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INFORMATION NOTE

From:	General Secretariat of the Council
To:	Permanent Representatives Committee/Council
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 - Outcome of the European Parliament's first reading (Strasbourg, 11 to 14 December 2023)

I. INTRODUCTION

A number of informal contacts have taken place between the Council, the European Parliament and the Commission with a view to reaching an agreement on this file at first reading.

In this context, on behalf of the Committee on the Internal Market and Consumer Protection (IMCO), the rapporteur Adam BIELAN (ECR, PL) presented a compromise amendment (amendments number 1 to 15) to the abovementioned proposal for a Directive, for which he had prepared a draft report. This amendment had been agreed during the informal contacts referred to above. No other amendments were tabled.

II. VOTE

When it voted on 12 December 2023, the plenary adopted this compromise amendment (amendments number 1 to 15) to the abovementioned proposal for a Directive. The Commission's proposal as thus amended constitutes the Parliament's first-reading position which is contained in its legislative resolution as set out in the Annex hereto¹.

The Parliament's position reflects what had been previously agreed between the institutions. The Council should therefore be in a position to approve the Parliament's position.

The act would then be adopted in the wording which corresponds to the Parliament's position.

¹ The version of the Parliament's position in the legislative resolution has been marked up to indicate the changes made by the amendments to the Commission's proposal. Additions to the Commission's text are highlighted in ***bold and italics***. The symbol "■" indicates deleted text.

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Recognition of professional qualifications: nurses responsible for general care trained in Romania

European Parliament legislative resolution of 12 December 2023 on the 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 (COM(2023)0502 – C9-0324/2023 – 2023/0307(COD))

(Ordinary legislative procedure: first reading)

The European Parliament,

- having regard to the Commission proposal to Parliament and the Council (COM(2023)0502),
- having regard to Article 294(2) and Articles 46, 53(1) and 62 of the Treaty on the Functioning of the European Union, pursuant to which the Commission submitted the proposal to Parliament (C9-0324/2023),
- having regard to Article 294(3) of the Treaty on the Functioning of the European Union,
- having regard to the opinion of the European Economic and Social Committee of 25 October 2023¹,
- having regard to the undertaking given by the Council representative by letter of 22 November 2023 to approve Parliament's position, in accordance with Article 294(4) of the Treaty on the Functioning of the European Union,
- having regard to Rule 59 of its Rules of Procedure,
- having regard to the report of the Committee on the Internal Market and Consumer Protection (A9-0381/2023),

¹ Not yet published in the Official Journal.

1. Adopts its position at first reading hereinafter set out;
2. Calls on the Commission to refer the matter to Parliament again if it replaces, substantially amends or intends to substantially amend its proposal;
3. Instructs its President to forward its position to the Council, the Commission and the national parliaments.

Position of the European Parliament adopted at first reading on 12 December 2023 with a view to the adoption of Directive (EU) 2023/... of the European Parliament and of the Council amending 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 Article 46, Article 53(1) and Article 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 procedure²,

¹ Opinion of 25 October 2023 (not yet published in the Official Journal).

² Position of the European Parliament of 12 December 2023.

Whereas:

- (1) Under Directive 2005/36/EC of the European Parliament and of the Council³, specific acquired rights provisions apply to the recognition of certain professional qualifications issued in Romania to nurses responsible for general care.
- (2) Nurses responsible for general care whose training did not meet the minimum requirements under Directive 2005/36/EC and which started before the *date of* accession of Romania to the *Union*, can benefit from recognition under Article 33a of Directive 2005/36/EC if they fulfil the requirements specified therein. ■

