Commission Implementing Regulation (EU) 2015/983 of 24 June 2015 on the procedure for issuance of the European Professional Card and the application of the alert mechanism pursuant to Directive 2005/36/EC of the European Parliament and of the Council (Text with EEA relevance)

COMMISSION IMPLEMENTING REGULATION (EU) 2015/983

of 24 June 2015

on the procedure for issuance of the European Professional Card and the application of the alert mechanism pursuant to Directive 2005/36/EC of the European Parliament and of the Council

(Text with EEA relevance)

THE EUROPEAN COMMISSION,

Having regard to the Treaty on the Functioning of the European Union,

Having regard to Directive 2005/36/EC of the European Parliament and of the Council of 7 September 2005 on the recognition of professional qualifications[(1)], and in particular Articles 4a(7), 4b(4), 4e(7) and 56a(8) thereof,

After consulting the European Data Protection Supervisor,

Whereas:

(1) The procedure for issuance of a European Professional Card (EPC) and the application of the alert mechanism provided for in Directive 2005/36/EC is to be supported by the Internal Market Information System (IMI) established by Regulation (EU) No 1024/2012 of the European Parliament and of the Council[(2)]. It is therefore appropriate to provide rules on the procedure for issuance of EPC and on the application of the alert mechanism in the same implementing act.

(2) The Commission carried out an assessment, with the involvement of the relevant stakeholders and the Member States, on the suitability of introducing the EPC for doctors, nurses, pharmacists, physiotherapists, mountain guides, real estate agents and engineers. Following that assessment the Commission has selected five professions (nurses, pharmacists, physiotherapists, mountain guides and real estate agents) for which an EPC should be introduced. The selected professions meet the requirements set out in Article 4a(7) of Directive 2005/36/EC as regards their current or potential mobility figures, their regulation in Member States as well as interest expressed by relevant stakeholders. The introduction of the EPC for doctors, engineers, specialized nurses, and specialized pharmacists needs further assessment in relation to their compliance with the conditions laid down in Article 4a(7) of Directive 2005/36/EC.

(3) In accordance with Article 12 of Regulation (EU) No 1024/2012 the online tool referred to in Article 4b(1) of Directive 2005/36/EC should be separate from the IMI and should not enable external actors to access the IMI. It is therefore necessary to provide for

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detailed rules on the procedure for submitting applications for an EPC via that online tool as well as the rules on receiving EPC applications in the IMI by the competent authorities.

(4) In order to provide transparent requirements it is also important to specify the conditions for requesting supporting documents and information from the applicants under the EPC procedure, taking into account which documents may be required by the competent authorities of the host Member State pursuant to Article 7, Article 50(1) and Annex VII to Directive 2005/36/EC. It is therefore necessary to set out the list of documents and information, including the documents that should be issued by the competent authorities of the home Member State directly, the procedures for verification of authenticity and validity of the documents by the competent authority of the home Member State and the conditions for requesting certified copies and translations. In order to facilitate the handling of an EPC application, it is appropriate to define the respective roles of all the actors involved in the EPC procedure: the applicants, the competent authorities of the home and the host Member State including the competent authorities assigned with the task of allocating EPC applications.

(5) In accordance with Article 4b(1) of Directive 2005/36/EC, a home Member State may also allow for written applications for the EPC. It is therefore necessary to set out the arrangements that the competent authority of the home Member State should put in place in cases of written applications.

(6) In order to ensure that the workflow in IMI is not disrupted or impaired and the processing of an application is not delayed, it is necessary to clarify the procedures concerning payments in relation to processing of an EPC application. It is therefore appropriate to provide that an applicant pays to the competent authorities of the home and/or of the host Member States separately and only if an applicant is required to do so by the competent authorities concerned.

(7) In order to provide the applicant with a possibility to receive evidence of the outcome of the EPC procedure, it is necessary to specify the format of the document that the applicant will be able to generate via the online tool referred to in Article 4b(1) of Directive 2005/36/EC and to provide guarantees that the electronic document was issued by the relevant competent authority and that it was not modified by external actors. In order to make sure that EPC is not confused with documents giving automatic authorisation to practice in the host Member State in cases of establishment, it is appropriate to provide for inclusion of a disclaimer to this effect in the EPC document.

(8) The EPC procedure can lead to the adoption of different types of decisions by the competent authority of the home Member State or of the host Member State. It is therefore necessary to define the possible outcomes of an EPC procedure as well as to specify, where appropriate, the information to be included in the electronic document stating the outcome of the EPC procedure.

(9) To facilitate the task of the competent authority of the host Member State and to ensure that the verification of an issued EPC by the interested third parties is easy and user-friendly, it is appropriate to provide a centralised, online verification system of the authenticity and the validity of an EPC by the interested third parties that have no access

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to the IMI. That verification system should be separate from the online tool referred to in Article 4b(1) of Directive 2005/36/EC. Such verification of the EPC should not provide access for interested third parties to the IMI.

(10) In order to ensure data protection in relation to the application of the alert mechanism, it is necessary to specify the roles of the competent authorities handling incoming and outgoing alerts and the functionalities of the IMI in withdrawing, modifying and closing alerts and ensuring the security of data processing.

