



**COUNCIL OF
THE EUROPEAN UNION**

Brussels, 28 June 2012

11824/12

**Interinstitutional File:
2011/0435 (COD)**

LIMITE

**ETS 19
MI 452
COMPET 468
EDUC 229
CODEC 1762**

NOTE

from:	Presidency/General Secretariat of the Council
to	Working Party on Establishment and Services
No Cion doc.:	18899/11 ETS 22 MI 679 COMPET 629 EDUC 297 CODEC 2507
Subject:	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

Delegations will find attached a document based on the discussions of the Working Party "Establishment and Services" on 25 January, 12 and 28 March, 19 April and 12 June 2012.

Delegations are informed that new text compared to the Commission's proposal, is indicated in **bold/underlined** and deletions are marked with ~~strikethrough~~.

It is understood that at this stage there is a general scrutiny reservation from all delegations.
FR, PL, SI have entered a parliamentary scrutiny reservation.

2011/0435 (COD)

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**

(Text with EEA relevance)

THE EUROPEAN PARLIAMENT AND THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the Treaty on the Functioning of the European Union, and in particular Articles 46, 53(1), 62 and 114 thereof,

Having regard to the proposal from the European Commission,

After transmission of the draft legislative act to the national Parliaments,

Having regard to the opinion of the European Economic and Social Committee¹,

~~Having regard to the opinion of the European Data Protection Supervisor,~~

Acting in accordance with the ordinary legislative procedure,

Whereas:

¹ OJ C [...].

- (1) Directive 2005/36/EC of the European Parliament and of the Council of 7 September 2005 on the recognition of professional qualifications² consolidated a system of mutual recognition which was initially based on 15 Directives. It provides for automatic recognition for a limited number of professions based on harmonised minimum training requirements (sectoral professions), a general system for the recognition of evidence of training and automatic recognition of professional experience. Directive 2005/36/EC also established a new system of free provision of services. It should be recalled that third country family members of Union citizens benefit from equal treatment in accordance with Article 24 of Directive 2004/38/EC. Third country nationals may also benefit from equal treatment with regard to recognition of diplomas, certificates and other professional qualifications, in accordance with the relevant national procedures, according to specific Union legislation such as acts on long term residence, refugees, "blue card holders" and scientific researchers.
- (2) In its Communication 'Single Market Act, Twelve levers to boost growth and strengthen confidence, "Working together to create new growth"³, the Commission identified the need to modernise the Union legislation in this area. On 23 October 2011, the European Council in its conclusions supported such a modernisation and called for an agreement by the end of 2012. In its resolution of 15 November 2011, the European Parliament also invited the Commission to come forward with a proposal. The EU Citizenship report 2010 on dismantling the obstacles to EU citizens' rights⁴ underlines the need to lighten the administrative burden linked to the recognition of professional qualifications.

² OJ L 255, 30.9.2005, p.22.

³ COM(2011)206 final, 13.4.2011.

⁴ COM(2010) 603 final.

- (3) In order to promote the free movement of professionals, while ensuring a more efficient and transparent recognition of qualifications it is necessary to provide for a European Professional Card. In particular that card is necessary to facilitate temporary mobility and recognition under the automatic recognition system, as well as to promote a simplified recognition process under the general system. The card should be issued upon request from a professional and after submission of necessary documents and completion of related review and verification procedures by the competent authorities. The functioning of the card should be supported by the Internal Market Information System (IMI) established by Regulation (EU) No [...] on administrative cooperation through the Internal Market Information System⁵. This mechanism should help enhance synergies and trust among competent authorities, while at the same time eliminating duplication of administrative work for the authorities and creating more transparency and certainty for professionals. The process for the application and issuing of the card should be clearly structured and incorporate safeguards and the corresponding rights of appeal for the applicant. The card and the related workflow within IMI should ensure the integrity, authenticity and confidentiality of the data stored and avoid unlawful and unauthorised access to information contained therein.
- (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.

⁵ OJ L [...].

- (5) Temporary and occasional provision of services in Member States should be subject to safeguards, notably a requirement of a minimum two years' prior professional experience, in the interest of the protection of local consumers in the host Member State if the profession is not regulated in the home Member State. However, these safeguards are not necessary if the consumers, who have their habitual residence in the Member State of establishment of the professional, have already chosen such a professional and there are no public health or safety implications for third persons in the host Member State.
- (6) Directive 2005/36/EC allows Member States to check the professional qualifications of the service provider prior to the first provision of service in the case of regulated professions having public health and safety implications. This has led to legal uncertainty leaving it to the discretion of a competent authority to decide on the need for such prior check. In order to ensure legal certainty professionals should know from the outset whether a prior check of qualifications is necessary and when a decision can be expected.
- (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.

- (8) In order to apply the mechanism of recognition under the general system, it is necessary to group the various national education and training schemes into different levels. Those levels, which are established only for the purpose of the operation of the general system, should have neither effect upon the national education and training structures nor upon the competence of Member States in this field, including a national policy for implementing the European Qualifications Framework. This can be a tool to promote the transparency and comparability of qualifications and can be a useful additional source of information for the competent authorities examining the recognition of qualifications issued in other Member States. The levels established for the operation of the general system should in principle no longer be used as a criterion for excluding Union citizens from the scope of Directive 2005/36/EC when this would be contrary to the principle of life long learning.
- (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.
- (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.

- (11) The review of Directive 2005/36/EC has shown a need to update and clarify with more flexibility the lists of industrial, commercial and craft activities in Annex IV, while maintaining for those activities a system of automatic recognition based on professional experience. Annex IV is currently based on the International Standard Industrial Classification of all Economic Activities (ISIC) dated from 1958 and no longer reflects the current structure of economic activities. The ISIC classification has been reviewed several times since 1958. Therefore, the Commission should be able to adapt Annex IV in order to maintain intact the system of automatic recognition.
- (12) The system of automatic recognition on the basis of harmonised minimum training requirements depends on the timely notification of new or changed evidence of formal qualifications by the Member States and their publication by the Commission. Otherwise, holders of such qualifications have no guarantees that they can benefit from automatic recognition. In order to increase transparency and facilitate the examination of newly notified titles, Member States should designate an appropriate body, such as an accreditation board or a ministry, to examine each notification and provide a report on compliance with Directive 2005/36/EC to the Commission.
- (13) European Credit Transfer and Accumulation System (ECTS) credits are already used in a large majority of higher education institutions in the Union and their use is becoming more common also in courses leading to the qualifications required for the exercise of a regulated profession. Therefore, it is necessary to introduce the possibility to express the duration of a programme also in ECTS. This should not affect the other requirements for automatic recognition. One ECTS credit corresponds to 25-30 hours of study where 60 credits are normally required for the completion of one academic year.

- (14) In the interest of enhancing the mobility of medical specialists who have already obtained a medical specialist qualification and afterwards follow another specialist training, Member States should be allowed to grant exemptions from some part of the training if such elements of the training have already been completed during the former medical specialist training programme in that Member State covered by the automatic recognition regime.
- (15) The nursing and midwifery professions have significantly evolved in the last three decades: community-based healthcare, the use of more complex therapies and constantly developing technology presuppose a capacity for higher responsibilities for nurses and midwives. In order to prepare them to meet such complex healthcare needs, nursing and midwifery students need to have a solid general education background before they start the training. Therefore, admission to that training should be increased to twelve years of general education or success in an examination of an equivalent level.
- (16) To simplify the system for automatic recognition of medical and dental specialities, such specialities should be covered by Directive 2005/36/EC if they are common to at least one third of the Member States.
- (17) The functioning of the system of automatic recognition depends on confidence in the training conditions which underpin the qualifications of the professionals. Therefore, it is important that the minimum training conditions of architects reflect new developments in architectural education, notably with respect to the recognised need to supplement academic training with professional experience under the supervision of qualified architects. At the same time, the minimum training conditions should be flexible enough to avoid unduly restricting the ability of Member States to organise their education systems.

- (18) Directive 2005/36/EC should promote 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.
- (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.
- (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.

- (21) Directive 2005/36/EC provides for a system of national contact points. Due to the entry into force of Directive 2006/123/EC of the European Parliament and of the Council of 12 December 2006 on services in the internal market⁶ and the establishment of points of single contact under that Directive, there is a risk of overlap. Therefore, the national contact points established by Directive 2005/36/EC should become assistance centres which should focus their activities on providing advice to citizens, including face to face advice, in order to ensure that daily application of internal market rules in individual cases of citizens is followed up at national level.
- (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.

⁶ OJ L 376, 27.12.2006, p. 36.

(23) One of the major difficulties a citizen who is interested to work in another Member State is facing, is complexity and uncertainty of administrative procedures to comply with. Directive 2006/123/EC already obliges Member States to provide easy access to information and procedure completion through the points of single contact. Citizens seeking recognition of their qualifications under Directive 2005/36/EC can already use the points of single contact if they are covered by Directive 2006/123/EC. However, job seekers and health professionals are not covered by Directive 2006/123/EC and available information remains scarce. There is therefore a need to specify that information, from a user perspective, and to ensure that such information is easily available. It is also important that Member States not only take responsibility at national level but also cooperate with each other and the Commission to ensure that professionals throughout the Union have an easy access to a user-friendly and multilingual information and to procedure completion through the points of single contact. Links should be made available through other websites, such as the Your Europe portal.

- (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.
- (25) In order to ensure uniform conditions for the implementation of Directive 2005/36/EC, implementing powers should be conferred on the Commission. Those powers should be exercised in accordance with Regulation (EU) No 182/2011 of the European Parliament and of the Council of 16 February 2011 laying down the rules and general principles concerning mechanisms for control by the Member States of the Commission's exercise of implementing powers⁷.

⁷ OJ L 55, 28.2.2011, p. 13.

