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*Committee on Employment and Social Affairs*

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**2011/0435(COD)**

18.10.2012

## **OPINION**

of the Committee on Employment and Social Affairs

for the Committee on the Internal Market and Consumer Protection

on the 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 (IMI)  
(COM(2011)0883 – C7-0512/2011 – 2011/0435(COD))

Rapporteur: Licia Ronzulli

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## SHORT JUSTIFICATION

Directive 2005/36/EC of the European Parliament and of the Council of 7 September 2005 on the recognition of professional qualifications consolidated and standardised the previously fragmented systems for recognising regulated professions.

The entry into force of this legislation had dual benefits, for both workers and companies. On the one hand, the directive promoted and facilitated the mobility of qualified workers in the European jobs market, helping to promote the development of cross-border services. The removal of several barriers to mobility has played a role in the building of the single European market. On the other, it has made it easier for professionals to become integrated into specific sectors in which there has sometimes been a large gap between supply and demand, thereby remedying – in some cases – the lack of skills.

This new situation has contributed to economic growth, boosted competitiveness and created new jobs.

However, the number of professionals who decide to pursue their profession in a Member State other than their own, is still limited and the current economic situation is having a negative effect on future prospects.

Mobility helps to considerably improve mutual knowledge among Member States, which can be enhanced only by taking a common approach with a view to ensuring a high quality of education and training.

The professions market is continually being updated and many traditional occupations are giving way to new qualifications which call for increasingly specific skills and knowledge.

The legal framework for the recognition of professional qualifications thus needs to be updated in order to ensure greater flexibility, genuine recognition of the real skills acquired by individual professionals and a reduction in administrative costs.

The proposal for the revision of Directive 2005/36/EC aims to simplify the rules concerning the mobility of professionals within the European Union; one of its innovative aspects relates to the introduction of a European Professional Card which would not only simplify and speed up the recognition of qualifications but would also lead to reduced administrative costs.

The new text proposes that minimum training requirements be updated for doctors, pharmacists, nurses, midwives, veterinary surgeons and architects, to take account of how those professions and the relevant training for them has evolved.

Member States will also have to furnish a list of the regulated professions, providing justification for the need for such regulation. The ultimate aim is to avoid setting up artificial barriers to the free movement of persons.

One way to encourage mobility, especially for the younger generations, could be to focus on merit and competition in the liberal professions, lowering the barriers to entry and reducing the areas of activity reserved exclusively for those who are on registers or lists.

## AMENDMENTS

The Committee on Employment and Social Affairs calls on the Committee on the Internal Market and Consumer Protection, as the committee responsible, to incorporate the following amendments in its report:

### Amendment 1

#### Proposal for a directive Recital 2 a (new)

*Text proposed by the Commission*

*Amendment*

*(2a) Modernizing the system for recognizing professional qualifications is vital to spur economic growth and innovation, add more flexibility to the labour market and respond to demographic shortages and structural unemployment in the EU.*

### Amendment 2

#### Proposal for a directive Recital 3 a (new)

*Text proposed by the Commission*

*Amendment*

*(3a) The Commission should evaluate 5 years after the adoption of the European Professional Card the impact of making such a Professional Card compulsory and indicate whether further action seems advisable at a later stage.*

### Amendment 3

#### Proposal for a directive Recital 3 b (new)

*Text proposed by the Commission*

*Amendment*

***(3b) The card should meet specific safety and data protection conditions, the necessary safeguards against abuse and data fraud need to be established.***

#### **Amendment 4**

##### **Proposal for a directive**

##### **Recital 4**

*Text proposed by the Commission*

*Amendment*

(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.

(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 *relating to the public interest*, such as *patient safety or consumer protection*, a Member State should be able to refuse partial access. ***In such a case, Member States may refuse to apply the principle of partial access to certain professions such as professions providing health services or otherwise related to public health.***

#### **Amendment 5**

##### **Proposal for a directive**

##### **Recital 7**

*Text proposed by the Commission*

*Amendment*

***(7) Directive 2005/36/EC should also cover notaries. For recognition requests***

***deleted***

*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.*

## **Amendment 6**

### **Proposal for a directive Recital 7 a (new)**

*Text proposed by the Commission*

*Amendment*

*(7a) It seems necessary for notaries appointed by the Member States to areas under national jurisdiction, who are committed by law to proceed in an independent and unbiased manner and who ensure the legality of legislative acts and legal certainty in the context of preventive justice, to be excluded from the scope of the Directive. In view of the special tasks undertaken by notaries in the justice system, neither the fundamental principle of the free movement of services nor recognition of professional qualifications gained abroad may apply to their profession.*

## **Amendment 7**

### **Proposal for a directive Recital 9**

*Text proposed by the Commission*

*Amendment*

(9) Applications for recognition from professionals coming from non-regulating Member States have to be treated in the same way as those of professionals coming from a regulating Member State. Their qualifications have to be compared to the

(9) Applications for recognition from professionals coming from non-regulating Member States have to be treated in the same way as those of professionals coming from a regulating Member State. Their qualifications have to be compared to the

qualifications requested in the host Member State on the basis of the qualification levels in Directive 2005/36/EC. In case of substantial differences the competent authority should be able to impose compensation measures.

qualifications requested in the host Member State on the basis of the qualification levels **and objective criteria** in Directive 2005/36/EC. In case of substantial differences the competent authority should be able to impose compensation measures. **Any mechanisms for assessing theoretical 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.**

**Amendment 8**  
**Proposal for a directive**  
**Recital 10**

*Text proposed by the Commission*

(10) 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. This measure should be proportionate and, in particular, take account of the knowledge, skills and competences gained by the applicant in the course of his professional experience or through lifelong learning. The decision imposing a compensatory measure should be **justified** in detail in order to enable the applicant to better understand his situation and to seek legal scrutiny before national courts under Directive 2005/36/EC.

*Amendment*

(10) In the absence of harmonisation of the minimum training conditions for access to the professions governed by the general system, the host Member State **should be guaranteed the option of establishing** a compensation measure. This measure should be proportionate and, in particular, take account of the knowledge, skills and competences gained by the applicant in the course of his professional experience or through lifelong learning. The **reasons for the** decision imposing a compensatory measure should be **set out** in detail in order to enable the applicant to better understand his situation and to seek legal scrutiny before national courts under Directive 2005/36/EC.