(11) In order to facilitate the restriction of access to personal data to only those authorities who need to be informed Member States should designate authorities assigned with the task of coordinating incoming alerts. Member States should only grant access to the alert mechanism to those authorities which are directly concerned by the alert. In order to ensure that alerts are sent out only in cases when they are necessary Member States should be able to designate authorities assigned with the task of coordinating outgoing alerts.

(12) Processing of personal data pursuant to this Regulation is subject to Directive 95/46/EC of the European Parliament and of the Council[(3)], Directive 2002/58/EC of the European Parliament and of the Council[(4)] and Regulation (EC) No 45/2001 of the European Parliament and of the Council[(5)].

(13) The measures provided for in this Regulation are in accordance with the opinion of the Committee on the recognition of professional qualifications,

HAS ADOPTED THIS REGULATION:

CHAPTER I

SUBJECT MATTER AND THE PROCEDURE FOR THE ISSUANCE OF EPC

Article 1

Subject matter

This Regulation lays down rules on the procedure for the issuance of the European Professional Card (EPC) pursuant to Articles 4a to 4e of Directive 2005/36/EC for the professions listed in Annex I to this Regulation and on the application of the alert mechanism provided for in Article 56a of that Directive.

Article 2

Competent authorities involved in EPC procedure

1 Each Member State shall designate competent authorities responsible for EPC applications for each of the professions listed in Annex I for their entire territory or, where appropriate, parts thereof.

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For the purpose of implementation of Article 7, each Member State shall assign to one or more competent authorities the task of allocating EPC applications to the relevant competent authority in its territory.

2 Member States shall register in the Internal Market Information System (IMI) established by Regulation (EU) No 1024/2012 at least one competent authority for each of the professions listed in Annex I to this Regulation, and at least one competent authority assigned with the task of allocating EPC applications in their territory by 18 January 2016.

3 The same competent authority may be designated as the competent authority responsible for EPC applications and as the competent authority assigned with the task of allocating EPC applications.

Article 3

Submission of EPC applications online

1 An applicant shall create a secured personal account in the online tool referred to in Article 4b(1) of Directive 2005/36/EC for submission of an EPC application online. This online tool shall provide information on the purpose, scope and nature of the data processing, including information about the rights of the applicants as data subjects. The online tool shall request the explicit consent of the applicants regarding the processing of their personal data in the IMI.

2 The online tool referred to in Article 4b(1) of Directive 2005/36/EC shall provide for a possibility for the applicant to fill in all necessary information related to the EPC application referred to in Article 4 of this Regulation, to upload the copies of documents required for issuance of the EPC under Article 10(1) of this Regulation and to receive any information on the progress in processing of his EPC application online, including on the payments to be made.

3 The online tool shall also provide for a possibility for the applicant to submit any additional information or document, and to request rectification, deletion or blocking of his personal data contained in the IMI file online.

Article 4

Information to be submitted with EPC applications

An applicant shall provide the following information in the EPC application:

(a) the identity of the applicant;

(b) the profession concerned;

(c) the Member State, where the applicant intends to be established or the Member State where the applicant intends to provide services on a temporary and occasional basis;

(d) the Member State, where the applicant is legally established for the purpose of pursuing the activities concerned at the moment of application;

(e) the purpose of the intended professional activity:

  (i) establishment;

  (ii) provision of services on a temporary and occasional basis;

(f) choice of one of the following regimes:

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(i) in case of establishment, choice of either regimes:
- automatic recognition pursuant Chapter III of Title III of Directive 2005/36/EC;
- general system for recognition pursuant Chapter I of Title III of Directive 2005/36/EC;

(ii) in case of provision of services on a temporary and occasional basis, choice of either regimes:
- free provision of services with prior check of qualifications pursuant to Article 7(4) of Directive 2005/36/EC;
- free provision of services without prior check of qualifications referred to in Article 7(4) of Directive 2005/36/EC;

(g) other information specific to the regime referred to in point (f).

For the purposes of point (d) of the first subparagraph, if the applicant is not legally established at the moment of application, he shall indicate the Member State where he has obtained the required professional qualification. If there is more than one Member State where the applicant has obtained his professional qualifications, he shall choose the Member State that is to receive his EPC application from among the Member States that issued a qualification.

For the purposes of point (f) of the first subparagraph, if the applicant has not indicated the right regime, within the one week of receipt of EPC application the competent authority of the home Member State shall advise the applicant to resubmit application under the applicable regime. Where appropriate, the competent authority of the home Member State shall first consult the competent authority of the host Member State.

Article 5

Data contained in the EPC applications

Data relating to the identity of the applicant and the documents referred to in Article 10(1) shall be stored in the applicant's IMI file. That data shall be reusable for subsequent applications provided the applicant agrees to such reuse and the data is still valid.

Article 6

Transfer of EPC applications to the relevant competent authority of the home Member State

1 The online tool referred to in Article 4b(1) of Directive 2005/36/EC shall transfer the EPC application to the IMI in a secure manner to be treated by the relevant competent authority in the home Member State referred to in paragraph 2 or 3 of this Article.

2 If the applicant is legally established in a Member State at the time of application, the IMI shall transfer the EPC application to the competent authority in the Member State where the applicant is legally established.

The competent authority of the home Member State shall verify whether the applicant is legally established in that Member State and shall certify the fact of legal establishment