- (26) The advisory procedure should be used for the adoption of implementing acts in order to lay down common and uniform rules regarding the specification of European Professional Cards for specific professions, the format of the European Professional Card, the translations necessary to support an application for issuing a European Professional Card, details for the assessment of the applications for a European Professional Card, the technical specifications and the measures necessary to ensure integrity, confidentiality and accuracy of information contained in the European Professional Card and in the IMI file, the conditions and the procedures for making available a European Professional Card, the conditions of access to the IMI file, the technical means and the procedures for the verification of the authenticity and validity of a European Professional Card and the implementation of the alert mechanism, due to the technical nature of those implementing acts.
- (27) Following the positive experience with the mutual evaluation under Directive 2006/123/EC, a similar evaluation system should be included in Directive 2005/36/EC. Member States should notify which professions they regulate, for which reasons, and discuss amongst themselves their findings. Such system would contribute to more transparency in the professional services market.
- (28) Since the objectives of the action to be taken, namely the rationalisation, simplification and improvement of the rules for the recognition of professional qualifications, cannot be sufficiently achieved by the Member States as it would inevitably result in divergent requirements and procedural regimes increasing regulatory complexity and causing unwarranted obstacles to mobility of professionals and can therefore, by reason of coherence, transparency and compatibility be better achieved at Union level, the Union may adopt measures, in accordance with the principle of subsidiarity as set out in Article 5 of the Treaty on European Union. In accordance with the principle of proportionality, as set out in that Article, this Directive does not go beyond what is necessary in order to achieve those objectives.

(29) In accordance with the Joint Political Declaration of Member States and the Commission on explanatory documents of [date], Member States have undertaken to accompany, in justified cases, the notification of their transposition measures with one or more documents explaining the relationship between the components of a directive and the corresponding parts of national transposition instruments. With regard to this Directive, the legislator considers the transmission of such documents to be justified.

(29a) The European Data Protection Supervisor has given an opinion on 8 March 2012 pursuant to Articles 4(e), 56(a) and 58 of 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,⁸

(30) Directive 2005/36/EC should therefore be amended accordingly,

⁸ COM: scrutiny reservation

HAVE ADOPTED THIS DIRECTIVE:

Article 1

Amendments to Directive 2005/36/EC

Directive 2005/36/EC is amended as follows:

(1) In Article 1, the following second paragraph is added:

"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."

(2) In Article 2, paragraph 1 is replaced by the following⁹:

"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."

(3) Article 3 is amended as follows:

(a) Paragraph 1 is amended as follows:

(i) Point (f) is replaced by the following:

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

⁹ FR: add in para 2 that the EPC should not be issued to a third country professional who does not benefit from automatic recognition until the professional has three years of professional experience in the profession concerned on the territory of the MS. COM: third country professionals are not covered by this Directive.

(ii) The following points are added:

"(j) 'remunerated traineeship': ~~the pursuit of supervised and remunerated activities~~
the access to which requires one of the diplomas referred to in Article 11(c), (d)
or (e) and the completion of which is compulsory ~~with a view to accessing to a~~
regulated profession **pursuant to legislative, regulatory or administrative**
provisions in a Member State ~~granted on the basis of an examination;~~

(k) 'European Professional Card': an electronic certificate ~~issued to the professional~~
proving **either** the recognition¹⁰ of his qualifications for establishment in a host
Member State or that **the professional** ~~he~~ has met all the necessary conditions to
provide services in a host Member State on a temporary and occasional basis;

(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."

(b) In paragraph 2, the third subparagraph is replaced by the following:

"On each occasion that a Member State grants recognition to an association or
organisation referred to in the first subparagraph, it shall inform the Commission. The
Commission shall be empowered to adopt delegated acts in accordance with Article 58a
concerning the update of Annex I where that recognition is in compliance with this
Directive.

Where the Commission considers that the recognition referred to in the third
subparagraph is not in compliance with this Directive, it shall adopt an implementing
decision on that non-compliance, within six months of receiving all necessary
information."

¹⁰ UK: EPC does not replace the recognition procedure. This wording is too far-reaching.
COM: the added value of the EPC lies precisely in this proof of recognition and in the
reduced deadlines. RO: the EPC should replace the conformity certificate for the medical
regulated professions.

(4) In Article 4, paragraph 1 is replaced by the following:

"1. The recognition of professional qualifications by the host Member State shall allow the beneficiary to gain access in that Member State to the same profession or, in the cases referred to in Article 4f, to part of the same profession, as that for which he is qualified in the home Member State and to pursue it in the host Member State under the same conditions as its nationals."

(5) The following Articles 4a to 4f are inserted:

"Article 4a

European Professional Card

1. Member States¹¹ shall provide a holder of a professional qualification with a European Professional Card upon his request¹² and on condition that the Commission has adopted the relevant implementing acts provided for in paragraph 6.
2. Member States shall ensure that the holder of a European Professional Card benefits from all the rights conferred by Articles 4b to 4e. ~~upon validation of the Card by the competent authority of the relevant Member State as provided for in paragraphs 3 and 4 of this Article.~~

¹¹ BG, EL, ES, FI, IE, IT, LT, LU, LV, MT, NL, PL, PT, RO, SE, SI, UK: reservation about the implementation for non-regulated professions. COM: Exclusions *ex ante* from the EPC system would not be advisable. There might be an interest for non-regulated professions or even MS where the professions are not yet active. Those questions should be addressed on a case by case basis according to the interested profession. Using available bodies would be better (e.g. assistance centres, NCPs) but it is up to MS.

¹² EL, ES, HU, MT, NL, PL, RO, SE, UK: need analysis/studies to balance costs and benefits.

3. Where the holder of a qualification intends to provide services under Title II other than those covered by Article 7(4), the European Professional Card shall be **issued** ~~created and validated~~ by the competent authority of the home Member State in accordance with Articles 4b and 4c¹³.
4. Where the holder of a qualification intends to establish himself in another Member State under Chapters I to IIIa of Title III or to provide services under Article 7(4), ~~the European Professional Card shall be created by the competent authority of the home Member State~~ **shall create a draft European Professional Card after completing all prescribed preparatory steps** and ~~validated by the competent authority of the host Member State~~¹⁴ **shall issue the card** in accordance with Articles 4b and 4d.
5. Member States shall designate competent authorities for **treating** ~~issuing~~ European Professional Cards. ~~Those~~ **These** 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 **create** ~~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 available¹⁵.

¹³ AT, DE, FR, IE, IT, PL, UK: scrutiny reservation. Host MS should keep the possibility of controls (Art 7).

¹⁴ EL: If the burden of proof on the authenticity of the title lies on the host MS, there is a risk of fraud.

¹⁵ MT, SE, UK: scrutiny reservation on the information about the advantages of the card.

6. **European Professional Cards shall be available for professions covered by implementing acts adopted by the Commission in accordance with the advisory procedure referred to in Article 58**¹⁶. ~~The Commission shall adopt implementing acts specifying European Professional Cards for specific professions, establishing the~~ **Those implementing acts shall also determine the** format of the European Professional Card, the translations necessary to support any application for issuing a European Professional Card¹⁷ and details for the assessment of applications, taking into account the particularities of ~~the~~ **each** profession concerned.

The Commission may introduce a European Professional Card by an implementing act provided that there is sufficient mobility or potential for sufficient mobility in the profession concerned, there is sufficient interest by the stakeholders concerned, or this profession is regulated in a sufficient number of Member States.

~~Those implementing acts shall be adopted in accordance with the advisory procedure referred to in Article 58.~~

- 6a. **When a European Professional Card has been introduced for a profession in accordance with paragraph 6, the professional concerned may choose to apply for such a card or to make use of the procedures provided for in Title II and III.**

¹⁶ SE: limit to cases where professions are regulated in either 3/4 or half of the MS. SE: replace by "examination" procedure referred to in Article 5 of Regulation 182/2011 and add new para. 3 in Article 58 of this Directive.

¹⁷ DE: address translation issues in Annex VII. SE: delete the part of the sentence concerning translations.

7. Any fees which applicants may incur in relation to administrative procedures to issue a European Professional Card shall be reasonable, proportionate and commensurate with the costs incurred by the home and 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 fees¹⁸.
8. ~~The recognition of qualifications through a European Professional Card shall serve as a procedural alternative to the recognition of professional qualifications under the procedures provided in Title II and III of this Directive.~~

~~The availability of a European Professional Card for a specific profession shall not preclude a holder of a professional qualification for that profession from seeking recognition of his qualifications under the procedures, conditions, requirements and deadlines provided for in this Directive other than those for the European Professional Card.~~

¹⁸ SE: delete para 7. AT, FI, UK: reservation on last sentence. DE, FR, LU, LV, PL, SK: scrutiny reservation on the link between the real costs and their distribution among MS. FR, LV, PL: scrutiny reservation on the establishment of the criteria for fees as it makes it very difficult for MS to assess the cost of implementing the EPC.

Article 4b

Application for a European Professional Card and creation of an IMI file¹⁹

1. The Member States shall provide that a holder of a professional qualification may apply for a European Professional Card ~~by any means~~ **in writing or in electronic form**, including through an on-line tool²⁰, with the competent authority of the home Member State.
2. Applications shall be supported by the documentation required by Article 7(2) and Annex VII as appropriate. The Commission shall be empowered to adopt delegated acts in accordance with Article 58a concerning ~~the establishment of the details of the~~ documentation **required**²¹.
3. The competent authority of the home Member State shall acknowledge receipt of the application and inform the applicant of any missing document without **undue** delay ~~from submission of the application~~. It shall create a file of the application containing all supporting documents within the Internal Market Information System (IMI) established by Regulation (EU) No [...] of the European Parliament and of the Council²². In case of subsequent applications by the same applicant, the competent authorities of the home **and** ~~or~~ the host Member State may not request the re-submission of documents which are already contained in the IMI file and which are still valid.

¹⁹ LU: put in place tools to ensure translation (ECJ case 'Systran'). FR, UK: scrutiny reservation due to lack of safeguards to avoid falsification.

²⁰ SE: delete "including through an online tool".

²¹ SE: delete last sentence.

²² OJ [IMI Regulation]

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 58²³.

Article 4c

European Professional Card for the temporary provision of services other than those covered by Article 7(4)

1. The competent authority of the home Member State shall verify the application **and the supporting documentation and shall issue the** ~~create and validate a~~ European Professional Card within **one month** ~~two weeks~~ from the date it receives a complete application. **It shall then transmit the European Professional Card immediately to the competent authority of the host Member State concerned and** shall inform the applicant **accordingly.** ~~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 years²⁴.

²³ SE: replace by "examination" procedure referred to in Article 5 of Regulation 182/2011 and add new para. 3 in Article 58 of this Directive.

