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NOTE

From:	Presidency
To:	Delegations
Subject:	Proposal for a DIRECTIVE OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL amending and correcting Directive 2005/36/EC as regards the recognition of professional qualifications of nurses responsible for general care trained in Romania - Presidency compromise text

In view of the upcoming meeting of the Working Party on Competitiveness and Growth (Internal Market) on 17 October 2023, delegations will find enclosed, in Annex to this note, a compromise text prepared by the Presidency.

In addition to hearing delegations' views on the draft IMCO amendments as previously announced, the Presidency intends to present the attached compromise text. Delegations will be invited to exchange views also on these proposed changes. The changes made are as follows:

- All elements referring to the “correcting” of the Directive have been removed: in the title, in recital 10 and in the first sentence of Article 1.
- In recitals 2 and 3, the current situation of not having a proper link between Articles 33a and 10 is explained, as well as the need for the amendment in Article 10 which will be for the future (see recital 3, last sentence).

- An Article 33b is added requiring host MS which granted recognition pursuant to Articles 10 to 14 of Directive 2005/36/EC for nationals trained as nurses of general care in Romania not meeting the requirements of the old Article 33a, to guarantee the validity of such recognition provided between 2007 and 2024 after the entry into force of this Directive (see new Article 33(b)). This would cover the past with the two versions of the special recognition scheme in Article 33a, and avoid litigation risk. Recital 3 completes the explanation for the need for this new article.
- Finally, some initial lawyer-linguist changes have also already been introduced.

Changes compared to the Commission proposal (doc. 7476/23) are marked in bold and underlined for the new text and in strikethrough for deletions.

2023/0307 (COD)

Proposal for a

DIRECTIVE OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL
amending ~~and correcting~~ Directive 2005/36/EC as regards the recognition of professional
qualifications of nurses responsible for general care trained in Romania

(Text with EEA relevance)

THE EUROPEAN PARLIAMENT AND THE COUNCIL OF THE EUROPEAN UNION,

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

Having regard to the proposal from the European Commission,

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

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

Acting in accordance with the ordinary legislative procedure,

¹ OJ C , , p. .

Whereas:

- (1) Under Directive 2005/36/EC of the European Parliament and of the Council¹, specific acquired rights provisions apply to the recognition of certain professional qualifications as nurse responsible for general care issued in Romania.
- (2) Nurses responsible for general care whose training did not meet the minimum requirements under Directive 2005/36/EC and started before the **date of** accession of Romania to the **European Union**, can benefit from recognition under Article 33a of Directive 2005/36/EC if they fulfil the requirements specified therein. ~~If these requirements are not met, the application for recognition is assessed by the host Member State under the general system of recognition in line with Articles 10 to 14 of Directive 2005/36/EC.~~

¹ Directive 2005/36/EC of the European Parliament and of the Council of 7 September 2005 on the recognition of professional qualifications (OJ L 255 30.9.2005, p. 22).

- (3) A significant number of host Member States have recognised the professional qualifications of nurses trained in Romania not meeting the requirements under Article 33a of Directive 2005/36 under the general system for the recognition of evidence training in Articles 10 to 14 of that Directive. This was done based on the understanding that nurses trained in Romania could benefit of that general system in the same way as nurses responsible for general care not trained in Romania and not meeting the requirements of Article 33 of that Directive. In order to protect such acquired rights and preserve legitimate expectations, Member States should ensure that any of such recognition of professional qualifications of nurses trained in Romania not meeting the requirements under Article 33(a) of Directive 2005/36 in its different versions applicable till the entry into force of this amending Directive are valid. In addition, in order to improve legal clarity and certainty that the assessment pursuant to Articles 10 to 14 of Directive 2005/36/EC shall be applied in the situation where the nurse does not meet the requirements under the new Article 33a, a specific reference to that new article should be included in point (b) of Article 10 for the future. ~~There is no specific reference to Article 33a of Directive 2005/36/EC in its Article 10(b) due to an error. To make it clear that Articles 10 to 14 of Directive 2005/36/EC apply in the situation where the nurse does not meet the requirements under Article 33a, this error should be corrected.~~

- (4) Romania has set up a special upgrading programme to enable participants to upgrade their professional qualifications to satisfy all the minimum training requirements set out for the profession of nurse responsible for general care in Directive 2005/36/EC. For this purpose, Romania liaised beforehand with other Member States and the Commission.
- (5) Romania introduced the programme via Joint Order of the Minister of National Education and of the Minister of Health No 4317/943/2014¹. It was endorsed by the Romanian Order of Nurses, Midwives and Medical Assistants and by Order of the Minister of National Education No 5114/2014².
- (6) That special upgrading programme was set up for holders of the evidence of formal qualifications referred to in Article 33a of Directive 2005/36/EC, as well as for holders of evidence of certain post-secondary qualifications listed in Article 4 of the Order of the Minister of National Education No 5114/2014.
- (7) Romania presented the results of the special upgrading programme in 2018 to the relevant expert group (Group of coordinators for the recognition of professional qualifications) and, following consultations, no Member State objected to the proposal that the graduates should benefit from a more favourable recognition regime.

¹ Joint Order of the Minister of National Education and of the Minister of Health No 4317/943/2014 of 11 August 2014 on the approval of the special upgrading programme for the initial training of nurse responsible for general care acquired prior to 1 January 2007 for graduates of post-secondary education and higher education (Official Journal of Romania No 624 of 26 August 2014).

² Order of the Minister of National Education No 5114/2014 on the approval of the methodology for organising, conducting and completing the special upgrading programme for the initial training of nurse responsible for general care acquired prior to 1 January 2007 for graduates of post-secondary education (Official Journal of Romania No 5 of 6 January 2015).