**Amendment 9**  
**Proposal for a directive**  
**Recital 18**

*Text proposed by the Commission*

(18) Directive 2005/36/EC should promote

*Amendment*

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a more automatic character of recognition of qualifications for those professions which do not currently benefit from it. This should take account of the competence of Member States to decide the qualifications required for the pursuit of professions in their territory as well as the contents and the organisation of their systems of education and professional training. Professional associations and organisations which are representative at national and Union level should be able to propose common training principles. It should take the form of a common test as a condition for acquiring a professional qualification, or training programmes based on a common set of knowledge, skills and competences. Qualifications obtained under such common training frameworks should automatically be recognised by Member States.

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***Member States should be encouraged to develop a system to ensure all professionals regularly update their competencies and new required skills through Continuing Professional Development.***

**Amendment 10**  
**Proposal for a directive**  
**Recital 19**

*Text proposed by the Commission*

(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

*Amendment*

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



host Member State.

host Member State ***and should therefore be reasonable and necessary. The concept of reasonable and necessary should be defined in cooperation between the competent authorities, the national social partners and the national professional associations within a given sector.***

#### *Justification*

*Necessary language skills should not be required in relation to patients only. Moreover, since an important right of employers is to decide on the criteria that employees should have for certain work, employers as part of the social partners should be included along with the competent authorities in the Member States in defining what is considered reasonable and necessary.*

### **Amendment 11**

#### **Proposal for a directive Recital 20**

##### *Text proposed by the Commission*

(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.

##### *Amendment*

(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 ***guarantee*** the recognition of their traineeship by the home Member State.

#### *Justification*

*In some professions it is normal to complete unpaid traineeships. However, persons who undertake such traineeships should not be disadvantaged because they are not officially recognised.*

### **Amendment 12**

#### **Proposal for a directive Recital 22**

##### *Text proposed by the Commission*

(22) Whilst the Directive already provides

##### *Amendment*

(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.

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 *regulated* 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 *is temporarily or permanently removed from the right to practice or if any restrictions to practice or conditions on the right to practice have been imposed in their home or host 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. *Member States should be encouraged to publicly share information about their national arrangements for basic education and training and their quality assurance arrangements for the purposes of improving trust and confidence in Member States' education and training systems and to ensure that all relevant courses are compliant with the requirements of this Directive.*

## Amendment 13

### Proposal for a directive Recital 24

*Text proposed by the Commission*

(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.

*Amendment*

(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 *representation and* consultations during its preparatory work, including *experts at both European and national* level. The Commission, when preparing and drawing-up delegated acts, should ensure a simultaneous, timely, *transparent* and appropriate transmission of relevant documents to the European Parliament and to the Council.

**Amendment 14**

**Proposal for a directive**  
**Recital 30 a (new)**

*Text proposed by the Commission*

*Amendment*

***(30a) This Directive is without prejudice to measures necessary to ensure a high level of health and consumer protection.***

**Amendment 15**

**Proposal for a directive**  
**Article 1 – paragraph 1 – point 1**  
Directive 2005/36/EC  
Article 1

*Text proposed by the Commission*

*Amendment*

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 a regulated profession and access to and recognition of traineeships pursued in another Member State.

**Amendment 16**

**Proposal for a directive**  
**Article 1 – paragraph 1 – point 2**  
Directive 2005/36/EC  
Article 2 – paragraph 1

*Text proposed by the Commission*

*Amendment*

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<sup>1</sup>, other than that in which they obtained their professional qualifications, on either a self-employed or employed basis.

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<sup>1</sup> ***In accordance with the definition of liberal professions given in the CJEU***

*judgment of 11 October 2001 in the Adam case, C-267/99, source: European Court reports 2001, page I-07467.*

*Justification*

*In some professions it is normal to complete unpaid traineeships. However, persons who undertake such traineeships should not be disadvantaged because they are not officially recognised.*

**Amendment 17**

**Proposal for a directive**

**Article 1 – paragraph 1 – point 2**

Directive 2005/36/EC

Article 2 – paragraph 1 – subparagraph 1 a (new)

*Text proposed by the Commission*

*Amendment*

***This Directive shall not apply to notaries appointed by the Member States by an official act of government.***

*Justification*

*Notaries are appointed by their national public authorities for the purpose of guaranteeing the lawfulness and legal certainty of instruments concluded between private individuals, and form part of the preventive justice system of the country in question. They are required by law to act in an independent and impartial way. Given the special nature of the ancillary role they play in the judicial system, it is not appropriate for the freedom to provide services and the recognition of professional qualifications to apply to their profession.*

**Amendment 18**

**Proposal for a directive**

**Article 1 – paragraph 1 – point 3 – point a – point i**

Directive 2005/36/EC

Article 3 – paragraph 1 – point f

*Text proposed by the Commission*

*Amendment*

(f) “professional experience”: the actual and lawful ***full-time or equivalent part-time*** pursuit of the profession concerned in a Member State;

(f) “professional experience”: the actual and lawful pursuit of the profession concerned in a Member State; ***which facilitates in relation to a specific***

*profession, the achievement of standards of knowledge, competence, ability and skills;*

*Justification*

*The notion of full-time or part-time does not take into account the full range of time-options. Therefore it has a restricting effect. It should be ensured that any "actual and lawful pursuit" is considered as professional experience.*

**Amendment 19**

**Proposal for a directive**

**Article 1 – paragraph 1 – point 3 – point a – point ii**

Directive 2005/36/EC

Article 3 – paragraph 1 – point j

*Text proposed by the Commission*

(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;

*Amendment*

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

*Justification*

*In some professions it is normal to complete unpaid traineeships. However, persons who undertake such traineeships should not be disadvantaged because they are not officially recognised.*

**Amendment 20**

**Proposal for a directive**

**Article 1 – paragraph 1 – point 3 – point a – point ii**

Directive 2005/36/EC

Article 3 – paragraph 1 – point k

*Text proposed by the Commission*

(k) 'European Professional Card': an electronic certificate issued to the professional proving the recognition of his qualifications for establishment in a host Member State or that he has met all the necessary conditions to provide services in a host Member State on a temporary and

*Amendment*

(k) 'European Professional Card': an electronic certificate issued to the professional *by his home Member State or by an appropriate body*, proving the recognition of his qualifications *and skills* for establishment in a host Member State or that he has met all the necessary

occasional basis;

conditions to provide services in a host Member State on a temporary and occasional basis;

## **Amendment 21**

### **Proposal for a directive**

#### **Article 1 – paragraph 1 – point 3 – point a – point ii**

Directive 2005/36/EC

Article 3 – paragraph 1 – point 1

#### *Text proposed by the Commission*

(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*.

