

**Notification IMI No. 323723 - Malta - Cultural Heritage Act, 2021 amending Cultural Heritage Act, 2002 and 2019, repealing the Antiquities Protection Act, 1925.**

On 14 September 2021, Malta has notified the Cultural Heritage Act. 2021, amending Cultural Heritage Act. 2002 and 2019 (repealing the Antiquities Protection Act. 1925). Following an assessment of the provisions notified, the Commission's services would like to ask the Maltese authorities for some additional information..

As a preliminary remark, the provisions notified by the Maltese authorities concern the profession of "Conservator-restorer" and the Commission would like to recall that in accordance with Article 59 of Directive 2005/36/EC (the Professional Qualifications Directive – hence PQD), Member States should notify to the Commission and update the list of the existing regulated professions.

The Maltese authorities are therefore invited to notify the said profession and its changes in the Regulated Professions Database.

Moreover, Directive (EU) 2018/958 on a proportionality test (transposed by Malta in 2020, "ACT No.XXV of 2020"), requires that Member States shall undergo a proportionality assessment of any new or amended provision which restricts access to a regulated profession that shall be notified to the Commission pursuant to Article 59(2) PQD. In view of this, the Commission would like to ask the Maltese authorities the following questions:

- 1) Article 29.2(c) of the notified legislation establishes the requirements applicable for the exercise of the profession in Malta. Could the Maltese authorities clarify these requirements in light of Article 5(1) of Directive 2005/36/EC, when the professional is established in another Member State regulating the profession (Article 5(1)(a) of the Directive) and when the professional comes from a Member State that does not regulate the profession (Article 5(1)(b) of the Directive)?
- 2) Article 29.1 of the notified legislation provides that in order to exercise the profession in Malta, the professional needs to obtain a warrant from the Professional Board. Article 6 of Directive 2005/36/EC provides for the exemptions in case of temporary provision of services. These exemptions concern particularly the "authorisation by, registration with or membership of a professional organisation or body". Could the Maltese authorities clarify the said requirement in light of the above-mentioned article?
- 3) The Maltese authorities have notified the justification of the requirements established in the newly amended law. These justifications are "Public policy" and "Protection of the environment". Conversely, in the information provided for invoking these justifications and the assessment of the proportionality, there is no reference to both justifications, namely the objective pursued, the risks involved in relation to the activities of the profession, the suitability of the measures and if other measures less restrictive are possible. The Commission's services would like to recall that any restrictive measure should be justified by public interest objectives (Article 6 of Directive (EU) 2018/958 on a proportionality test). Could the Maltese authorities

provide for a complete proportionality assessment of the restrictive measures adopted in the “Cultural Heritage Act, 2021”?