²⁴ DE, ES, FR, IT, LU, MT, PL, SK: two years is too long if changes occur in the procedure, this period should be reduced. AT, FR, IE, IT, UK: scrutiny reservation on validation of the EPC by the home MS.

- 1a. In case where neither the profession nor the education and training leading to this profession is regulated in the home Member State, the competent authority of this Member State shall at least verify the legal status of the applicant, the authenticity and the completeness of the submitted documents.**
2. The decision of the **competent authority of the** home Member State, or the absence of a decision within the period of **one month** ~~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 referred to in paragraph 1** ~~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, **the holder may apply for such an extension. To this end, the holder shall also provide all information on material changes to the competent authority in the home Member State. The competent authority of the home Member State shall transmit the updated European Professional Card to the host Member States concerned**²⁵. ~~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.~~
4. The European Professional Card shall **produce effects** ~~be valid~~ for as long as its holder maintains the right to practice ~~in the home Member State~~ on the basis of the documents and information contained in the IMI file.

²⁵ LT: the holder of the card should be able to update certain information in the system if necessary without any declarations.

Article 4d

*European Professional Card for establishment and for the temporary provision of services
under Article 7 (4)*

1. ~~Upon receipt of a complete application for a European Professional Card, The competent authority of the home Member State shall~~ **verify,** within **one month from the date it receives a complete application,** ~~two weeks, verify and confirm the authenticity and validity of the submitted supporting documents~~ **and shall** create **a draft** ~~the European Professional Card. It shall then transmit the draft European Professional Card immediately~~ ~~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.

- 1a. In case where neither the profession nor the education and training leading to this profession is regulated in the home Member State, the competent authority of this Member State shall at least verify the legal status of the applicant, the authenticity and the completeness of the submitted documents.**

2. In the cases referred to in Article 16, 21 and 49a, a host Member State shall decide on **issuance** ~~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 doubts²⁶, the host Member State may request additional information from the home Member State. That request shall ~~not~~ suspend the ~~period of~~ one month **period by two additional weeks. The period of one month can only be suspended once.**

²⁶ FR: clarify "justified doubts" (especially for health and safety professions). COM: already in the current Directive. SE: replace by "where there is good reason" (also for para. 3).

3. In the cases referred to in Articles 7(4) and 14, a host Member State shall decide on whether to **issue a European Professional Card** ~~recognise the holder's qualifications~~ or to subject ~~him~~ **the professional concerned** to compensation measures within two months from the date of receipt ~~for validation~~ of the **draft** 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~~ **period by two additional weeks. The period of one month can only be suspended once.**
4. In case the host Member State subjects the applicant to an aptitude test under Article 7(4), the applicant shall be able to provide the service within one month of the decision being taken in accordance with paragraph 3.
5. Where the host Member State fails to take a decision **or to make any request for additional information** 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 **issued** ~~validated~~ by the host Member State. ~~and to constitute recognition of the professional qualification to the regulated profession concerned in the host Member State.~~²⁷
6. The actions taken by the home Member State in accordance with paragraph 1 shall replace any application for recognition of professional qualifications under the national law of the host Member State.
7. The decisions of the home and of the host Member State under paragraphs 1 to 5 or the absence of decision by the home Member State shall be subject to appeal under the national law of the Member State concerned.

²⁷ AT, EL, FI, FR, IT, MT, RO, SE, SK: reservation on tacit recognition.

Article 4e

Processing and access to data regarding the European Professional Card

1. **Without prejudice to the presumption of innocence,** the competent authorities of the home and the host Member States shall update in a timely manner the corresponding IMI file with information **which becomes available to them** regarding disciplinary actions 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 **which have access to** ~~involved in~~ the corresponding IMI file shall be informed of any updates by the competent authorities ~~involved in~~ **making the update** concerned.
2. Access to the information in the IMI file shall be limited to the competent authorities of the home and the host Member State and the holder of the European Professional Card in accordance with Directive 95/46/EC of the European Parliament and of the Council.²⁸
- ~~3. Information on individual applicants shall only be processed by the relevant competent authorities of the home and the host Member State for the purposes of the European Professional Card in accordance with the provisions for the protection of public safety and health and Directive 95/46/EC.~~

²⁸ OJ L 281, 23.11.1995, p. 31

- 3.** 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.** 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.²⁹ **The deletion of the IMI file invalidates the European Professional Card.**
- 5.** In relation to the processing of personal data in the European Professional Card and all files in the IMI, the relevant competent authorities of the Member States shall be regarded as controllers within the meaning of Directive 95/46/EC. In relation to its responsibilities under paragraphs 1 to 4 and the processing of personal data involved therein, the Commission shall be regarded as a controller within the meaning of Regulation (EC) No 45/2001 of the European Parliament and of the Council.³⁰

²⁹ DE: IMI file should be deleted after 1 year, except if the card holder wants to keep it. Unlimited storage is problematic for DE. MT, PL, UK: scrutiny reservation with reminding rights every 2 years.

³⁰ OJ L 8, 12.1.2001, p. 1

- 6.** Member States shall provide that employers, customers, patients and other interested parties may verify the authenticity and validity of a European Professional Card presented to them by the card holder without prejudice to paragraphs 2 and 3.

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 58³¹.

Article 4f

*Partial access*³²

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 fulfilled³³:
 - (a) **the professional is fully qualified to exercise in the home Member State the professional activity for which partial access may be granted in the host Member State;**

³¹ SE: replace by "examination" procedure referred to in Article 5 of Regulation 182/2011 and add new para. 3 in Article 58 of this Directive.

³² FR, LU, MT, PL: reservation on partial access leading to fragmentation of professions and complexity of mutual recognition. FR: scrutiny reservation because of lack of transparency for consumers. PL, UK: difficulties of application to healthcare professions.

³³ DE, LU, PL, RO: MS must establish the specific list with the professions which the partial access will be awarded to (not possible to separate all activities). LU, SI: reservation on the mandatory introduction of partial access.

(ba) the professional submitted an application for full access to a profession regulated in the host Member State and 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;

(bc) the professional activity can objectively be separated from other activities falling under the regulated profession in the host Member State.³⁴

For the purposes of point (bc), **one of the decisive criteria to determine whether** an activity shall be deemed to be separable **is whether** 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, **if** ~~such as public health~~, it would secure the attainment of the objective pursued and it would not go beyond what is ~~strictly~~ necessary.
3. Applications **referred to in paragraph 1 for the purpose of** ~~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.

³⁴ AT, FR: reservation (exclude public health and public order). IT: exclude tourist sector.

4. Applications **referred to in paragraph 1 for the purpose of providing** for provision of temporary **and occasional** 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. **The host Member State may require use of this professional title in the host Member State language.**
- 6. This Article does not apply to professionals benefiting from automatic recognition of their qualification under Chapters 2 and 3 of Title III.**

(6) Article 5 is amended as follows:

(a) In paragraph 1, point (b~~c~~) is replaced by the following:

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

For the purposes of point (b~~c~~) of the first subparagraph, the condition requiring two years' pursuit shall not apply in any of the following cases³⁵:

(a) the profession or the education and training leading to the profession is regulated;

³⁵ AT, EL, FR, LU: reservations on deletion of 2 years of experience. NL: add an exemption for professionals coming from a non regulated MS to a regulated MS.

- (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).³⁶

(b) The following paragraph 4 is added:

"4. In the case of notaries, the authentic instruments and other activities of authentication which require the seal of the host Member State³⁷ shall be excluded from the provision of services."

(7) Article 7 is amended as follows:

(a) Paragraph 2 is amended as follows:

(i) Point (e) is replaced by the following:

"(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".

(ii) The following point (f) is added:

"(f) **for professions with patient safety implications,** ~~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 **official language or one of the official** languages of the host Member State³⁸".

³⁶ DE: change Art. 5 para. 2 by applying provisions also to Title III. COM: this would imply a change to the e-commerce Directive.

³⁷ LU: Delete 'of the host MS' here and also in Recital 7.

³⁸ DE, LT, UK: include architects.

(b) The following paragraph 2a is inserted:

"2a. A declaration supplied by a service provider shall be valid throughout the entire territory of the Member State concerned³⁹".

(c) Paragraph 4 is replaced by the following⁴⁰:

"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 II⁴¹ 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.

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 list⁴².

³⁹ AT, DE: reservation as it creates difficulties in federal States.

⁴⁰ PL: scrutiny reservation regarding the right of the host MS to ask the service provider to submit missing documents and to deny the right to provide services when documents submitted do not confirm requirements.

⁴¹ AT, DE: reservation on the effects for craftsmen.

⁴² LU: delete last sentence, because this issue falls within national competence.

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

Where there is a substantial difference between the professional qualifications of the service provider and the training required in the host Member State, to the extent that that difference is such as to be harmful to public health or safety, and that it cannot be compensated by professional experience or lifelong learning⁴³ 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 **and take a decision on this basis in accordance with the third subparagraph.**

~~In any case~~ **Once the qualifications have been checked**, it must be possible to provide the service within one month of ~~thea decision being taken in accordance with the third subparagraph.~~

In the absence of a reaction of the competent authority within the deadlines set in the third and fourth subparagraphs, the service may be provided.

In cases where qualifications have been verified under the first to fifth subparagraphs, the service shall be provided under the professional title of the host Member State."

⁴³ DE, EL, ES: reservation on lifelong learning.

(8) In Article 8, paragraph 1 is replaced by the following:

"1. The competent authorities of the host Member State may ask the competent authorities of the Member State of establishment, in 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."

(9) Article 11 is amended as follows⁴⁴:

(a) The introductory sentence of the first subparagraph is replaced by the following:

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

(b) In point (c), point (ii) is replaced by the following:

"(ii) regulated education and training or, in the case of regulated professions, vocational training with a special structure, with competences going beyond what is provided for in level b, equivalent to the level of training provided for under point (i), if such training provides a comparable professional standard and prepares the trainee for a comparable level of responsibilities and functions provided the diploma is accompanied by a certificate from the home Member State;"

⁴⁴ LU: the three first levels should remain unchanged to guarantee comparability of qualifications in the context of craft professions.