#### *Amendment*

(l) “lifelong learning”: all general education, vocational education and training, non-formal education and informal learning undertaken throughout life, resulting in an improvement in *competencies* (knowledge, skills, *attitudes* and *values*).

## **Amendment 22**

### **Proposal for a directive**

#### **Article 1 – paragraph 1 – point 3 – point a – point ii**

Directive 2005/36/EC

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

#### *Text proposed by the Commission*

#### *Amendment*

*(1a) "continuing professional development": the means by which members of professional associations maintain, improve and broaden their knowledge and skills and develop the personal qualities required in their professional lives.*

## **Amendment 23**

### **Proposal for a directive**

#### **Article 1 – paragraph 1 – point 5**

Directive 2005/36/EC

Article 4a – paragraph 5

*Text proposed by the Commission*

5. Member States shall designate competent authorities for issuing European Professional Cards. Those authorities shall ensure an impartial, objective and timely processing of applications for European Professional Cards. The Assistance Centers referred to in Article 57b may also act in the capacity of a competent authority to issue a European Professional Card. Member States shall ensure that competent authorities inform citizens, including prospective applicants, on the advantages of a European Professional Card where it is available.

*Amendment*

5. Member States shall designate competent authorities for issuing European Professional Cards. Those authorities shall ensure an impartial, objective and timely processing of applications for European Professional Cards. The Assistance Centers referred to in Article 57b may also act in the capacity of a competent authority to issue a European Professional Card. Member States shall ensure that competent authorities inform citizens, including prospective applicants, ***as well as the social partners*** on the advantages of a European Professional Card where it is available.

**Amendment 24**

**Proposal for a directive**

**Article 1 – paragraph 1 – point 5**

Directive 2005/36/EC

Article 4a – paragraph 6

*Text proposed by the Commission*

6. The Commission shall adopt implementing acts specifying European Professional Cards for specific professions, establishing the format of the European Professional Card, the translations necessary to support any application for issuing a European Professional Card and details for the assessment of applications, taking into account the particularities of each profession concerned. Those implementing acts shall be adopted in accordance with the advisory procedure referred to in Article 58.

*Amendment*

6. The Commission shall adopt implementing acts specifying European Professional Cards for specific professions, establishing the format of the European Professional Card, the translations necessary to support any application for issuing a European Professional Card and details for the assessment of applications, taking into account the particularities of each profession concerned. Those implementing acts shall be adopted in accordance with the advisory procedure referred to in Article 58. ***The Commission shall consult the competent national authorities and European and national level social partners and professional associations representing the sectoral professions of the related professions on the precise technicalities of the cards of***



*specific professions. The Commission may also conduct pilot projects taking into account the particularities of each profession concerned.*

**Amendment 25**  
**Proposal for a directive**  
**Article 1 – paragraph 1 – point 5**  
Directive 2005/36/EC  
Article 4a – paragraph 6 a (new)

*Text proposed by the Commission*

*Amendment*

*6a. The Commission may introduce a European Professional Card by an implementing act provided that the following criteria are fulfilled:*

*1. the profession should be regulated in more than five Member States;*

*2. the profession should have a high mobility potential within the European Union;*

*3. considerable interest should have been expressed by the professionals or professional associations.*

*The Commission shall support those Member States which wish to make the use of the European Professional Card compulsory for the professions for which it has been introduced. This process may be preceded by an impact assessment.*

**Amendment 26**  
**Proposal for a directive**  
**Article 1 – paragraph 1 – point 5**  
Directive 2005/36/EC  
Article 4a – paragraph 7

*Text proposed by the Commission*

*Amendment*

*7. Any fees which applicants may incur in relation to administrative procedures to*

*7. The administrative procedure to issue a European Professional Card shall not*

issue a European Professional Card *shall be reasonable, proportionate and commensurate with the costs incurred by the home and host Member States and shall not act as a disincentive to apply for a European Professional Card. The Commission shall be empowered to adopt delegated acts in accordance with Article 58a concerning the setting of criteria for the calculation and distribution of fees.*

*represent any additional cost for the individual professional.*

## Amendment 27

### Proposal for a directive

#### Article 1 – paragraph 1 – point 5

Directive 2005/36/EC

Article 4b – paragraph 3

#### *Text proposed by the Commission*

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.

#### *Amendment*

1. *In sectors others than health and social care, 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. *The competent authority of the host Member State shall ensure the prior check of the complete application of the professional for temporary provision of service whether his or her qualifications are in conjunction with the national requirements of the host country on qualifications to provide the same service.* Member States shall *provide a list to the Commission on certain professions where working with the temporary mobility card and under the prior declaration regime must require a prior check of application.* The host Member State may not require a further declaration under Article 7 for the following two years, *unless overriding concerns are expressed.*

## Amendment 28

**Proposal for a directive**  
**Article 1 – paragraph 1 – point 5**  
Directive 2005/36/EC  
Article 4b – paragraph 4

*Text proposed by the Commission*

4. The Commission may adopt implementing acts specifying 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, the conditions and the procedures for making available a European Professional Card to its holder, including the possibility of downloading it or submitting updates for the file. Those implementing acts shall be adopted in accordance with the **advisory** procedure referred to in Article 58.

*Amendment*

4. The Commission may adopt implementing acts specifying 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, the conditions and the procedures for making available a European Professional Card to its holder, including the possibility of downloading it or submitting updates for the file. Those implementing acts shall be adopted in accordance with the **examination** procedure referred to in Article 58.

**Amendment 29**  
**Proposal for a directive**  
**Article 1 – paragraph 1 – point 5**  
Directive 2005/36/EC  
Article 4c – paragraph 1

*Text proposed by the Commission*

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.

*Amendment*

1. The competent authority of the home Member State shall verify the application, create and validate a European Professional Card within **four** 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, **unless justified overriding concerns are expressed**.

*Two years after the entry into force of the provisions providing for a European Professional Card, the Commission shall complete an impact study designed to assess the duration of the procedure.*

### **Amendment 30**

#### **Proposal for a directive**

#### **Article 1 – paragraph 1 – point 5**

Directive 2005/36/EC

Article 4c – paragraph 2

#### *Text proposed by the Commission*

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.

#### *Amendment*

2. The decision of the home Member State, or the absence of a decision within the period of *four* weeks referred to in paragraph 1, shall be subject to appeal under national law.

### **Amendment 31**

#### **Proposal for a directive**

#### **Article 1 – paragraph 1 – point 5**

Directive 2005/36/EC

Article 4d – paragraph 1

#### *Text proposed by the Commission*

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.

