



EUROPEAN COMMISSION
Directorate General Internal Market and Services

KNOWLEDGE-BASED ECONOMY
Professional qualifications

Brussels, 28 October 2010

Meeting with professional organisations on 29 October 2010

I. Background information about professional qualifications and the Single Market Act

On 22 October 2010, the European Commission published its first report on the transposition and implementation of the Professional Qualifications Directive¹ as well as more than 170 experience reports from Member State authorities. This paper provides for some background information and gives an overview on the first results of the evaluation.

On 27 October 2010, the European Commission also published the Single Market Act. One of its key priorities will be a modernisation of the Professional Qualifications Directive.

II. Background information after the first phase of the evaluation

What is the purpose of the documents published on 22 October 2010?

The Commission is currently carrying out an evaluation of the Professional Qualifications Directive. The Directive dates back from 2005 but actually consolidates 15 previous Directives. The Directive is a key for professionals who seek new job opportunities in, or intend extending their service activities to, another Member State. The information published today reflects first evidence gathered in the last six months of the evaluation:

- **A Commission staff working paper** highlights areas of concerns and positive achievements in the transposition and implementation of the Directive. This assessment does not take account yet of what external stakeholders may

¹ Directive 2005/36/EC of the European Parliament and of the Council of 7 September 2005 on the recognition of professional qualifications; Official Journal L 255 , 30/09/2005 P. 22

think. The staff working paper announces a more comprehensive and final evaluation report for autumn 2011.

- **Experience reports from relevant national authorities** have been drawn up to provide a picture for the Commission to better understand how the directive is applied in practice. This information should also be shared with the public.

The second phase of the evaluation will start by the end of the year; it will now be necessary to focus on what professionals, professional associations, employers (companies) and citizens at large think about the Directive. In this regard, **the Commission will launch a public consultation before the end of the year.**

What is the Professional Qualifications Directive about?

The right to exercise one's profession in another Member State stems directly from the EU Treaties and the Internal Market freedoms. About 4600 professions (which could be grouped into around 800 generic professions) are regulated in 27 Member States by a given specific qualification. In order to find out more please consult the Regulated Professions Database:

http://ec.europa.eu/internal_market/qualifications/regprof/index.cfm?fuseaction=home.home

Qualification requirements may differ from country to country and may make the right to exercise one's profession in another member State quite difficult to realise. A person who is fully qualified for his profession in one country does not necessarily meet the conditions of another country. Therefore, an *acquis* organising mutual recognition of qualifications has been introduced in the last decades.

The main objective of Directive 2005/36/EC was to simplify the *acquis* on professional qualifications, by merging 15 previous directives into a single consolidated text. New rules were only introduced to ease access to regulated professions on a temporary basis; professionals could hence move on a temporary basis if they provide information by a declaration on an annual basis. Finally, the 2005 Directive reinforced administrative co-operation between Member States. It also introduced the idea of common platforms.

How does the recognition of qualifications work under the Directive?

If a professional intends to work or to provide **services in another Member State just on a temporary and occasional basis**, he/she may do so in principle without prior check of his or her qualifications (save for professions with public health or safety implications for a consumer). There is no need for applying for recognition in a host Member State. The Directive only allows a host Member State to impose on professionals to provide information on their status in an annual declaration

If a professional intends establishing himself as a self-employed person or takes up a new job, a professional needs a prior recognition of qualifications if required under the law of a host Member State. The Directive offers different routes:.

- For a limited number of professions, the Directive allows for **automatic recognition** so that a host Member State has no discretion but checking

whether the qualification is in line with what is required under the Directive. Doctors, dentists, nurses, midwives, pharmacists, veterinary surgeons and architects are granted automatic recognition of their qualifications, based on harmonised minimum training requirements throughout the EU. For example, a Dutch doctor qualified in the Netherlands must be recognized as a doctor in all other Member States. The same applies to professionals in the craft, commerce and industry sectors on the basis of a minimum work experience as self-employed or manager of a company.

- For the other large majority of professions, a so-called '**general system**' allows for the mutual recognition of qualifications. A host Member State is supposed to make a case-by-case analysis and has discretion in what to do. In principle, access to a regulated profession shall certainly still be granted to any professional who is fully qualified in his home Member State. Only in cases where the duration or requirements of a qualification differ substantially from those of the host country, the latter may impose measures "compensating" for such differences. In such a case, the Directive allows citizens to choose between a period of supervised practice ("adaptation period") or an aptitude test. If the professional passes successfully such measures, he should be accepted.

More detailed information is set out in a user's guide published December 2010:

http://ec.europa.eu/internal_market/qualifications/docs/guide/users_guide_en.pdf

Why does the Directive require administrative cooperation?