(c) Points (d) and (e) are replaced by the following⁴⁵:

"(d) a diploma certifying successful completion of training at post-secondary level of at least three and ~~less not more~~ **less** than four years' duration, or of an equivalent duration on a part-time basis, or if applicable in the home Member State, of an equivalent number of European Credit Transfer and Accumulation System (ECTS) credits, at a university or establishment of higher education or another establishment of equivalent level and, where appropriate, that he has successfully completed the professional training required in addition to the post-secondary course;

(e) a diploma certifying that the holder has successfully completed a post-secondary course of ~~more than~~ **at least** four years' duration, or of an equivalent duration on a part-time basis, or if applicable in the home Member State, of an equivalent number of ECTS credits, at a university or establishment of higher education or another establishment of equivalent level and, where appropriate, that he has successfully completed the professional training required in addition to the post-secondary course."

(d) The second paragraph is deleted.

(10) In Article 12, the first paragraph is replaced by the following:

"Any evidence of formal qualifications or set of evidence of formal qualifications issued by a competent authority in a Member State, certifying successful completion of training in the Union, on a full or part-time basis, within or outside formal 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."

⁴⁵ AT, DE: less clarity after lists of Annexes 2 and 3 have been deleted. DE, IE: delete Art. 11. DE: wishes more flexible arrangements.

(11) Article 13 is replaced by the following:

"Article 13

Conditions for recognition

1. If access to or pursuit of a regulated profession in a host Member State is contingent upon possession of specific professional qualifications, the competent authority of that Member State shall permit access to and pursuit of that profession, under the same conditions as apply to its nationals, to applicants possessing an attestation of competence or evidence of formal qualifications referred to in Article 11, required by another Member State, in order to gain access to and pursue that profession on its territory.

Attestations of competence or evidence of formal qualifications shall be issued by a competent authority in a Member State, designated in accordance with the legislative, regulatory or administrative provisions of that Member State.

2. Access to and pursuit of the profession referred to in paragraph 1 shall also be granted to applicants possessing an attestation of competence or evidence of formal qualifications referred to in Article 11 issued by another Member State which does not regulate that profession⁴⁶.

Attestations of competence and evidence of formal qualifications shall satisfy the following conditions:

- (a) they are issued by a competent authority in a Member State, designated in accordance with the legislative, regulatory or administrative provisions of that Member State;
- (b) they attest that the holder has been prepared for the pursuit of the profession in question.

⁴⁶ UK: provision on 2 years of working experience should be kept for health professions.
PL: reservation on deletion of the 2 years experience provision.

3. ~~In case of an attestation of competence or evidence of formal qualifications referred to in paragraphs 1 and 2 or a certificate certifying regulated education and training or a vocational training with special structure equivalent to the level provided for in Article 11(c)(i),~~ The host Member State shall accept the level attested **under Article 11** ~~or~~ certified by the home Member State **as well as the certificate by which the home Member State certifies that regulated education and training or a vocational training with special structure referred to in Article 11(c)(ii) is equivalent to the level provided for in Article 11(c)(i).**
 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 classified under level (a) of Article 11** ~~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."
- (12) Article 14 is amended as follows⁴⁷:
- (a) Paragraph 1 is replaced by the following⁴⁸:
- "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."

⁴⁷ PT: scrutiny reservation on sectoral professions. BE: reservation on health sector professions.

⁴⁸ EL: scrutiny reservation. RO: reservation on maintaining only one condition regarding the content of the training and eliminating the criterion of duration.

- (b) In paragraph 2, the third subparagraph is replaced by the following:

"Where the Commission considers that the derogation referred to in the second subparagraph is inappropriate or that it is not in accordance with Union law, it shall adopt an implementing decision, within six months⁴⁹ of receiving all necessary information, to ask the relevant Member State to refrain from taking the envisaged measure. In the absence of a response from the Commission within that deadline, the derogation may be applied."

- (c) In paragraph 3, the following 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"⁵⁰.

- (d) Paragraphs 4 and 5 are replaced by the following:

- "4. For the purposes of paragraphs 1 and 5, 'substantially different matters' shall mean matters of which knowledge **and competence** is essential for pursuing the profession and with regard to which the training received by the migrant shows important differences in terms of content from the training required by the host Member State.
5. Paragraph 1 shall be applied with due regard to the principle of proportionality. In particular, if the host Member State intends to require the applicant to complete an adaptation period or take an aptitude test, it must first ascertain whether the knowledge, skills and competences acquired by the applicant in the course of his professional experience and through lifelong learning ⁵¹in any Member State or in a third country is of a nature to cover, in full or in part, the substantially different matters referred to in paragraph 4".

⁴⁹ DE: revert to three months, need to move rapidly.

⁵⁰ LU: add 'as well as the administrative practice in relation to notary activities'.

⁵¹ DE, EL: difficulties to prove non-formal learning. EL: replace 'any' by 'in particular'.

- (e) The following paragraphs 6 and 7 are added:
- "6. The decision imposing an adaptation period or an aptitude test shall be duly motivated. In particular, it shall include the following motivation:
- (a) indicate the level of the qualification required in the host Member State and the level of the qualification held by the applicant in accordance with the classification set out in Article 11⁵²;
 - (b) indicate the subject or subjects for which substantial differences have been identified;
 - (c) explain the substantial differences in terms of content;
 - (d) explain why due to these substantial differences, the applicant cannot perform his profession in a satisfactory manner⁵³ in the host Member State territory;
 - (e) explain why these substantial differences cannot be compensated by the applicants knowledge, skills and competences gained in the course of his professional experience and through lifelong learning.
- ~~7. The aptitude test referred to in paragraph 1 shall be organized at least twice a year and applicants shall be authorized to resit a test at least once if they failed a first test."~~
- (13) Article 15 is deleted.

⁵² AT: scrutiny reservation on para. 6 (a). DE: considers the motivation too detailed.

⁵³ RO: 'in a satisfactory manner' can lead to subjectivism and this situation is very difficult to demonstrate practically.

(14) Article 20 is replaced by the following:

"Article 20

Adaptation of lists of activities in Annex IV

The Commission shall be empowered to adopt delegated acts⁵⁴ 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, **nor any transfer of activities between lists I, II and III of Annex IV.**".

(15) Paragraphs 4, 6 **sub-paragraphs 2 and 3**⁵⁵ and 7 of Article 21 are deleted⁵⁶.

⁵⁴ EL, FR: reservation on delegated acts (want co-decision procedure). DE, UK: scope of delegated acts needs to be clarified. COM: This does not deal with education and a refreshment is necessary.

⁵⁵ *Please note that Article 21(6) first sub-paragraph of Directive 2005/36/EC remains in the text of the legislative proposal. AT, DE: keep art 21(4). DE: delete the entire para 6.*

⁵⁶ UK: where individual qualifications are listed in the annexes relating to automatic recognition (Art. 21), the card should contain a reference to the professional's qualification as listed in the Directive (e.g. for architects).

(16) The following Article 21a is inserted:

"Article 21a

*Notification procedure*⁵⁷

1. Each Member State shall notify the Commission of the legislative, regulatory and administrative provisions which it adopts with regard to the issuing of evidence of formal qualifications in the area covered by this Chapter.

In the case of evidence of formal qualifications referred to in Section 8, notification in accordance with the first subparagraph shall also be addressed to the other Member States.

2. The notification referred to in paragraph 1 shall be accompanied by a report demonstrating compliance of the notified evidence of formal qualifications with the relevant requirements of this Directive. The report shall be issued by an appropriate authority or body which has been designated by the Member State and which has the capability to assess the compliance of evidence of formal qualifications with this Directive.

2a. The notification referred to in paragraph 1 and the report referred to in paragraph 2 shall be transmitted via the Internal Market Information System (IMI).

⁵⁷ AT, DE, ES, HU, SE: this creates an administrative burden for professions other than architects. If any procedure is needed, should be streamlined.

3. The Commission shall be empowered to adopt delegated acts⁵⁸ in accordance with Article 58a in order to adapt 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, by listing and updating the titles adopted by the Member States for evidence of formal qualifications and, where appropriate, the body which issues the evidence of formal qualifications, the certificate which accompanies it and the corresponding professional title.
4. Where the Commission considers that the notified acts referred to in paragraph 1 are not in compliance with this Directive, it shall adopt an implementing decision on that non-compliance, within six months of receiving all necessary information."

⁵⁸ UK: scrutiny reservation on delegated acts in this Article.

(17) In Article 22, the following second paragraph 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 procedures⁵⁹ related to doctors of medicine, medical specialists, nurses responsible for general care, dental practitioners, specialised dental practitioners, veterinary surgeons, midwives and pharmacists."

(18) Article 24 is amended as follows:

(a) Paragraph 2 is replaced by the following:

"2. Basic medical training shall comprise a total of at least five⁶⁰ years of study, which may also be expressed with the equivalent ECTS⁶¹ credits, and shall consist of at least 5500 hours⁶² of theoretical and practical training provided by, or under the supervision⁶³ of, a university.

For persons who began their studies before 1 January 1972, the course of training referred to in the first subparagraph may comprise six months of full-time practical training at university level under the supervision of the competent authorities."

⁵⁹ ES: reservation on continuing professional development. SE: scrutiny reservation.

⁶⁰ FR, SK, UK: reservation on five years (six). UK: status of practical part of education unclear.

⁶¹ DE: reluctant to references to ECTS.

⁶² RO, SI: content of 5500 hours to be clarified.

⁶³ IE, UK: it is unclear who is supervising.

(b) The following paragraph 4 is added:

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

- (a) the adequacy of knowledge of sciences referred to in point (a) of paragraph 3 in line with scientific and technological progress and the necessary competences that such knowledge should entail;
- (b) the degree of sufficiency of understanding of the items referred to in point (b) of paragraph 3 and the necessary competences for such understanding in line with scientific progress and developments in education in Member States
- (c) the adequacy of knowledge of clinical disciplines and practices, as referred to in point (c) of paragraph 3, and the necessary competences such knowledge should lead to in the light of scientific and technological progress
- (d) the suitability of clinical experience referred to in point (d) of paragraph 3 and the necessary competences that such experience should entail in the light of scientific and technological progress as well as developments in education in Member States."