#### *Amendment*

1. *In sectors other than health and social care, upon* receipt of a complete application for a European Professional Card, the competent authority of the home Member State shall, within *four* 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. *Two years after the entry into force of the provisions providing for a European Professional Card, the Commission shall*

*complete an impact study designed to assess the duration of the procedure.*

## **Amendment 32**

### **Proposal for a directive**

#### **Article 1 – paragraph 1 – point 5**

Directive 2005/36/EC

Article 4d – paragraph 2

#### *Text proposed by the Commission*

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.

#### *Amendment*

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 suspend the one month *period*.

## **Amendment 33**

### **Proposal for a directive**

#### **Article 1 – paragraph 1 – point 5**

Directive 2005/36/EC

Article 4e – paragraph 1

#### *Text proposed by the Commission*

1. 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 action or criminal sanctions taken or any other serious specific circumstances which are likely to have consequences for the pursuit of activities of the holder of the European Professional Card under this Directive. Such updates include the deletion of information which is no longer required. The holder of the European Professional Card and the competent authorities involved in the corresponding

#### *Amendment*

1. The competent authorities of the home and the host Member States shall update in a timely manner the corresponding IMI file with information *also* regarding disciplinary action or criminal *or administrative* sanctions taken, or any other serious specific circumstances which are likely to have consequences for the pursuit of activities of the holder of the European Professional Card under this Directive. Such updates *shall* include the deletion of information which is no longer required. *Any updates shall be based on a prior decision by a court or a competent*

IMI file shall be informed of any updates by the competent authorities concerned.

***authority prohibiting a professional to pursue his or her professional activity.***  
The holder of the European Professional Card and the competent authorities involved in the corresponding IMI file shall be informed ***without delay*** of any updates by the competent authorities concerned.

#### **Amendment 34**

##### **Proposal for a directive**

##### **Article 1 – paragraph 1 – point 5**

Directive 2005/36/EC

Article 4e – paragraph 4

##### *Text proposed by the Commission*

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.

##### *Amendment*

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, applicable regime, competent authorities involved, card number, security features, ***education, formal professional qualifications and experiences, training courses of importance to public safety*** and reference to a valid proof of identity.

##### *Justification*

*In order for an employer to determine whether a service provider lives up to the requirements of a given job function, information on the service provider's education and completed training courses as well as professional experience should appear from the professional card.*

#### **Amendment 35**

##### **Proposal for a directive**

##### **Article 1 – paragraph 1 – point 5**

Directive 2005/36/EC

Article 4e – paragraph 5

##### *Text proposed by the Commission*

5. Member States shall ensure that the

##### *Amendment*

5. Member States shall ensure that the

holder of a European Professional Card has the right at any time to request the rectification, deletion and blocking of his file within the IMI system upon request and that he is informed of this right at the time of issuing the European Professional Card, and reminded of it every two years after the issuance of his European Professional Card.

holder of a European Professional Card has the right at any time **and at no cost** to request the rectification, deletion and blocking of his file within the IMI system upon request and that he is informed of this right at the time of issuing the European Professional Card, and reminded of it every two years after the issuance of his European Professional Card.

## **Amendment 36**

### **Proposal for a directive**

#### **Article 1 – paragraph 1 – point 5**

Directive 2005/36/EC

Article 4e – paragraph 7 – subparagraph 2

#### *Text proposed by the Commission*

The Commission shall adopt implementing acts specifying the conditions of access to the IMI file, 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 **advisory** procedure referred to in Article 58.

#### *Amendment*

The Commission shall adopt implementing acts specifying the conditions of access to the IMI file, 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.

## **Amendment 37**

### **Proposal for a directive**

#### **Article 1 – paragraph 1 – point 5**

Directive 2005/36/EC

Article 4f – paragraph 1 – introductory part

#### *Text proposed by the Commission*

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:

#### *Amendment*

1. The competent authority of the host Member State shall grant partial access to a professional activity in its territory, **after consulting with the relevant national social partners and professional associations representing the sectoral professions the applicant belongs to**, provided that the following conditions are

fulfilled:

### **Amendment 38**

#### **Proposal for a directive**

#### **Article 1 – paragraph 1 – point 5**

Directive 2005/36/EC

Article 4f – paragraph 1 – point a

#### *Text proposed by the Commission*

(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;

#### *Amendment*

(a) *the* differences *that subsist* between the professional activity legally exercised in the home Member State and the regulated profession in the host Member State as such are *objectively* so large that the *necessary* 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 *be able to benefit from full* access to the regulated profession in the host Member State;

### **Amendment 39**

#### **Proposal for a directive**

#### **Article 1 – paragraph 1 – point 5**

Directive 2005/36/EC

Article 4f – paragraph 1 – point b

#### *Text proposed by the Commission*

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

#### *Amendment*

(b) the professional activity can objectively be separated from other activities falling under the regulated profession in the host Member State. *During the overall assessment of whether the activity shall be deemed to be separable from other activities, the host Member State's competent authorities shall consider among other things whether the activity is exercised as an autonomous activity in the home Member State.*



### *Justification*

*The Commission's formulation in this article goes further than what the European Court of Justice decided in its ruling of 19th January 2006 (C-330/03(Colegio)). Whereas, the Commission is of the opinion that the Member state has to accept that an activity is separable when the activity can be exercised as an autonomous activity in the home Member State, the ECJ is less categorical saying that this criterion should constitute an essential element in the process of determining partial access.*

### **Amendment 40**

#### **Proposal for a directive**

#### **Article 1 – paragraph 1 – point 5**

Directive 2005/36/EC

Article 4f – paragraph 1 – point b – subparagraph 2

*Text proposed by the Commission*

*Amendment*

***1. 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.***

***deleted***

### *Justification*

*Following the changes in article 4f, point 1.*

### **Amendment 41**

#### **Proposal for a directive**

#### **Article 1 – paragraph 1 – point 5**

Directive 2005/36/EC

Article 4f – paragraph 2

*Text proposed by the Commission*

*Amendment*

***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.

***2. Member States may refuse to apply the principle of partial access*** if such rejection is justified by an overriding reason of ***public*** interest, such as public health, ***patient safety or consumer protection***, it would secure the attainment of the objective pursued and it would not go beyond what is necessary.

### **Amendment 42**

**Proposal for a directive**  
**Article 1 – paragraph 1 – point 5**  
Directive 2005/36/EC  
Article 4f – paragraph 3

*Text proposed by the Commission*

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.