- (8) On 11 May 2020, the Commission published, under Article 60(2) of Directive 2005/36/EC, a report on the results of the special upgrading programme¹. The report concludes that Romania implemented the upgrading programme negotiated beforehand with the Member States to enable its participants to upgrade their qualifications to meet the minimum requirements set out in Directive 2005/36/EC.
- (9) In order to include the special upgrading programme in the criteria for the recognition under acquired rights specific to nurses responsible for general care trained in Romania, it is appropriate to adapt Article 33a of Directive 2005/36/EC so that nurses with relevant evidence of completing the programme can benefit from recognition without the need to prove professional experience in Romania, as is currently the case.
- (10) Directive 2005/36/EC should therefore be amended ~~and corrected~~ accordingly,

HAVE ADOPTED THIS DIRECTIVE:

Article 1

Directive 2005/36/EC is amended ~~and corrected~~ as follows:

- (1) in Article 10, point (b) is replaced by the following:
- ‘(b) for doctors with basic training, specialised doctors, nurses responsible for general care, dental practitioners, specialised dental practitioners, veterinary surgeons, midwives, pharmacists and architects, when the migrant does not meet the requirements of effective and lawful professional practise referred to in Articles 23, 27, 33, 33a, 37, 39, 43 and 49;’;

¹ COM/2020/191 final and SWD/2020/79 final.

(2) Article 33(a) is replaced by the following:

‘Article 33a

Acquired rights specific to nurses responsible for general care trained in Romania

1. As regards the Romanian qualification as nurse responsible for general care, only the provisions on acquired rights laid down in paragraphs 2 and 3 shall apply.
2. In the case of nationals of Member States who were trained as a nurse responsible for general care in Romania and whose training does not satisfy the minimum training requirements laid down in Article 31, Member States shall recognise as sufficient proof any of the following evidence of formal qualification as nurse responsible for general care, provided that that evidence is accompanied by a certificate stating that those Member State nationals have effectively and lawfully been engaged in the activities of a nurse responsible for general care in Romania, including taking full responsibility for the planning, organisation and carrying out of the nursing care of patients, for a period of at least three consecutive years during the five years prior to the date of issue of the certificate:
 - (a) *Certificat de competențe profesionale de asistent medical generalist* with post-secondary education obtained from a *școală postliceală*, attesting to training started before 1 January 2007;
 - (b) *Diplomă de absolvire de asistent medical generalist* with short-time higher education studies, attesting to training started before 1 October 2003;
 - (c) *Diplomă de licență de asistent medical generalist* with long-time higher education studies, attesting to training started before 1 October 2003.
3. Member States shall recognise the following evidence of formal qualification as nurse responsible for general care:

- (a) the evidence of formal qualification referred to in paragraph 2, as well as the evidence of formal qualifications of post-secondary level listed under Article 4 of the Order of the Minister of National Education No 5114/2014 on the approval of the methodology for organising, conducting and completing the special upgrading programme for the initial training of nurse responsible for general care acquired prior to 1 January 2007 for graduates of post-secondary education (Official Journal of Romania No 5 of 6 January 2015), provided that such evidence is accompanied by either of the following:
- (b) the evidence of formal qualifications obtained on the basis of a special upgrading programme:
- (i) *Diplomă de licență* referred to in Article 3(2) of the Joint Order of the Minister of National Education and of the Minister of Health No 4317/943/2014 of 11 August 2014 on the approval of the special upgrading programme for the initial training of nurse responsible for general care acquired prior to 1 January 2007 for graduates of post-secondary education and higher education (Official Journal of Romania No 624 of 26 August 2014), accompanied by a diploma supplement stating that the student has completed the special upgrading programme, or
- (ii) *Certificatul de revalorizare a competențelor profesionale* referred to in Article 3(1) and in Annex 3 to the Joint Order of the Minister of National Education and of the Minister of Health No 4317/943/2014 of 11 August 2014 and in Article 16 of the Order of the Minister of National Education No 5114/2014 on the approval of the methodology for organising, conducting and completing the special upgrading programme for the initial training of nurse responsible for general care acquired prior to 1 January 2007 for graduates of post-secondary education (Official Journal of Romania No 5 of 6 January 2015).’

(3) The following article is inserted:

‘Article 33b

Validity of acquired rights specific to nurses responsible for general care trained in Romania recognised under the general system for recognition before ... [date of entry into force of this amending Directive]

Host Member States shall guarantee the validity of the recognition of Romanian qualification as nurse responsible for general care granted pursuant to Articles 10 to 14 of this Directive before ... [date of entry into force of this amending Directive] in the case of nationals of Member States who were trained as a nurse responsible for general care in Romania and did not meet the requirements of:

- (a) Article 33(a) of this Directive in the version in force on 1 January 2007, or
- (b) Article 33(a) of this Directive, as amended by Directive 2013/55/EU of the European Parliament and of the Council*.

* Directive 2013/55/EU of the European Parliament and of the Council of 20 November 2013 amending Directive 2005/36/EC on the recognition of professional qualifications and Regulation (EU) No 1024/2012 on administrative cooperation through the Internal Market Information System (“the IMI Regulation”) (OJ L 354, 28.12.2013, p. 132’;

Article 2

1. Member States shall bring into force the laws, regulations and administrative provisions necessary to comply with this Directive by ... [*OP, please insert date: one year after the **date of** entry into force of this Directive*]-~~at the latest~~. They shall ~~forthwith communicate to~~ **immediately communicate the text of those measures to inform** the Commission ~~thereof~~ the text of those provisions.

When Member States adopt those ~~provisions~~ **measures**, 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~~ **measures** of national law which they adopt in the field covered by this Directive.

Article 3

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

This Directive is addressed to the Member States.

Done at Brussels,

For the European Parliament
The President

For the Council
The President