(19) Article 25 is amended as follows:

(a) Paragraph 1 is replaced by the following:

"1. Admission to specialist medical training shall be contingent upon completion and validation of a basic medical training programme as referred to in Article 24(2) in the course of which the trainee has acquired the relevant knowledge of basic medicine."

(b) The following paragraph 3a is inserted⁶⁴:

"3a. Member States may lay down in their national legislations partial exemptions from parts of the specialist medical training, if that part of the training has been followed already during the completion of another specialist training programme which is listed in point 5.1.3 of Annex V and provided that the former specialist qualification has already been obtained by the professional in that Member State⁶⁵. Member States shall ensure that the granted exemption is not more than one-third⁶⁶ of the minimum duration of specialist medical training courses as referred to in point 5.1.3 of Annex V.

Each Member State shall notify the Commission and the other Member States of their national legislation concerned together with detailed justification for such partial exemptions."

(c) Paragraph 5 is replaced by the following:

"5. The Commission shall be empowered to adopt delegated acts⁶⁷ in accordance with Article 58a concerning the adaptations of the minimum periods of training referred to in point 5.1.3 of Annex V to scientific and technical progress."

⁶⁴ NL: foresees exemptions for general practitioners.

⁶⁵ FR, NL: too restrictive

⁶⁶ FI, NL: reservation, matter of education, up to MS to decide. FI: insert opt-out possibility. HU: replace with three fifth.

⁶⁷ DE, EL, NL, UK: reservation on delegated acts. NL: scrutiny reservation. EL: replace with implementing act (examination procedure).

(20) In Article 26, the second paragraph is replaced by the following:

"The Commission shall be empowered to adopt delegated acts in accordance with Article 58a concerning the inclusion in point 5.1.3 of Annex V of new medical specialties common to at least one third⁶⁸ of the Member States with a view to updating this Directive in the light of changes in national legislation."

(21) In Article 28, the first paragraph is replaced by the following:

"1. Admission to specific training in general medical practice shall be contingent upon completion and validation of a basic medical training programme as referred to in Article 24(2)."

(22) Article 31 is amended as follows:

(a) Paragraph 1 is replaced by the following:

"1. Admission to training for nurses responsible for general care shall be contingent upon completion of general education of 12 years⁶⁹, 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, for admission to a school of nursing."

⁶⁸ EL: reservation on 'one third'.

⁶⁹ AT, DE, LU, MT, NL: reservation on 12 years. BE, ES, FI, NL, PT, SE, UK: add an ECTS option for nurses. COM: ECTS does not integrate vocational training and is limited to university education whereas nurses can be trained according to both systems. HU, IT: 12 years could be acceptable but there is a need for flexibility with a parallel system (less years and minimum hours).

- (b) In paragraph 2, the second subparagraph is replaced by the following:

"The Commission shall be empowered to adopt delegated acts⁷⁰ 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."

- (c) In paragraph 3, the first subparagraph is replaced by the following:

"The training of nurses responsible for general care shall comprise at least three years of study consisting of at least 4 600 hours⁷¹ of theoretical and clinical training, the duration of the theoretical training representing at least one third and the duration of the clinical training at least one half of the minimum duration of the training. Member States may grant partial exemptions to persons who have received part of their training on courses which are of at least an equivalent level."

- (d) The following paragraph 7 is added:

"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, 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;

⁷⁰ DE, LU, UK: reservation on delegated acts.

⁷¹ LU: against both additional criteria, should be 3 years 'or' 4600 hours. SI: better specify time hours of training needed. BE: add an equivalent of 180 ECTS.

- (b) the degree of sufficiency of understanding of the items referred to in point (a) of paragraph 6 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 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 the necessary competences following from such adequate clinical experience in line with scientific and technological progress and recent developments in education."

(23) Article 33 is amended as follows⁷²:

(a) The following paragraph 1a is inserted:

"1a. Member States shall recognize automatically those general care nurse qualifications where the applicant started the training before [insert date – entry into force of the amended Directive], and the admission requirement was ten years or equivalent level of general education, but the qualification otherwise complies with all the training requirements stipulated in Article 31."⁷³.

⁷² PL: requests to delete paragraph 2 in Article 33 which provides for specific acquired rights for the Polish nurses. The general acquired rights principle stated in Art. 23 should apply to all the Polish nurses responsible for general care.

⁷³ RO: need for acquired rights to be taken into account after technical evaluation.

(b) Paragraph 3 is replaced by the following:

"3. Member States shall recognise evidence of formal qualifications in nursing awarded in Poland, to nurses who completed training before 1 May 2004, which did not comply with the minimum training requirements laid down in Article 31, attested by the diploma 'bachelor' which has been obtained on the basis of a special upgrading programme contained in Article 11 of the Act of 20 April 2004 on the amendment of the Act on professions of nurse and midwife and on some other legal acts (Official Journal of the Republic of Poland of 30 April 2004 No 92, pos. 885), and the Regulation of the Minister of Health of 12 April 2010⁷⁴ amending the Regulation of the Minister of Health of 11 May 2004 on the detailed conditions of delivering studies for nurses and midwives, who hold a certificate of secondary school (final examination — matura) and are graduates of medical lyceum and medical vocational schools teaching in a profession of a nurse and a midwife (Official Journal of the Republic of Poland of 21 April 2010, No 65, pos. 420), with the aim of verifying that the person concerned has a level of knowledge and competence comparable to that of nurses holding the qualifications which, in the case of Poland, are defined in point 5.2.2. of Annex V."

⁷⁴ PL: Technical amendment will be needed due to a new Act of 15 July 2011 on the profession of nurse and midwife (Official Journal of the Republic of Poland of 23 August 2011 No 174, pos. 1039), to be followed by a new Regulation on the so called "bridging programme" (to be published soon; no changes in the substance of the text of the Regulation).

(24) Article 34 is amended as follows:

(a) In paragraph 2, the first and the second subparagraphs are replaced by the following:

"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.

The Commission shall be empowered to adopt delegated acts in accordance with Article 58a concerning the adaptations of the list set out in point 5.3.1. of Annex V with a view to adapting it to scientific and technical progress."

(b) The following paragraph 4 is added:

"4. The Commission shall be empowered to adopt delegated acts⁷⁵ in accordance with Article 58a to specify:

- (a) the adequacy of knowledge of science of dentistry and the degree of understanding of scientific methods, as referred to in point (a) of paragraph 3, and the necessary competences following from such degree of knowledge and understanding in line with scientific and technological progress and recent developments in education;
- (b) the adequacy of knowledge of the items referred to in point (b) of paragraph 3, and the necessary competences following from such degree of knowledge in line with scientific and technological progress and recent developments in education;
- (c) the adequacy of knowledge of the items referred to in point (c) of paragraph 3, and the necessary competences following from such degree in line with scientific and technological progress;
- (d) the adequacy of knowledge of clinical disciplines and methods, as referred to in point (d) of paragraph 3, and the necessary competences following thereof in line with scientific and technologic progress;
- (e) the suitability of clinical experience as referred to in point (e) of paragraph 3 in line with recent developments in education."

⁷⁵ DE: reservation on delegated acts. FR: Reservation in case of adaptation of training requirements. COM: Competences are not touched by delegated acts. Delegated acts are relevant for "adequacy of knowledge".

(25) Article 35 is amended as follows:

(a) In paragraph 2, the second subparagraph is replaced by the following:

"Full-time specialist dental courses shall be of a minimum of three years' duration, which may also be expressed with the equivalent ECTS credits, and shall be supervised by the competent authorities or bodies. It shall involve the personal participation of the dental practitioner training to be a specialist in the activity and in the responsibilities of the establishment concerned."

(b) In paragraph 2, the third subparagraph is deleted.

(c) The following paragraph 4 is added:

"4. The Commission shall be empowered to adopt delegated acts in accordance with Article 58a concerning the adaptations of the minimum period of training referred to in paragraph 2 with a view to adapting it to scientific and technical progress.

The Commission shall be empowered to adopt delegated acts in accordance with Article 58a concerning the inclusion in point 5.3.3. of Annex V of new dental specialties common to at least one third of the Member States, with a view to updating this Directive in the light of changes in national legislation."

(26) Article 38 is amended as follows:

(a) In paragraph 1, the first and the second subparagraphs are replaced by the following:

"The training of veterinary surgeons 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, at a university or at a higher institute providing training recognized as being of an equivalent level, or under the supervision of a university, covering at least the study programme referred to in Annex V, point 5.4.1.

The Commission shall be empowered to adopt delegated acts in accordance with Article 58a concerning the adaptations of the list in point 5.4.1. of Annex V with a view to adapting it to scientific and technical progress."

(b) The following paragraph 4 is added:

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

- (a) the adequacy of knowledge of the sciences, as referred to in point (a) of paragraph 3, and the necessary competences following from such degree of knowledge in line with scientific and technological progress;
- (b) the adequacy of knowledge of the structure and functions of healthy animals, as set out in point (b) of paragraph 3, and the necessary competences such degree of knowledge entails in line with scientific and technological progress;

- (c) the adequacy of knowledge of behaviour, protection and diseases of animals, as set out in points (c) and (d) of paragraph 3, and the necessary competences such degree of knowledge entails in line with scientific and technological progress;
- (d) the adequacy of knowledge of preventive medicine, as referred to in point (e) of paragraph 3, and the necessary competences such degree of knowledge entails in line with scientific and technological progress;
- (e) the adequacy of knowledge of the items set out in point (f) of paragraph 3, and the necessary competences such degree of knowledge entails in line with scientific and technological progress;
- (f) the adequacy of knowledge of clinical and other practical experience as referred to in point (h) of paragraph 3 and the necessary competences such degree of knowledge should entail in line with recent educational developments."

(27) Article 40 is amended as follows:

(a) In paragraph 1, the second subparagraph is replaced by the following:

"The Commission shall be empowered to adopt delegated acts in accordance with Article 58a concerning the amendment of the list in point 5.5.1. of Annex V with a view to adapting it to the educational, scientific and technical progress."

(b) Paragraph 2 is replaced by the following:

"2. Access to training as a midwife shall be contingent upon one of the following conditions:

(a) completion of at least the 12 years⁷⁶ 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;

(b) possession of evidence of formal qualifications as a nurse responsible for general care referred to in point 5.2.2. of Annex V for route II."