*Amendment*

3. **In case of** establishment in the host Member State, **applications for establishment** shall be examined in accordance with Chapters I and IV of Title III **by the competent authorities of the Member State together with the relevant national social partners and professional associations representing the sectoral professions.**

*Justification*

*The competent authorities in the Member states should involve the national social partners whenever providing partial access to a given service provider belonging to a sectoral profession that the social partners represent.*

**Amendment 43**

**Proposal for a directive**  
**Article 1 – paragraph 1 – point 6 – point a**  
Directive 2005/36/EC  
Article 5 – paragraph 1 – point b – subparagraph 1

*Text proposed by the Commission*

(b) where the service provider moves, if he has pursued that profession in one or several Member States for at least two years during the last 10 years preceding the provision of services when the profession is not regulated in the Member State of establishment.

*Amendment*

(b) where the service provider moves, if he has pursued that profession in one or several Member States for at least two years during the last 10 years preceding the provision of services when the profession is not regulated in the Member State of establishment. **The provision of services in the construction industry shall be excluded from this general freedom to provide services. The condition requiring two years' pursuit shall not apply when either the profession or the education and training leading to the profession is regulated.**

### *Justification*

*There is a danger that subcontractors in the construction industry would perform work in a Member State other than their own without having the requisite minimum qualifications. This must be ruled out in order to protect workers in the construction industry against social dumping.*

#### **Amendment 44**

##### **Proposal for a directive**

##### **Article 1 – paragraph 1 – point 6 – point a**

Directive 2005/36/EC

Article 5 – paragraph 1 – point b – subparagraph 2 – point b

*Text proposed by the Commission*

*Amendment*

*(b) the service provider is accompanying the service recipient, provided that the service recipient's habitual residence is in the service provider's Member State of establishment and the profession does not appear on the list referred to in Article 7(4).* **deleted**

### *Justification*

*The proposal by the Commission will give a service provider without 2 years of work experience the possibility to provide services to a recipient of the same nationality. This could, however, imply that foreign service providers will be able to hire workers from the member state of origin of the service provider under more lenient circumstances than the ones which would apply for workers of the host member state.*

#### **Amendment 45**

##### **Proposal for a directive**

##### **Article 1 – paragraph 1 – point 6 – point b**

Directive 2005/36/EC

Article 5 – paragraph 4

*Text proposed by the Commission*

*Amendment*

*(b) The following paragraph 4 is added:* **deleted**  
*"4. In the case of notaries, the authentic instruments and other activities of authentication which require the seal of the host Member State shall be excluded*

*from the provision of services."*

#### *Justification*

*The exclusion of certain services in case of incoming notaries, namely the authentic instruments and the other activities of authentication which require the seal of the host Member State, would create two groups of notaries with different competencies. This may create distortions in the protection of consumers' rights and would require the obligation to duly inform consumers.*

#### **Amendment 46**

##### **Proposal for a directive**

##### **Article 1 – paragraph 1 – point 7 – point a – point i**

Directive 2005/36/EC

Article 7 – paragraph 2 – point e

##### *Text proposed by the Commission*

(e) for professions ***in the security sector and in the health sector***, where the Member State ***so requires for its own nationals***, evidence of neither temporary and final suspensions from exercising the profession nor criminal convictions.

##### *Amendment*

(e) for ***all*** professions, where ***so provided for by*** the Member State, evidence of neither temporary and final suspensions from exercising the profession nor criminal convictions.

#### **Amendment 47**

##### **Proposal for a directive**

##### **Article 1 – paragraph 1 – point 7 – point a – point ii**

Directive 2005/36/EC

Article 7 – paragraph 2 – point f

##### *Text proposed by the Commission*

(f) in the case of evidence of formal qualifications referred to in Article 21 (1) and in the case of certificates of acquired rights referred to in Articles 23, 26, 27, 30, 33, 33a, 37, 39, and 43, evidence attesting knowledge of the language of the host Member State.

##### *Amendment*

(f) in the case of evidence of formal qualifications referred to in Article 21 (1) and in the case of certificates of acquired rights referred to in Articles 23, 26, 27, 30, 33, 33a, 37, 39, and 43, evidence attesting ***sufficient*** knowledge of the language of the host Member State.

#### **Amendment 48**

## Proposal for a directive

### Article 1 – paragraph 1 – point 7 – point a – point ii a (new)

Directive 2005/36/EC

Article 7 – paragraph 2 – point f a (new)

*Text proposed by the Commission*

*Amendment*

*ii a) the following point (fa) is added:*

*fa) for all professionals, proof of knowledge of the language of the host Member State.";*

## Amendment 49

### Proposal for a directive

#### Article 1 – paragraph 1 – point 7 – point c

Directive 2005/36/EC

Article 7 – paragraph 4 – subparagraph 1

*Text proposed by the Commission*

*Amendment*

4. For the first provision of services, in the case of regulated professions **having** public **health or safety implications**, which do not benefit from automatic recognition under Chapter **II or** III 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 this does not go beyond what is necessary for that purpose.

4. For the first provision of services, in the case of regulated professions **with overriding reasons relating to the public interest**, which do not benefit from automatic recognition under Chapter III 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 damage to the health or safety of the service recipient, **the service provider or the public in general** due to a lack of professional qualification of the service provider and where this does not go beyond what is necessary for that purpose.

### *Justification*

*Exempting professions under chapter II of title III could have negative consequences for public health and safety, as the exemption would mean that self-employed and managers without prior qualification checks are allowed to perform services in another member state. Since many workers from abroad work as self-employed in the building and construction sector of some member states, exempting self-employed from prior checks could have severe*

*implications for health and safety at work in this sector*

## **Amendment 50**

### **Proposal for a directive**

#### **Article 1 – paragraph 1 – point 7 – point c**

Directive 2005/36/EC

Article 7 – paragraph 4 – subparagraph 2

#### *Text proposed by the Commission*

Member States shall notify to the Commission the list of professions for which a prior check of qualifications is necessary in order to avoid serious damage to ***the health or safety of the service recipient*** under its national laws and regulations. Member States shall provide the Commission with a specific justification for the inclusion of each of those professions in the list.

#### *Amendment*

Member States shall notify to the Commission the list of professions for which a prior check of qualifications is necessary in order to avoid serious damage to the ***public interest*** under its national laws and regulations. Member States shall provide the Commission with a specific justification for the inclusion of each of those professions in the list.