³ 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 number of host Member States have recognised the professional qualifications of nurses responsible for general care trained in Romania whose qualifications did not meet the requirements to benefit from recognition under Article 33a of Directive 2005/36/EC for the purpose of access to the same profession in that Member State. Those host Member States applied for this purpose either the recognition rules under the Treaty on the Functioning of the European Union and the relevant case-law of the Court of Justice of the European Union or the general system set out in Articles 10 to 14 of that Directive. That general system was applied on the understanding that nurses trained in Romania could benefit from that general system in the same way as nurses responsible for general care not trained in Romania whose qualifications did not meet the requirements of Article 33 of that Directive, which is referred to in Article 10, point (b), of that Directive. In order to protect such acquired rights and to preserve the legitimate expectations of those nurses that have benefitted from them, Member States should ensure that any such recognition of professional qualifications of nurses trained in Romania whose qualifications did not meet the requirements of the different versions of Article 33a of Directive 2005/36/EC applicable until the entry into force of this Directive, remains valid. In addition, in order to improve legal clarity and certainty with regard to the fact that the assessment pursuant to Articles 10 to 14 of Directive 2005/36/EC is to be applied in the situation where the qualifications of a nurse do not meet the requirements under Article 33a of Directive 2005/36/EC, as amended by this Directive, a specific reference to that amended Article should be included in Article 10, point (b), of Directive 2005/36/EC.*

- (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 that purpose, Romania liaised beforehand with other Member States and the Commission.
- (5) Romania introduced the special upgrading programme via Joint Order of the Minister of National Education and of the Minister of Health No 4317/943/2014⁴. It was endorsed by the Romanian Order of Nurses, Midwives and Medical Assistants and by Order of the Minister of National Education No 5114/2014⁵.
- (6) The 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 Order of the Minister of National Education No 5114/2014.

⁴ 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).

⁵ Order of the Minister of National Education No 5114/2014 of 15 December 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).

- (7) Romania presented the results of the special upgrading programme in 2018 to the relevant expert group, namely the Group of coordinators for the recognition of professional qualifications, and, following consultations, no Member State objected to the proposal that the graduates of that programme should benefit from a more favourable recognition regime.
- (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 programme. That report concluded that Romania had implemented the special 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 based on acquired rights specific to nurses responsible for general care trained in Romania, it is appropriate to amend Article 33a of Directive 2005/36/EC so that nurses with relevant evidence of having completed that 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 ■ accordingly,

HAVE ADOPTED THIS DIRECTIVE:

Article 1

Directive 2005/36/EC is amended **■** 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 practice referred to in Articles 23, 27, 33, 33a, 37, 39, 43 and 49;’;
- (2) Article 33a 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 a nurse responsible for general care, only the provisions on acquired rights laid down in *paragraph 2* 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:
- (a) any of the following evidence of formal qualification as a 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:
 - (i) *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;
 - (ii) *Diplomă de absolvire de asistent medical generalist* with short-time higher education studies, attesting to training started before 1 October 2003; *or*

- (iii) *Diplomă de licență de asistent medical generalist* with long-time higher education studies, attesting to training started before 1 October 2003;
- (b) **any of the** evidence of formal qualification ***listed in points (ii) and (iii) of point (a)***, provided that such evidence is accompanied by the following evidence of formal qualification obtained on the basis of a special upgrading programme:

■ *Diplomă de licență* referred to in Article 3(2) of 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

- (c) *any of the evidence of formal qualifications of post-secondary level listed under Article 4 of 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 the following evidence of formal qualification obtained on the basis of a special upgrading programme:*

Certificat de revalorizare a competențelor profesionale referred to in Article 3(1) and in Annex 3 to Joint Order of the Minister of National Education and of the Minister of Health No 4317/943/2014 and in Article 16 of Order of the Minister of National Education No 5114/2014.':

(3) *the following Article is inserted:*

‘Article 33b

Validity of rights acquired before ... [date of entry into force of this amending Directive]

Host Member States shall guarantee the validity of the recognition of the Romanian qualification as a 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 33a of this Directive in the version in force on 1 January 2007, or*
- (b) Article 33a 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 ... [*one year after the **date of** entry into force of this Directive*] **■** . They shall ***immediately*** inform the Commission thereof.

When Member States adopt those ***measures***, they shall contain a reference to this Directive or be accompanied by such reference on the occasion of their official publication. The methods of making such reference shall be laid down by Member States.

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

Article 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 ...,

For the European Parliament

For the Council

The President

The President