⁷⁶ DE, LU: reservation on 12 years.

(c) The following paragraph 4 is added:

"4. The Commission shall be empowered to adopt delegated acts⁷⁷ in accordance with Article 58a to specify:

- (a) the adequacy of knowledge of the sciences on which the activities of midwives are based, as set out in point (a) of paragraph 3 and the necessary competences such degree of knowledge entails in line with scientific and technological progress;
- (b) the degree of knowledge of the items set out in point (c) of paragraph 3 and the necessary competences such degree of knowledge entails in line with scientific and technological progress;
- (c) the adequacy of clinical experience, as referred to in point (d) of paragraph 3, and the necessary competences such degree of knowledge entails in line with recent educational reforms as well as scientific and technological progress;
- (d) the adequacy of understanding of the training of health personnel and experience of working with such, as referred to in point (e) of paragraph 3 and the necessary competences such degree of understanding entails in line with recent educational reforms as well as scientific and technological progress."

⁷⁷ DE: reservation on delegated acts. Need to take account of professional experience.

(28) In Article 41, paragraph 1 is replaced by the following:

- "1. The evidence of formal qualifications as a midwife referred to in Annex V, point 5.5.2 shall be subject to automatic recognition pursuant to Article 21 in so far as they satisfy one of the following criteria:
- (a) full-time training of at least three years as a midwife⁷⁸;
 - (b) full-time training as a midwife of at least two years⁷⁹ 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 months⁸⁰ 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."

⁷⁸ BE: add an equivalent of 180 ECTS credits. COM: ECTS does not integrate vocational training and is limited to university education whereas midwives can be trained according to both systems.

⁷⁹ BE: add an equivalent of 120 ECTS credits.

⁸⁰ BE: add an equivalent of 90 ECTS credits.

(29) In Article 43, the following paragraph 1a is inserted⁸¹:

"1a. As regards evidence of formal qualifications of midwives, Member States shall recognize automatically those qualifications where the applicant started the training before [insert date – entry into force of the amended Directive], and the admission requirements for such training was ten years or equivalent level of general education for route I, or completed a general care nurse training with 10 years or equivalent admission requirement before starting a midwifery training falling under route II."

(30) Article 44 is amended as follows:

(a) Paragraph 2 is replaced by the following:

"2. Evidence of formal qualifications as a pharmacist shall attest to training of at least five years' duration, which may also be expressed with the equivalent ECTS credits, including at least:

(a) four years of full-time theoretical and practical training at a university or at a higher institute of a level recognised as equivalent, or under the supervision of a university;

(b) at the end of the theoretical and practical training⁸², 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.

The training cycle referred to in this paragraph shall include at least the programme described in point 5.6.1 of Annex V. The Commission shall be empowered to adopt delegated acts in accordance with Article 58a concerning the amendment of the list in point 5.6.1 of Annex V with a view to adapting it to scientific and technical progress.

⁸¹ PL: insert new Polish act, see Polish footnote under Art 33 para 3.

⁸² FI, HU, NL, SE: reservation, should be up to MS to decide.

The amendments referred to in the second subparagraph must not entail, for any Member State, any amendment of existing legislative principles relating to the structure of professions as regards training and the conditions of access by natural persons."

(b) The following paragraph 4 is added:

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

- (a) the adequacy of knowledge of medicines and the substances used in the manufacture of medicines, as set out in point (a) of paragraph 3, and the necessary competences such degree of knowledge entails in line with scientific and technological progress;
- (b) the adequacy of knowledge of the items set out in point (b) of paragraph 3, and the necessary competences such degree of knowledge entails in line with scientific and technological progress;
- (c) the adequacy of knowledge of the items set out in point (c) of paragraph 3, and the necessary competences such degree of knowledge entails in line with scientific and technological progress;
- (d) the adequacy of knowledge to evaluate scientific data, as referred to in point (d) of paragraph 3, and the necessary competences such degree of knowledge entails in line with scientific and technological progress."

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

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

(32) Article 46 is replaced by the following:

"Article 46

Training of architects

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 following⁸³:
 - (a) at least four years of full-time study, **which may also be expressed with the equivalent ECTS credits**, at a university or comparable teaching institution leading to successful completion of a university-level examination and at least two years of remunerated traineeship⁸⁴;
 - (b) at least five years of full-time study, **which may also be expressed with the equivalent ECTS credits**, at a university or comparable teaching institution leading to successful completion of a university-level examination and at least one year of remunerated traineeship."

⁸³ SE: reservation on the extended requirements. ES: reservation (no traineeship in Spain). EL: 5 years of studies excluding traineeship. DE: need some insurances for "Fachhochschulen".

⁸⁴ ES, FR, IT, PL, UK: reservation. COM: the amount is not defined. FR, UK: remunerated traineeship is not in the scope of this Directive (but covered by labour and employment legislation).

2. The study, which must be at university level, and of which architecture is the principal component, must maintain a balance between theoretical and practical aspects of architectural training⁸⁵ and guarantee the acquisition of the following knowledge, skills and competences:
- (a) ability to create architectural designs that satisfy both aesthetic and technical requirements;
 - (b) adequate knowledge of the history and theories of architecture and the related arts, technologies and human sciences;
 - (c) knowledge of the fine arts as an influence on the quality of architectural design;
 - (d) adequate knowledge of urban design, planning and the skills involved in the planning process;
 - (e) understanding of the relationship between people and buildings, and between buildings and their environment, and of the need to relate buildings and the spaces between them to human needs and scale;
 - (f) understanding of the profession of architecture and the role of the architect in society, in particular in preparing briefs that take account of social factors;
 - (g) understanding of the methods of investigation and preparation of the brief for a design project;
 - (h) understanding of the structural design, constructional and engineering problems associated with building design;

⁸⁵ NL: leave theoretical and practical training to MS.

- (i) adequate knowledge of physical problems and technologies and of the function of buildings so as to provide them with internal conditions of comfort and protection against the climate;
 - (j) the necessary design skills to meet building users' requirements within the constraints imposed by cost factors and building regulations;
 - (k) adequate knowledge of the industries, organisations, regulations and procedures involved in translating design concepts into buildings and integrating plans into overall planning.
3. The remunerated⁸⁶ traineeship **shall** ~~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 **shall** ~~must~~ be undertaken after the completion of the study referred to in paragraph 1. The completion of the remunerated traineeship **shall** ~~must~~ be attested to in a certificate accompanying the evidence of formal qualifications.
4. The Commission shall be empowered to adopt delegated acts in accordance with Article 58a to specify:
- (a) the adequacy of knowledge of items as set out in point (i) of paragraph 2, and the necessary competences such degree of knowledge entails in line with technical progress and recent educational developments;
 - (b) the need for design skills as referred to in point (j) of paragraph 2, and the necessary competences such degree of skills entails in line with technical progress and recent educational developments."

⁸⁶ IT, PL, UK: delete "remunerated". The important element is "supervision".

(33) Article 47 is replaced by the following:

"Article 47

Derogations from the conditions for the training of architects

By way of derogation from Article 46, the following shall also be recognised as satisfying Article 21: training as part of social betterment schemes or part-time university studies which satisfies the requirements referred to in Article 46, as attested by an examination in architecture passed by a person who has been working for seven years or more in the field of architecture under the supervision of an architect or architectural bureau. The examination must be of university level and be equivalent to the final examination referred to in the first subparagraph of Article 46(1).".

(34) In Article 49, the following paragraph 1a is inserted:

"1a. Paragraph 1 shall also apply to evidence of formal qualifications as an architect listed in Annex V, where the training started before [*insert the date – two years after the date set out in first subparagraph of paragraph 1 of Article 3*].".

(35) In Title III, the following Chapter IIIA is inserted:

"Chapter IIIA

Automatic recognition on the basis of common training principles⁸⁷

Article 49a

*Common training framework*⁸⁸

1. For the purpose of this Article, 'common training framework' shall mean a common set of knowledge, skills and competences⁸⁹ necessary for the pursuit of a specific profession.

A common training framework may be set up within the territory of a Member State on the conditions and the manner laid down in this Article.

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.

⁸⁷ PL, SE, UK: have an opt-in system or bottom-up approach, whereby a common training framework would apply only to MS which regulate a profession.

⁸⁸ FR, LU: scrutiny reservation (subsidiarity principle).

⁸⁹ EL, LU, NL: need to clarify these concepts. LU: importance of the professional profile. EL: increase precision (possibly in an Annex). COM: there is a need for increasing the current possibilities as compared to current Article 15 (common platforms). This provision is a framework that would be completed through delegated acts.

2. A common training framework shall comply with the following conditions:
- (a) the common training framework enables more professionals⁹⁰ to move across Member States in comparison to the general system for recognition of evidence of training provided for in Chapter I of Title III;
 - (b) the profession concerned is already regulated in at least one third⁹¹ of all Member States;
 - (c) the common set of knowledge, skills and competences combines the knowledge, skills and competences defined in the systems of education and training applicable in at least one third of all Member States⁹²;
 - (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^{93 94};
 - (e) the profession concerned is neither covered by another common training framework nor regulated already under Chapter ⁹⁵ III of Title III;

⁹⁰ RO: education systems do not provide for "professionals". In RO professionals need to register with a professional association in order to undertake certain tasks. Non-registered professionals could not use the common framework.

⁹¹ DE, EL, IT, SI: replace with "one half" (also in the following sub-para.). COM: this risks increasing regulation.

⁹² IT: scrutiny reservation.

⁹³ OJ C 111, 6.5.2008, p.1.

⁹⁴ IT, NL, SI: need to clarify the link between the system of the EQF and professional experience. LU, NL: caution is needed on this approach. Fact-finding should be done before. Recall subsidiarity principle. DE: proportionality needed. Should define minimal criteria but not harmonise.

⁹⁵ DE: add " II and" (automatic recognition on the basis of professional experience), especially for the craft sector.