#### *Justification*

*See justification to amendment 22 on recital 4*

## **Amendment 51**

### **Proposal for a directive**

#### **Article 1 – paragraph 1 – point 7 – point c**

2011/0435(COD)

Article 7 – paragraph 4 - subparagraph 3

#### *Text proposed by the Commission*

Within a maximum of one month of receipt of the declaration and accompanying documents, the competent authority shall inform the service provider either of its decision not to check his qualifications or of the outcome of such check. Where there is a difficulty which would result in delay, the competent authority shall notify the service provider within the first month of the reason for the delay. The difficulty shall be solved ***within one month***

#### *Amendment*

Within a maximum of one month of receipt of the declaration and accompanying documents, the competent authority shall inform the service provider either of its decision not to check his qualifications or of the outcome of such check. Where there is a difficulty which would result in delay, the competent authority shall notify the service provider within the first month of the reason for the delay. The difficulty shall be solved ***as quickly as possible***

following that notification and the decision finalised within the second month following resolution of the difficulty.

following that notification and the decision finalised within the second month following resolution of the difficulty.

## **Amendment 52**

### **Proposal for a directive**

#### **Article 1 – paragraph 1 – point 7 – point c**

Directive 2005/36/EC

Article 7 – paragraph 4 – subparagraph 4

#### *Text proposed by the Commission*

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 professional experience or lifelong learning of the service provider*, the host Member State shall give the service provider the opportunity to show, in particular by means of an aptitude test, that he has acquired the lacking knowledge or competence. In any case, it must be possible to provide the service within one month of a decision being taken in accordance with the third subparagraph.

#### *Amendment*

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 *the public interest*, the host Member State shall give the service provider the opportunity to show, in particular by means of an aptitude test, that he has acquired the knowledge or competence lacking. In any case, it must be possible to provide the service within one month of a decision being taken in accordance with the third subparagraph.

#### *Justification*

*Informal learning ('learning by doing') is no substitute for formal training and further training (for example in the form of sandwich courses).*

## **Amendment 53**

### **Proposal for a directive**

#### **Article 1 – paragraph 1 – point 7 – point c**

Directive 2005/36/EC

Article 7 – paragraph 4 – subparagraph 5

#### *Text proposed by the Commission*

*In the absence of a reaction of the competent authority within the deadlines*

#### *Amendment*

*deleted*

*set in the third and fourth subparagraphs,  
the service may be provided.*

## **Amendment 54**

### **Proposal for a directive**

#### **Article 1 – paragraph 1 – point 8**

Directive 2005/36/EC

Article 8 – paragraph 1

#### *Text proposed by the Commission*

1. The competent authorities of the host Member State may ask the competent authorities of the Member State of establishment, in case of doubts, to provide any information relevant to the legality of the service provider's establishment and his good conduct, as well as the absence of any disciplinary or criminal sanctions of a professional nature. In case of control of qualifications, the competent authorities of the host Member State may ask the competent authorities of the Member State of establishment information about the service provider 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.

#### *Amendment*

1. The competent authorities of the host Member State may ask the competent authorities of the Member State of establishment, in case of doubts, to provide any information relevant to the legality of the service provider's establishment and his good conduct, as well as the absence of any disciplinary or criminal sanctions of a professional nature. In case of control of qualifications, the competent authorities of the host Member State may ask the competent authorities of the Member State of establishment information about the service provider training courses to the extent necessary to assess substantial differences likely to be harmful to **the public interest**. The competent authorities of the Member State of establishment shall provide that information in accordance with Article 56.

#### *Justification*

*See justification to amendment 5 to recital 4.*

## **Amendment 55**

### **Proposal for a directive**

#### **Article 1 – paragraph 1 – point 10**

Directive 2005/36/EC

Article 12 – paragraph 1



*Text proposed by the Commission*

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 programs, 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 of the type covered by Article 11, including the level in question.

*Amendment*

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 formal programs, 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 of the type covered by Article 11, including the level in question.

*Justification*

*Non-formal training ('learning by doing') cannot be equated with formal training involving performance assessments. The status of formal training would be jeopardised and the quality of services provided would be severely undermined.*

**Amendment 56**

**Proposal for a directive**

**Article 1 – paragraph 1 – point 11**

Directive 2005/36/EC

Article 13 – paragraph 4

*Text proposed by the Commission*

***4. By derogation to paragraphs 1 and 2 of this Article, the competent authority of the host Member State may refuse access to and pursuit of the profession to holders of an attestation of competence where the national qualification required to exercise the profession on its territory is classified under points (d) or (e) of Article 11.***

*Amendment*

*deleted*

*Justification*

*Article 13(4) would prevent master craftsmen from engaging in cross-border activities. They belong in the category dealt with in Article 11c.*

## Amendment 57

### Proposal for a directive

#### Article 1 – paragraph 1 – point 11 a (new)

Directive 2005/36/EC

Article 13 a (new)

*Text proposed by the Commission*

*Amendment*

***(11 a) The following Article 13a is inserted:***

***"Article 13a***

***Where a Member State requires its own professionals to undertake and demonstrate continuing professional development, this Member State will also have the right of extending this requirement to professionals from other Member States intending to practice within its territory."***

## Amendment 58

### Proposal for a directive

#### Article 1 – paragraph 1 – point 12 – point a

Directive 2005/36/EC

Article 14 – paragraph 1

*Text proposed by the Commission*

*Amendment*

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 the training he has received covers substantially different matters with regard to professional activities than those covered by the training in the host Member State.

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 the training he has received covers substantially different matters with regard to professional activities than those covered by the training in the host Member State, ***if the duration of the training of which it provides evidence is at least one year shorter than the minimum period required by the host Member State, and/or if in the host Member State the regulated profession comprises one or more***

*regulated professional activities which do not exist in the corresponding profession in the applicant's Member State of origin, and if this difference consists in specific training which is required in the host Member State and which covers substantially different matters from those covered by the applicant's attestation of competence or evidence of formal qualifications.*

*Justification*

*It is not clear why criteria (a) and (c) of Article 14(1) should no longer apply in the future. They have proved to be very effective instruments for the competent authorities in the Member States. The amendment seeks to ensure that criteria (a) and (c) are retained.*

**Amendment 59**

**Proposal for a directive**

**Article 1 – paragraph 1 – point 12 – point c**

Directive 2005/36/EC

Article 14 – paragraph 3

*Text proposed by the Commission*

*Amendment*

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

*deleted*

*"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."*

**Amendment 60**

**Proposal for a directive**

**Article 1 – paragraph 1 – point 14**

Directive 2005/36/EC

Article 20

*Text proposed by the Commission*

*Amendment*

The Commission shall be empowered to

The Commission shall be empowered to

adopt delegated acts in accordance with Article 58a concerning *the adaptations 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 nomenclature, provided that this does not involve any narrowing of the scope of the activities related to the individual categories.

adopt delegated acts in accordance with Article 58a concerning *additions to* 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 nomenclature, provided that this does not involve any narrowing of the scope of the activities related to the individual categories. ***Professional activities which have already been included in a given list shall not be moved to another.***

## Amendment 61

### Proposal for a directive

#### Article 1 – paragraph 1 – point 22 – point b

Directive 2005/36/EC

Article 31 – paragraph 2 – subparagraph 2

#### *Text proposed by the Commission*

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

#### *Amendment*

The Commission shall be empowered to adopt delegated acts in accordance with Article 58a 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, ***and the development and evolution of the nursing profession''***.

