



EUROPEAN
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2015/0040 (NLE)

Proposal for a

COUNCIL DECISION

on the position to be taken by the European Union in the Joint Committee established under the Agreement between the European Community and its Member States, of the one part, and the Swiss Confederation, of the other, on the free movement of persons, as regards the amendment of Annex III on the mutual recognition of professional qualifications

EXPLANATORY MEMORANDUM

1. CONTEXT OF THE PROPOSAL

In 1999, the European Community and its Member States concluded a bilateral agreement with Switzerland on the free movement of persons (see OJ L 114 of 30.4.2002, p. 6). This entered into force on 1 June 2002. A protocol was later concluded extending the Agreement to include the ten Member States that joined the EU in 2004 (see OJ L 89 of 28.3.2006, p. 30). A second protocol was concluded extending the Agreement to include Bulgaria and Romania (see OJ L 124 of 20.5.2009, p. 53). The Agreement was initially concluded for a period of seven years, which came to an end on 31 May 2009. Following the Swiss referendum of 8 February 2009, the Agreement was renewed for an indefinite period. In spite of the results of the Swiss referendum of 9 February 2014 on mass migration, the Agreement is still in force.

Article 9 and Annex III of the Agreement relate to the recognition of professional qualifications. Annex III lists the EU acts adopted in this area that are of relevance to the EU's relations with Switzerland. Article 18 of the Agreement specifies that any amendments to Annex III are to be adopted by decision of the EU-Swiss Joint Committee established under Article 14.

Annex III was last amended by Decision No 2/2011 of the EU-Swiss Joint Committee (see OJ L 277 of 22.10.2011 p. 20). The purpose of this amendment was, in particular, to align the Agreement with Directive 2005/36/EC of the European Parliament and of the Council of 7 September 2005 on the recognition of professional qualifications (see OJ L 255 of 30.9.2005, p. 22).

The annexes to this Directive have themselves been amended several times since the adoption of Decision No 2/2011. Annex III therefore needs to be updated again in order to take account of these changes. Specifically, amendments need to be made to Annex III to the Agreement in order to reflect the following:

- The adoption of Regulation EU No 623/2012 amending Annex II to Directive 2005/36/EC (see OJ L 180 of 12.7.2012, p. 9).
- Notification from the United Kingdom of changes relating to the professional associations and organisations listed under Annex I to Directive 2005/36/EC. These changes are reflected in the Commission communication *Notification of the professional associations or organisations fulfilling the conditions of Article 3(2) listed under Annex I to Directive 2005/36/EC* (see OJ C 182 of 23.6.2011, p. 1).
- Five Commission communications updating Annex V to the Agreement in the light of notifications from Member States of new or amended professional titles and of changes to the accepted evidence of formal qualifications and/or the bodies issuing such evidence. The Communications were published on 24.6.2011 (OJ C 183, p. 1), 16.12.2011 (OJ C 367, p. 5), 14.8.2012 (OJ C 244, p. 1), 21.12.2012 (OJ C 396, p. 1) and 28.6.2013 (OJ C 183, p. 4).
- Recent developments in Switzerland relating to professional qualifications for certain health and healthcare professions. Switzerland has requested that a number of amendments and additions be made to Annex III to the Agreement. These relate to the areas of medical oncology, medical genetics and internal medicine, nursing and midwifery.

It should be noted that the amendments mentioned here, which have all been included in the attached draft revision of Annex III, need to be made in order to reflect technical changes affecting the current situation in Member States (the contracting parties). They do not constitute new initiatives.

2. LEGAL ELEMENTS OF THE PROPOSAL

The draft Joint Committee Decision contains three articles.

Article 1 stipulates that Annex III to the Agreement is to be adapted in accordance with the Annex attached to the Decision.

Article 2 stipulates that the Decision will be equally authentic in all the official languages of the EU.

Article 3 lays down provisions regarding the entry into force of the Decision.

Annex: revised Annex III

3. BUDGETARY IMPLICATION

This proposal does not have any implications for the EU's budget.

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THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the Treaty on the Functioning of the European Union, and in particular Article 218(9) in conjunction with Articles 46, 53 and 62 thereof,

Having regard to the proposal from the European Commission,

Whereas:

- (1) The Agreement between the European Community and its Member States, of the one part, and the Swiss Confederation, of the other, on the free movement of persons¹ ('the Agreement') was signed on 21 June 1999 and entered into force on 1 June 2002.
- (2) Article 14 of the Agreement establishes the EU-Swiss Joint Committee. Pursuant to Article 18 of the Agreement, amendments to Annex III (Mutual recognition of professional qualifications) are to be adopted by decision of that Joint Committee.
- (3) In order to ensure that EU legal acts continue to be applied consistently and correctly and to avoid administrative — and possibly legal — difficulties, Annex III to the Agreement should be amended to take account of new EU legal acts to which the Agreement does not currently refer.
- (4) The position of the European Union within the EU-Swiss Joint Committee should therefore be based on the attached draft Decision,

HAS ADOPTED THIS DECISION:

Article 1

The position to be taken by the European Union within the EU-Swiss Joint Committee established by Article 14 of the Agreement between the European Community and its Member States, of the one part, and the Swiss Confederation, of the other, on the free movement of persons, as regards the amendment of Annex III (Mutual recognition of professional qualifications) shall be based on the draft Decision of the EU-Swiss Joint Committee attached to this Decision.

Minor changes to the draft Decision may be agreed by the representatives of the Union in the Joint Committee without further decision of the Council.

¹ OJ L 114, 30.4.2002, p. 6.

Article 2

After its adoption, the Decision of the Joint Committee shall be published in the *Official Journal of the European Union*.

Article 3

This Decision shall enter into force on the date of its adoption.

Done at Brussels,

For the Council
The President