- (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;
 - (g) the common training framework permits nationals from any Member State to be eligible for acquiring the qualification under such framework without being required to be a member of any professional organisation or to be registered with such organisation.
3. The Commission shall be empowered to adopt delegated acts⁹⁶ in accordance with Article 58a specifying the **minimum** common set of knowledge, skills and competences as well as the qualifications on ~~the~~ **each specific** common training framework.
 4. Member States shall notify to the Commission the professional title to be acquired in accordance with the common training framework referred to in paragraph 3.
 5. A Member State may request a derogation from the application of common training framework referred to in paragraph 3 on its territory if it were otherwise compelled to introduce a new regulated profession in its territory, if it were required to amend existing fundamental domestic principles relating to the structure of professions as regards training and the conditions of access to such professions or if the Member State does not wish to relate its national qualifications system to the qualifications set out in that common training framework. The Commission may adopt an implementing decision, in order to grant such derogation to the Member States concerned.⁹⁷

⁹⁶ AT, EL, FR, IT, NL, SE, UK: scrutiny reservation. Implementing measures would be more appropriate.

⁹⁷ DE, EL, FR, IT, LU, PL, UK: delete last sentence: the opt-out possibility should not rely on a Commission decision. Article 61 should be modified accordingly. COM: the choice is not entirely on MS, there are criteria to be fulfilled. NL, SE, UK: in favour of an opt-in system. COM: difficult to put in place (cf. medical specialties) and uncertain. FI: scrutiny reservation.

Article 49b

Common training tests^{98 99}

1. For the purpose of this Article, a common training test shall mean an aptitude test assessing the ability of a professional to pursue a profession in all Member States which regulate it¹⁰⁰. Successful completion of a common training test shall allow for access to and pursuit of the professional activities concerned in a Member State under the same conditions as the holders of professional qualifications acquired in that Member State.
2. The common training test shall comply with the following conditions:
 - (a) the common training test enables more professionals to move across Member States in comparison to the general system for recognition of evidence of training provided for in Chapter I of Title III;
 - (b) the profession concerned is regulated in at least one third of all Member States;
 - (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;
 - (d) the common training test permits nationals from any Member State to participate in such a test and in the practical organisation of such tests in Member States without being required to be a member of any professional organisation or to be registered with such organisation.

⁹⁸ AT, EL, FR, UK: scrutiny reservation (subsidiarity). IE: Administrative burden of creating tests with common standards, it is not always possible to demonstrate competences in the practice of a profession. LU: professional profiles should be considered.

⁹⁹ DE, FR, PL, UK: insert an opt-out possibility.

¹⁰⁰ PL: if the test include skills needed to pursue the profession in only one MS, it will be difficult.

3. The Commission shall be empowered to adopt delegated acts in accordance with Article 58a concerning the conditions for such common training test¹⁰¹.

(36) In Article 50, the following paragraphs 3a and 3b ~~are~~ inserted:

"3a. In the event of justified doubts, the host Member State may require from the competent authorities of a Member State confirmation of the fact that the applicant is not suspended or prohibited from the pursuit of the profession as a result of serious professional misconduct or conviction of criminal offences relating to the pursuit of any of his/her professional activities.

3b. Exchange of information between competent authorities of different Member States under this Article shall take place via the Internal Market information System (IMI)."

(37) In Article 52, the following paragraph 3 is added:

"3. A Member State may not reserve the use of the professional title to the holders of professional qualifications if it has not notified the association or organisation to the Commission and to the other Member States in accordance with Article 3(2)."

(38) In Article 53, the following second paragraph is added:

"2. 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 pursue¹⁰².

¹⁰¹ DE, FR, IT: reservation on the use of delegated acts.

¹⁰² LV: reservation on para 2. Keep current text of the Directive.

- 3.** 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.
- 4.** Any language control shall be limited to the knowledge of one of the official languages¹⁰³ 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."

(39) In Title IV the following Article 55a is inserted:

"Article 55a

Recognition of remunerated traineeship¹⁰⁴

1. If the host Member State subjects access to a remunerated traineeship to specific qualification requirements, it shall grant access to this remunerated traineeship pursuant to the procedure laid down in Article 51. This paragraph does not preclude Member States from requiring the applicant to complete an aptitude test pursuant to Article 14.

¹⁰³ LU: keep current Art. 53.

¹⁰⁴ AT, EL, FR, UK: remunerated traineeship is not in the scope of this Directive. DE: exclude notaries. LU: exclude lawyers and notaries from this Article. Add a second para as follows: "This is without prejudice for the host Member State to ask for the professional to perform a compensation traineeship or an aptitude test according to Art 14." COM: this provision reflects jurisprudence and is important in the current economic context.

2. With a view to granting access to a regulated profession, the home Member State shall recognise **pursuant to the procedure laid down in Article 51** the remunerated traineeship pursued in another Member State and certified by a competent authority of that Member State **or, in case the profession is not regulated in that Member State, by the supervisor of the remunerated traineeship. This paragraph does not preclude the home Member State from requiring the applicant to complete compensation measures pursuant to Article 14."**

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

"Title V

ADMINISTRATIVE COOPERATION AND RESPONSIBILITY TOWARDS CITIZENS FOR IMPLEMENTATION".

(41) In Article 56¹⁰⁵, the first subparagraph of paragraph 2 is replaced by the following:

"The competent authorities of the host and home Member States shall exchange information regarding disciplinary action or criminal sanctions taken or any other serious, specific circumstances which are likely to have consequences for the pursuit of activities under this Directive, respecting personal data protection legislation provided for in Directive 95/46/EC and Directive 2002/58/EC of the European Parliament and of the Council¹⁰⁶. **To this end, competent authorities shall use the Internal Market Information System (IMI).**

¹⁰⁵ UK: introduce a mandatory requirement for authorities to respond to IMI requests when they receive them from other MS.

¹⁰⁶ OJ L 201, 31.07.2002, p. 37.

(42) The following Article 56a is inserted:

"Article 56a

Alert mechanism

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 activities¹⁰⁷:
 - (a) doctor of medicine of general practice possessing evidence of a formal qualification referred to in point 5.1.4 of Annex V;
 - (b) specialist doctor of medicine possessing a title referred to in point 5.1.3 of Annex V;
 - (c) nurse responsible for general care possessing evidence of a formal qualification referred to in point 5.2.2 of Annex V;

¹⁰⁷ EDPS: **1. Content** of alerts should be clearly limited in the Directive (personal data necessary to identify the professional, fact that he has been prohibited from pursuing his activity, whether the prohibition is provisional or definitive, for what period it applies and the identity and country of the CA issuing the decision). No more specific info regarding the circumstances and reasons for the prohibition. **2.** alert must be based on a **prior decision by a court** or a CA prohibiting a professional to pursue his professional activity. **3. Obligation of confidentiality** on all CA concerned regarding the alert data that they receive from another MS, unless the data were made public in accordance to the law of the sending MS.

- (d) dental practitioner possessing a professional qualifications listed in, point 5.3.2 of Annex V;
- (e) specialist dentists possessing evidence of a formal qualification referred to in point 5.3.3 of Annex V;
- (f) veterinary surgeon possessing evidence of a formal qualifications referred to in point 5.4.2 of Annex V, unless they notified it already under Article 32 of Directive 2006/123/EC of the European Parliament and of the Council(*)¹⁰⁸;
- (g) midwife possessing evidence of a formal qualification referred to in point 5.5.2 Annex V;
- (h) pharmacist possessing evidence of a formal qualification listed in point 5.6.2 of Annex V;
- (i) holders of certificates mentioned in point 2 of Annex VII attesting that the holder completed a training which satisfies the minimum requirements listed in Articles 24, 25, 31, 34, 35, 38, 40, or 44 respectively, but which started earlier than the reference dates of the qualifications listed in points 5.1.3, 5.1.4, 5.2.2, 5.3.2, 5.3.3, 5.4.2, 5.5.2, 5.6.2 of Annex V.
- (j) holders of certificates of acquired rights as referred to in Articles 23, 27, 29, 33, 37 and 43.

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 **via the Internal Market Information System (IMI).**

¹⁰⁸ OJ L 376, 27.12.2006, p. 36

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 concerned¹⁰⁹ 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 State¹¹⁰. 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.
3. The processing of personal data of the purpose of the exchange of information according to paragraphs 1 and 2 shall be carried out in accordance with Directives 95/46/EC and 2002/58/EC. The processing of personal data by the Commission shall be carried out in accordance with Regulation (EC) No 45/2001.
4. Member States shall provide that professionals on which alerts are sent to other Member States are informed in writing of decisions on alerts at the same time as the alert as such, may appeal to national courts against the decision or apply for rectification of such decisions and shall have access to remedies in respect of any damage caused by false alerts to other Member States and in such cases the decision shall be qualified to indicate that it is subject to proceedings by the professional¹¹¹.

¹⁰⁹ EDPS: add 'competent authorities in' other MS concerned.

¹¹⁰ EDPS: these provisions are not sufficiently clear and leave an excessively large margin of manoeuvre to the case-handler to decide whether to send an alert.

¹¹¹ EDPS: appeal against an alert or request of correction, blocking or deletion of the alert should be recorded in the alert information as well.

5. The Commission shall adopt implementing acts for the application of the alert mechanism. The implementing act shall include provisions on the competent authorities entitled to sending and/or receiving alerts, on complementing the alerts with additional information, on the withdrawal and closure of alerts, on rights of access to data, ways of correcting the information contained in the alerts, and measures to ensure the security of processing and retention periods. Those implementing acts shall be adopted in accordance with the advisory procedure referred to in Article 58¹¹².

(43) Article 57 is replaced by the following:

"Article 57

*Central online access to information*¹¹³

1. **Without prejudice to the allocation of functions and powers among the authorities within the national systems,** Member States shall ensure that the following information is available online and regularly updated through the points of single contact¹¹⁴:
- (a) a list of all regulated professions within the meaning of Article 3(1)(a) in the Member State including contact details of the competent authorities for each regulated profession and the assistance centre referred to in Article 57b;
 - (b) a list of the professions for which a European Professional Card is available, the functioning and the competent authorities for issuing the card;

¹¹² EDPS: duration should be clearly indicated in the Directive itself (proposal of 6 months or if long term retention justified, to delete alerts immediately after the prohibition is no longer in effect).

¹¹³ DE: scrutiny reservation on maintaining the point of single contact under Art 57. COM: assistance centre under Art. 57b is the human face and the point of single contact is the online portal.

¹¹⁴ DE, EL, UK: wish to have the possibility to ask for paper copies or originals. COM: requesting for originals is not possible under current legislation.