## Amendment 62

### Proposal for a directive

#### Article 1 – paragraph 1 – point 22 – point c

Directive 2005/36/EC

Article 31 – paragraph 3 – subparagraph 1

#### *Text proposed by the Commission*

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 training, the duration of the theoretical training representing at least one third and the

#### *Amendment*

The training of nurses responsible for general care shall comprise at least three years of study, ***which may also be expressed with the equivalent ECTS credits***, consisting of at least 4 600 hours of theoretical and clinical training, the

duration of the clinical training 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.

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 persons who have received part of their training on courses which are of at least an equivalent level.

### **Amendment 63**

#### **Proposal for a directive**

#### **Article 1 – point 23 a (new)**

Directive 2005/36/EC

Article 33 b (new)

*Text proposed by the Commission*

*Amendment*

***(23a) The following Article 33b is inserted:***

***"Article 33b***

***Transitional provisions***

***As from [insert date of the entry into force of this Directive], Member States shall have a period of six years within which to adapt their training systems to the new requirements of Article 31(1) concerning the requirement of 12 years of general education for nurses and midwives or success in an examination of an equivalent level."***

### **Amendment 64**

#### **Proposal for a directive**

#### **Article 1 – paragraph 1 – point 24 – point a**

Directive 2005/36/EC

Article 34 – paragraph 2 – subparagraph 1

*Text proposed by the Commission*

*Amendment*

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

Basic dental training shall comprise a total of at least five years, which may also be expressed with the equivalent ***of 300 ECTS credits, and shall consist of at least 5000 hours of full-time theoretical and***

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.

*practical study*, 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.

#### **Amendment 65**

##### **Proposal for a directive**

##### **Article 1 – paragraph 1 – point 30 – point a**

Directive 2005/36/EC

Article 44 – paragraph 2 – point b

##### *Text proposed by the Commission*

(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.

##### *Amendment*

(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.

#### **Amendment 66**

##### **Proposal for a directive**

##### **Article 1 – paragraph 1 – point 32**

Directive 2005/36/EC

Article 46 – paragraph 1 – point a

##### *Text proposed by the Commission*

(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;

##### *Amendment*

(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 traineeship;

#### **Amendment 67**

##### **Proposal for a directive**

##### **Article 1 – paragraph 1 – point 32**

Directive 2005/36/EC

Article 46 – paragraph 3

*Text proposed by the Commission*

3. The **remunerated** traineeship must be carried out in a Member State, under the supervision of a person providing adequate guarantees regarding their ability to provide practical training. It must be undertaken after the completion of the study referred to in paragraph 1. The completion of the **remunerated** traineeship must be attested to in a certificate accompanying the evidence of formal qualifications.

*Amendment*

3. The traineeship must be carried out in a Member State, under the supervision of a person providing adequate guarantees regarding their ability to provide practical training. It must be undertaken after the completion of the study referred to in paragraph 1. The completion of the traineeship must be attested to in a certificate accompanying the evidence of formal qualifications.

**Amendment 68**

**Proposal for a directive**

**Article 1 – paragraph 1 – point 35**

Directive 2005/36/EC

Article 49a – paragraph 2 – point d

*Text proposed by the Commission*

(d) the knowledge, skills and competences for such common training framework shall refer to levels of *the European Qualifications Framework, as defined in Annex II of the Recommendation of the European Parliament and of the Council on the establishment of the European Qualifications Framework for lifelong learning*(\*);

*Amendment*

(d) the knowledge, skills and competences for such common training framework shall refer to *the* levels of *Article 11 of this Directive*;

*Article 11 shall not be applicable to the professions regulated under Annex V point 1.*

**Amendment 69**

**Proposal for a directive**

**Article 1 – paragraph 1 – point 35**

Directive 2005/36/EC

Article 49a – paragraph 2 – point e

*Text proposed by the Commission*

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

*Amendment*

(e) the profession concerned is neither covered by another common training framework nor regulated already under Chapter III of Title III, **or Article 10, point b**;

**Amendment 70**

**Proposal for a directive**

**Article 1 – paragraph 1 – point 35**

Directive 2005/36/EC

Article 49 a – paragraph 2 – point f

*Text proposed by the Commission*

(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;

*Amendment*

(f) the common training framework has been prepared following a transparent due process, including with ***national social partners, professional associations representing the sectoral professions, and*** stakeholders from Member States where the profession is ***regulated or*** not regulated;

**Amendment 71**

**Proposal for a directive**

**Article 1 – paragraph 1 – point 35**

Directive 2005/36/EC

Article 49 b – paragraph 2 – point c

*Text proposed by the Commission*

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

*Amendment*

(c) the common training test has been prepared following a transparent due process, including with ***national social partners, professional associations representing the sectoral professions, and*** stakeholders from Member States where the profession is ***regulated or*** not regulated;



## Amendment 72

### Proposal for a directive

#### Article 1 – paragraph 1 – point 38

Directive 2005/36/EC

Article 53 – paragraph 2 – subparagraph 1

#### *Text proposed by the Commission*

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.

#### *Amendment*

A Member State shall ensure that any **verifications** of the knowledge of a language are carried out by a competent authority **free of charge for the applicant**, 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.

## Amendment 73

### Proposal for a directive

#### Article 1 – paragraph 1 – point 38

Directive 2005/36/EC

Article 53 – paragraph 2 – subparagraph 2

#### *Text proposed by the Commission*

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 national health care system, by representative national patient organisations.

#### *Amendment*

In case of professions with **public health and patient safety or quality in education** 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 national health care system, by representative national patient organisations **or social partners**. **Language control performed by the competent authority shall be without prejudice to an employer's right to carry out further checks as appropriate.**

## Amendment 74

**Proposal for a directive**

**Article 1 – paragraph 1 – point 38**

Directive 2005/36/EC

Article 53 – paragraph 2 – subparagraph 3

*Text proposed by the Commission*

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.

