its preparatory work, including at expert level, ***which may include competent authorities, professional associations, scientific organisations, academia and social partners.*** The Commission, when preparing and drawing up delegated acts, should ensure a simultaneous, timely and transparent transmission of relevant documents to the European Parliament and

to the Council.

CA 36: Card

Proposal for a directive

Article 1 – paragraph 1 – point 5

Directive 2005/36/EC

Article 4e – point 4

Covering: AM 320, AM 321, EMPL 34, ENVI 36, ENVI 37

Text proposed by the Commission

CA 36

4. The information included in the European Professional Card shall be limited to the information that is necessary to ascertain its holder's right to exercise the profession for which it has been issued, in particular name, surname, date and place of birth, profession, applicable regime, competent authorities involved, card number, security features and reference to a valid proof of identity.

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

CA 37: Notaries

Recital 7

Covering: 2DR, EMPL 5, 113, 114, 115, 116, EMPL 6

Text proposed by the Commission

CA 37

(7) Directive 2005/36/EC should also cover notaries. For recognition requests for establishment, Member States should be able to impose the necessary aptitude test or adaptation period to avoid any discrimination in the national selection and nomination procedures. In the case of free provision of services, notaries should not be able to draw up authentic instruments and carry out other activities of authentication which require the seal of the host Member State.

(7) Concerning the notaries, in the case of recognition requests for establishment, Member States, having abolished the nationality clause, should be able to impose the necessary aptitude test and/or adaptation period to avoid any discrimination in the national selection and nomination procedures. The compensation measures do not exempt the applicant from fulfilling the other existing national rules, especially any conditions imposed by the selection and designation procedures of notaries in the host Member State. Given their specific role as public officers, nominated by the Member States in their national territory in order to hold a public office, in particular by guaranteeing the legality and the legal safety of acts concluded between individuals in the framework of the administration of justice, and being legally independent and impartial and obliged to conduct their activities in their designation area, double establishment should not be possible for notaries. Moreover, the articles of Title II of the Directive on the free provision of services shall not be applicable to the profession of notary given that as public officers, notaries are only competent on the territory of their Member.

CA 38: Notaries

Article 2 – paragraph 1 a (new)

Covering: EMPL 17, 195

Text proposed by the Commission

CA 38

(2)a In Article 2, the following paragraph is inserted

Title II on free provision of services shall not be applicable to the profession of notary.

CA 39: Notaries

Article 14 - paragraph 3

Covering: 44DR, 429, 430, 431

Text proposed by the Commission

(c) In paragraph 3, the following subparagraph is inserted after the first subparagraph:

For the *profession of notary*, the host Member State may, when it determines the compensation measure, take into account the specific activities of this profession on its territory, in particular as regards the law to be applied.

CA 39

(c) In paragraph 3, the following subparagraph is inserted after the first subparagraph:

For *notaries appointed by official act of government*, the host Member State may, when it determines the compensation measure, take into account the specific activities of this profession on its territory, in particular as regards the law to be applied.

The host Member State may require from the applicant to complete an adaptation period before admission to the aptitude test.

The compensation measure shall not exempt the applicant from fulfilling the other conditions imposed by the selection and designation procedure in the host Member state, given their duty as public officers.