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DIRECTIVE (EU) 2024/505 OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL

of 7 February 2024

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 Committee ([1]),

Acting in accordance with the ordinary legislative procedure ([2]),

Whereas:

(1) Under Directive 2005/36/EC of the European Parliament and of the Council ([3]), 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) 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.

([1]) Opinion of 25 October 2023 (not yet published in the Official Journal).
([2]) Position of the European Parliament of 12 December 2023 (not yet published in the Official Journal) and Decision of the Council of 23 January 2024.
([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).

(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 4317/943/2014 ([4]). It was endorsed by the Romanian Order of Nurses, Midwives and Medical Assistants and by Order of the Minister of National Education No 5114/2014 ([5]).

(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.

(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;’;

([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).

(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 3 March 2024

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 3 March 2024 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 (*).

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(*) 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 4 March 2025. 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 Strasbourg, 7 February 2024.

For the European Parliament	*For the Council*
The President	*The President*
R. METSOLA	H. LAHBIB