- (c) a list of all professions for which the Member State applies Article 7(4) in the national laws and regulation;
 - (d) a list of regulated education and training and training with a special structure, referred to in Article 11(c)(ii);
 - (e) all requirements, procedures and formalities referred to in this Directive for each profession regulated in the Member State, including all related fees to be paid by citizens and documents to be submitted by citizens;
 - (f) how to appeal decisions of competent authorities under national laws and regulations.
2. Member States shall ensure that the information referred to in paragraph 1 is provided in a clear and comprehensive way for users, that it is easily accessible at a distance and by electronic means and that it is kept up to date.
 3. Member States shall ensure that the points of single contact and the competent authorities respond as quickly as possible to any request for information addressed to the point of single contact. To this end, they may also refer such request for information to the assistance centers mentioned in Article 57b and inform the citizen concerned.
 4. Member States and the Commission shall take accompanying measures in order to ~~encourage~~ensure that points of single contact make the information provided for in paragraph 1 available in other official languages of the Union. This shall not affect the legislation of Member States on the use of languages in their territory.
 5. Member States shall cooperate with each other and the Commission for the purpose of implementing paragraph 1, 2 and 4."

(44) The following Article 57a is inserted:

"Article 57a

Procedures by electronic means

1. **Without prejudice to the allocation of functions and powers among the authorities within the national systems,** Member States shall ensure that all requirements, procedures and formalities relating to matters covered by this Directive may be easily completed, at a distance and by electronic means, through the relevant point of single contact.
2. Paragraph 1 shall not apply to the carrying out of an aptitude test or the adaptation period within the meaning of Article 14(1).
3. Where it is justified for Member States to ask for advanced electronic signatures, within the meaning of Directive 1999/93/EC of the European Parliament and of the Council,¹¹⁵ for the completion of procedures referred to in paragraph 1, Member States shall accept electronic signatures in compliance with Commission Decision 2009/767/EC¹¹⁶ and provide for technical measures to process advanced e-signature formats defined by Commission Decision 2011/130/EU.¹¹⁷
4. All procedures shall be carried out in accordance with the provisions of Directive 2006/123/EC relating to the points of single contact. **The time limits mentioned in Articles 7(4) and 51** ~~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~~ **or any missing document** has been submitted by a citizen to a point of single contact.

¹¹⁵ OJ L 13, 19.1.2000, p. 12.

¹¹⁶ OJ L 274, 20.10.2009, p. 36.

¹¹⁷ OJ L 53, 26.2.2011, p. 66.

(45) The following Article 57b is inserted:

"Article 57b

Assistance centres

1. Each Member State shall designate, no later than [insert date – transposition deadline] an assistance centre whose remit shall be to provide citizens and centres of the other Member States with assistance concerning the recognition of professional qualifications provided for in this Directive, including information on the national legislation governing the professions and the pursuit of those professions, social legislation, and, where appropriate, the rules of ethics.
2. The assistance centres in host Member States shall assist citizens in exercising the rights conferred on them by this Directive, in cooperation, where appropriate, with the assistance centre in the home Member State and the competent authorities and the points of single contact in the host Member State.
3. Any competent authority in the host Member State shall be required to fully cooperate with ~~the~~an assistance centre in the host Member State and provide information about individual cases to such assistance centres in the host Member States upon their request.
4. At the Commission's request, the assistance centres shall inform the Commission concerning enquiries with which the Commission is dealing within two months after receiving such a request."

(46) Article 58 is replaced by the following:

"Article 58

Committee procedure

1. The Commission shall be assisted by a Committee on the recognition of professional qualifications. That Committee shall be a committee within the meaning of Regulation (EU) No 182/2011.
2. Where reference is made to this paragraph, Article 4 of Regulation (EU) No 182/2011 shall apply."

(47) The following Article 58a is inserted:

"Article 58a

Exercise of the delegation¹¹⁸

1. The power to adopt delegated acts¹¹⁹ is conferred on the Commission subject to the conditions laid down in this Article.
2. The power to adopt delegated acts referred to in Articles 3(2), 4a(7), 4b(2), 20, 21a(3), 24(4), 25(5), 26(2), 31(2), 31(7), 34(2), 34(4), 35(4), 38(1), 38(4), 40(1), 40(4), 44(2), 44(4), 46(4) 49a(3) and 49b(3) shall be conferred on the Commission for an indeterminate period of time from [insert the date - date of entry into force of the amending Directive].

¹¹⁸ EDPS: the EDPS should be consulted before any adoption of delegated acts referred to in Art 56a or which may have an impact on data protection. A data protection impact assessment should precede any such consultation.

¹¹⁹ HU, IT, LU, NL, PT: reservation on delegated acts for fees and training.

3. The delegation of power referred to in Articles 3(2), 4a(7), 4b(2), 20, 21a(3), 24(4), 25(5), 26(2), 31(2), 31(7), 34(2), 34(4), 35(4), 38(1), 38(4), 40(1), 40(4), 44(2), 44(4), 46(4), 49a(3) and 49b(3) may be revoked at any time by the European Parliament or by the Council. A decision to revoke shall put an end to the delegation of the power specified in that decision. It shall take effect the day following the publication of the decision in the Official Journal of the European Union or at a later date specified therein. It shall not affect the validity of any delegated acts already in force.
4. As soon as it adopts a delegated act, the Commission shall notify it simultaneously to the European Parliament and to the Council.
5. A delegated act adopted pursuant to Articles 3(2), 4a(7), 4b(2), 20, 21a(3), 24(4), 25(5), 26(2), 31(2), 31(7), 34(2), 34(4), 35(4), 38(1), 38(4), 40(1), 40(4), 44(2), 44(4), 46(4), 49a(3) and 49b(3) shall enter into force only if no objection has been expressed either by the European Parliament or the Council within a period of two months of notification of that act to the European Parliament and the Council or if, before the expiry of that period, the European Parliament and the Council have both informed the Commission that they will not object. That period shall be extended by two months at the initiative of the European Parliament or of the Council."

(48) Article 59 is replaced by the following:

"Article 59

Transparency¹²⁰

1. Member States shall notify to the Commission a list of existing regulated professions **in their territory** ~~according to their national law~~ by [insert date – end of transposition period]. Any change to this list of regulated professions shall also be notified to the Commission without delay. The Commission shall set up and maintain a publicly available database for such information.
2. Member States shall examine whether ~~under their legal system~~ requirements **under their legal system** restricting the access to a profession or its pursuit to the holders of a specific professional qualification, including the use of professional titles and the professional activities allowed under such title, **referred to in this Article as "requirements" are** ~~is~~ compatible with the following principles:
 - (a) requirements must be neither directly nor indirectly discriminatory **on the basis of** ~~according to the nationality nor the residence~~;
 - (b) requirements must be justified by an overriding reason relating to a **the** public interest;
 - (c) requirements must be suitable for securing the attainment of the objectives pursued and must not go beyond what is necessary to attain the objective.
3. Paragraph 1 shall also apply to professions regulated in a Member State by an association or organisation within the meaning of Article 3(2) and any requirements ~~related to the need for membership~~ **of those associations or organisations**.

¹²⁰ DE, FR, LU: reservation (subsidiarity). ES, LT: add a reference to EQF. SI: specify explicitly whether investment services and activities (broker, marketing of investment funds) are included or not.

4. By [insert date - end of transposition period], Member States shall provide information on the requirements they intend to maintain and the reasons for considering that **those** ~~if~~ requirements comply with paragraph 2. Member States shall provide information on the requirements they subsequently introduced and the reasons for considering that those requirements comply with paragraph 2 within six months of the adoption of the measure.
5. By [insert date - end of transposition period], and every two years thereafter, Member States shall also provide a report about the requirements which have been removed or made less stringent.
6. The Commission shall forward the reports to the other Member States which shall submit their observations within six months. Within the same period, the Commission shall consult interested parties, including the professions concerned.
7. The Commission shall provide a summary report based on the information provided by Member States to the Group of Coordinators established under Commission Decision No 2007/172/EC¹²¹, which may make observations.
8. In light of the observations provided for in paragraphs 6 and 7, the Commission shall [insert date – one year after end of transposition period] submit its final findings to the Council and to the European Parliament, accompanied where appropriate by proposals for further initiatives¹²².

¹²¹ OJ L 79, 20.3.2007, p. 38.

¹²² FR: clarify which kind of initiative are concerned.

(49) In Article 61, the second paragraph is replaced by the following:

"Where appropriate, the Commission shall adopt an implementing decision to permit the Member State in question to derogate from the relevant provision for a limited period of time."

(50) Annexes II and III are deleted.

(51) In point 1 of Annex VII, the following point (g) is added:

"(g) where the Member State requires so for its own nationals, evidence of neither temporary suspension from exercising the profession nor criminal convictions."

Article 2

Amendment to [IMI Regulation]

Point 2 of Annex I to *[IMI Regulation]* is replaced by the following:

"2. Directive 2005/36/EC of the European Parliament and of the Council¹²³: Articles 4a to 4e, Article 8, Article 21a, Article 50, ~~Article 51~~, Article 56 and Article 56a¹²⁴".

¹²³ OJ L 255, 30.09.2005, p. 22.

¹²⁴ AT: only articles and paragraphs directly related to administrative cooperation should be listed, i.e. Art 4b(3), 4c(1), (2) and (3), 4e(1), Art 8, Art 21a(1), Art 50 (1), (2), (3) and (3a), Art 56 and 56a.

Article 3

Transposition

1. Member States shall bring into force the laws, regulations and administrative provisions necessary to comply with this Directive by [*insert the date – two years after the entry into force*] at the latest. They shall forthwith communicate to the Commission the text of those provisions.

When Member States adopt those provisions, they shall contain a reference to this Directive or be accompanied by such a reference on the occasion of their official publication. Member States shall determine how such reference is to be made.

2. Member States shall communicate to the Commission the text of the main provisions of national law which they adopt in the field covered by this Directive.

Article 4

Entry into force

This Directive shall enter into force on the twentieth day following that of its publication in the *Official Journal of the European Union*.

Article 5

Addressees

This Directive is addressed to the Member States.

Done at Brussels,

For the European Parliament
The President

For the Council
The President