*Amendment*

Any language knowledge *verification* 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.

**Amendment 75**

**Proposal for a directive**

**Article 1 – paragraph 1 – point 39**

Directive 2005/36/EC

Article 55a – Title

*Text proposed by the Commission*

Recognition of *remunerated* traineeship

*Amendment*

Recognition of traineeship

**Amendment 76**

**Proposal for a directive**

**Article 1 – paragraph 1 – point 39**

Directive 2005/36/EC

Article 55a

*Text proposed by the Commission*

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.

*Amendment*

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

**Amendment 77**

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**Proposal for a directive**

**Article 1 – paragraph 1 – point 42**

Directive 2005/36/EC

Article 56a – paragraph 1 – introductory part

*Text proposed by the Commission*

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:

*Amendment*

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 ***temporarily or permanently removed*** from the ***right to practice in their home or host*** Member State the following professional activities:

**Amendment 78**

**Proposal for a directive**

**Article 1 – paragraph 1 – point 42**

Directive 2005/36/EC

Article 56a – paragraph 1 – point c a (new)

*Text proposed by the Commission*

*Amendment*

***(ca) nurses recognised under the scope of Article 10;***

**Amendment 79**

**Proposal for a directive**

**Article 1 – paragraph 1 – point 42**

Directive 2005/36/EC

Article 56a – paragraph 2

*Text proposed by the Commission*

2. ***In the cases not covered by Directive 2006/123/EC, where*** a professional established in a Member State carries out a professional activity under a professional title other than those referred to in paragraph 1 and within the framework of this Directive, a Member State shall inform without delay other Member States

*Amendment*

2. ***Where*** a professional established in a Member State carries out a professional activity under a professional title other than those referred to in paragraph 1 and within the framework of this Directive, a Member State shall inform without delay other Member States concerned and the Commission upon gaining actual

concerned and the Commission upon gaining actual knowledge of any conduct, specific acts or circumstances which is related to such activity and which could cause *serious* damage to the health or safety of persons or to the environment in another Member State. That information shall not go beyond what is strictly necessary to identify the professional concerned and shall include the reference to the decision of a competent authority prohibiting him or her from pursuing the professional activities. Other Member State may request further information under the conditions set out in Articles 8 and 56.

knowledge of any conduct, specific acts or circumstances which is related to such activity and which could cause damage to the health or safety of persons, *the public interest* or to the environment in another Member State. That information shall not go beyond what is strictly necessary to identify the professional concerned and shall include the reference to the decision of a competent authority prohibiting him or her from pursuing the professional activities. Other Member State may request further information under the conditions set out in Articles 8 and 56.

#### *Justification*

*The alert mechanism should not be reserved for cases not covered by Directive 2006/123/EC but extended to all professionals in case of actions which may cause damage not only to the health and safety of persons or to the environment in another member state but the public interest as well.*

### **Amendment 80**

#### **Proposal for a directive**

#### **Article 1 – paragraph 1 – point 44**

Directive 2005/36/EC

Article 57a – paragraph 4

#### *Text proposed by the Commission*

4. All procedures shall be carried out in accordance with the provisions of Directive 2006/123/EC relating to the points of single contact. Any time limits for Member States to be complied with procedures or formalities set out in this Directive shall commence at the point when *an* application has been submitted by a citizen *to* a point of single contact.

#### *Amendment*

4. All procedures shall be carried out in accordance with the provisions of Directive 2006/123/EC relating to the points of single contact. Any time limits for Member States to be complied with procedures or formalities set out in this Directive shall commence at the point when *a complete* application has been submitted by a citizen *via* a point of single contact *to the competent authority*.

### **Amendment 81**

**Proposal for a directive**  
**Article 1 – paragraph 1 – point 44**  
 Directive 2005/36/EC  
 Article 57a – paragraph 4 a (new)

*Text proposed by the Commission*

*Amendment*

**4a. The functioning of points of single contact shall be without prejudice to the allocation of functions and powers among the authorities within national systems.**

## Amendment 82

**Proposal for a directive**  
**Article 1 – paragraph 1 – point 46**  
 Directive 2005/36/EC  
 Article 58 – paragraph 1

*Text proposed by the Commission*

*Amendment*

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..

1. The Commission shall be assisted by a Committee on the recognition of professional qualifications, **ensuring appropriate representation and consultation at both European and national expert level.** That Committee shall be a committee within the meaning of Regulation (EU) No 182/2011.

## PROCEDURE

<b>Title</b>	Amendment of Directive 2005/36/EC on the recognition of professional qualifications and of Regulation [...] on administrative cooperation through the Internal Market Information System	
<b>References</b>	COM(2011)0883 – C7-0512/2011 – 2011/0435(COD)	
<b>Committee responsible</b> Date announced in plenary	IMCO 19.1.2012	
<b>Opinion by</b> Date announced in plenary	EMPL 19.1.2012	
<b>Rapporteur</b> Date appointed	Licia Ronzulli 19.1.2012	
<b>Discussed in committee</b>	20.6.2012	8.10.2012

<b>Date adopted</b>	9.10.2012
<b>Result of final vote</b>	+: 40 -: 2 0: 3
<b>Members present for the final vote</b>	Regina Bastos, Edit Bauer, Heinz K. Becker, Jean-Luc Bennahmias, Phil Bennion, Pervenche Berès, Vilija Blinkevičiūtė, Philippe Boulland, Milan Cabrnoch, Alejandro Cercas, Ole Christensen, Derek Roland Clark, Minodora Cliveti, Emer Costello, Karima Delli, Richard Falbr, Thomas Händel, Marian Harkin, Nadja Hirsch, Stephen Hughes, Danuta Jazłowiecka, Ádám Kósa, Jean Lambert, Patrick Le Hyaric, Veronica Lope Fontagné, Olle Ludvigsson, Thomas Mann, Elisabeth Morin-Chartier, Csaba Óry, Siiri Oviir, Konstantinos Poupakis, Sylvana Rapti, Licia Ronzulli, Elisabeth Schroedter, Joanna Katarzyna Skrzydlewska, Jutta Steinruck, Traian Ungureanu, Andrea Zanoni
<b>Substitute(s) present for the final vote</b>	Malika Benarab-Attou, Edite Estrela, Ingeborg Gräßle, Ria Oomen-Ruijten, Antigoni Papadopoulou, Csaba Sógor, Gabriele Zimmer