

**EUROPEAN COMMISSION**

Directorate-General for Internal Market, Industry, Entrepreneurship and SMEs

Services in the Single Market and Digitalisation
Regulation of ProfessionsBrussels,
GROW/E5/bz
Ares(2020)7523456Dr Vlasta Kunova
By email only:
vlasta.kunova19@gmail.com**Subject: Possible Annex V entry concerning diabetology/endocrinology**

Dear Dr Kunova,

Reference is made to your email of 7 December 2020, and your subsequent correspondence of 20 and 25 January 2021, which were registered under the reference Ares(2020)7523456. You explain the problems you encounter on national level as to shaping of an opinion for whether, and if so, how an Annex entry for diabetology /endocrinology and the related training could look like.

Let me briefly outline the relevant EU rules on the recognition of professional qualifications as provided by in Directive 2005/36/EC (“the Directive”). This Directive constitutes the European legal framework for the recognition of professional qualifications. It applies essentially in cross-border cases where the professional seeks to exercise his professional activities in a Member State other than where the qualifications were obtained.

Nevertheless, there is also application for purely internal purposes of the Directive, namely where it contains minimum training requirements that need to be respected by the Member States, such as for doctors with basic training in Article 24 or specialist doctors in Article 25.

Article 168 of the Treaty on the Functioning of the EU (TFEU) states that it lies in the competence of the Member States to regulate professions in the health sector within the principles of non-discrimination and proportionality as enshrined in the Treaties. Thus, it is up to the individual Member States to determine under which conditions medical activities can be exercised taking into account the principles of non-discrimination and proportionality. Moreover, where applicable, a Member State needs to make sure that the relevant training is in line with the provisions of the Directive as set out above.

Annex V, point 5.1.2 of PQD contains the names of the specialist medical diplomas issued by the respective competent authorities in the EEA States. These are generic names, such as “specialist diploma” or “certificate of specialist doctor” etc, in their respective native languages. These diplomas are complemented in their title with the name of the relevant medical speciality listed in Annex V, point 5.1.3. For example for Ireland: Certificate of specialist doctor (part of 5.1.2) in Anaesthesiology (part of 5.1.3).

There are currently 55 categories of medical specialities listed at point 5.1.3. Each of the 55 medical specialities contain fields where EEA States can have an entry and list the name of the speciality in its respective national language(s), for which it issues a diploma and which fulfils the minimum requirements set out in the Directive, which are essentially the requirements set out under Article 25 of the Directive and the minimum duration set out in Annex V, point 5.1.3, for each medical speciality.

When a Member State's formal training fulfils these requirements, it can notify the diploma to be added to point 5.1.3 via an IMI notification based on Article 21a of the Directive. These additions are done by the Commission via a delegated act that is published in the Official Journal. Prior to publication, the Commission would double-check whether the national legislation complies with the minimum requirements as set out in Article 25 of the Directive and the duration of the training.

The specialist doctors from those Member States that have an entry for a specific medical speciality can subsequently make use of automatic recognition of the diplomas in all the Member States that also are listed under the same specialisation, including the EEA/EFTA States and Switzerland.

The States are however not obliged to create specialisations specifically for entries in the respective columns of medical specialities. As a consequence, the recognition of qualifications for professionals coming from one of the States without an entry in Annex V, point 5.1.3, takes place under the general system (see also Article 10(d) of the Directive).

Therefore, one cannot claim, as you suggest, that the non-notification of a medical speciality is *per-se* an obstacle of the fundamental freedoms as enshrined in the TFEU and a breach of EU law, as the Directive foresees a path of recognition for these circumstances.

To summarise, it is for the Slovak competent authorities to determine whether and which specialisation should be listed in Annex V and how this is reflected there, i.e. in your case, whether the diploma is presented as being only endocrinology or only diabetology, a combined diploma of endocrinology and diabetology, or as two separate diplomas, that together or even individually give access to the same activities. Article 25 of the Directive does not lay down such detailed requirements for the medical specialisations. It is, thus, essentially a medical assessment as to which combination of trainings would give access to the activities of the relevant medical speciality that would fit as an entry to Annex V.

Therefore, the Commission is not in a position to advice you on which approach to take or to assess whether the approach proposed by the Slovak Ministry of Health is in compliance with EU law.

As to the letter of Mr Zsigmond dated 13 March 2017, he did not advise or recommend a new notification, but he essentially explained to you that if you would like to make a change in the Annex V for diabetology/endocrinology, then the Slovak Republic has to notify this via the IMI system as described in that letter.

As to your question about the delay in notification of this specialisation, I have to clearly state that there is no deadline within which a Member State has to decide whether to notify such change in Annex V. The reference you have sent to me in your e-mail of 25 January 2021 concerns an infringement procedure against the Slovak Republic, where it

has a two-month deadline to reply to a letter of formal notice. This has nothing to do with the notification procedure under Article 21a of Directive 2005/36/EC.

In view of the above, I regret that I am not in a position to help you any further with your request for an advice.

Nevertheless, I hope the information provided in this letter is of help.

Yours sincerely,

Martin Frohn
Head of Unit
(e-signed)

Contact: Bernard Zaglmayer, Bernhard.Zaglmayer@ec.europa.eu, tel: 55711