In a European Union composed of 27 Member States, strong cooperation amongst competent authorities is indispensable. The Directive on one hand facilitates mobility of professionals. Proper controls of professionals are on the other hand necessary. The information can be given by a professional but in many cases such information could also come from the home Member State. In certain cases, it is even indispensable such as in case of a disciplinary action taken against a professional in the Member State of origin. The Internal Market Information System (IMI) offers electronic tools to facilitate this exchange.

See: http://ec.europa.eu/internal_market/imi-net/index_en.html

http://ec.europa.eu/internal_market/score/index_en.htm

What are "common platforms"?

Under the general system, the right of a professional to exercise his/her activity in another Member State may be subject to measures compensating for major differences between the qualification in the home Member State and the qualification required in the host Member State. Where such measures are inevitable, the Directive gives in principle citizens the choice between an adaptation period or an aptitude test.

In order to reduce the necessary recourse to compensatory measures, the 2005 Directive introduced the possibility of common platforms. In brief, common platforms if adopted by the

Commission under implementing rules should facilitate mobility. The conditions for such platform are strict and not easy to fulfil. No common platform has been achieved to date. See for more information:

http://ec.europa.eu/internal_market/qualifications/docs/future/platforms_en.pdf

What are the main conclusions of the Commission staff report?

The Commission Staff Working Document draws the following tentative conclusions:

- **There are several areas of concern:** Member States were exceedingly late in the transposition and there is no real justification for the delay. Member States tend to be cautious, even reluctant, when it comes to allowing professionals from other Member States to provide services on a temporary basis. The idea of common platform, in its current form, appears to be a failure. There is a frequent recourse by citizens to SOLVIT and *Your Europe Advice* (ex-Citizens Signpost Service). Member States should be more proactive in notifying new diplomas, in particular for architects.
- **There are also open issues:** some Member States appear to be seeking more flexibility for the training in the sectoral professions, in particular for doctors and nurses. There is a continued interest in a professional card. There is a need to enhance the understanding by stakeholders of the relationship between the EQF and the Professional Qualifications Directive.
- **As to the positive advances,** it is noted that difficult technical issues related to enlargements in 2004 and in 2007 have largely been addressed. The Internal Market Information System (IMI) shows much potential in allowing competent authorities to communicate more effectively. Finally, the Professional Qualifications Directive and the Services Directive complement each other in a positive way thus facilitating more free circulation of professional services.

Which experiences do national authorities report?

Upon request by the Commission, more than 170 national authorities submitted reports on their experience with the Directive on 17 September. As to the sectoral professions, experience reports are even sometimes accompanied by summaries, notably for doctors, pharmacists, midwives, and nurses.

These reports offer practical insight as to how the Directive is working on the ground. **The current findings in more detail:**

- **Temporary mobility:** the 2005 Directive simplified temporary mobility in that Member States could at most require a declaration which professionals need to submit on a yearly basis. Most Member States require it for nearly all regulated professions. Only a few limit the requirement to the health sector. The use of the prior declaration regime is still limited because professionals may not be aware of the necessity to submit a declaration, the way how declarations should be made may be too cumbersome, some professionals are not interested in temporary mobility, and there has perhaps not been enough

time to gather sufficient experience. However, competent authorities consider in their reports that the prior declaration is at least for some professions necessary to protect consumers and patients. Many competent authorities are also not at ease about the scope of this new regime of temporary mobility and argue that there are risks of circumvention by professionals.

- Overall, **automatic recognition for health professionals and architects** (on the basis of minimum training requirements) is seen as a success in terms of costs and managing such a process compared to the so-called general system. However, competent authorities consider that adjustments might be necessary to refresh the harmonised minimum training requirements. Authorities in charge of recognising qualifications as midwives and nurses support such need for a reform much stronger compared to those in charge of recognising qualifications of doctors. In addition, reform might include continued professional development (CPD) – an obligation under regulations or code of ethics for professional to have kept abreast with new professional developments
- The practical experience on **automatic recognition for craft, commerce and trade activities** (based on professional experience as a self-employed professional or as a manager of a company) is less clear: some authorities support modernisation for two reasons: the list of activities covered by the regime has been established nearly fifty years ago and risks being outdated over time. Second, it seems sometimes not to be easy to assess which authority actually issues any relevant attestations).
- As to “**general system**”, there are two major issues:

First, a professional seeks access to a profession the scope thereof is defined under national law but may be very different compared to what the professional was allowed to do in the home Member State. The Directive tries to resolve this by forcing Member States to accept “equivalent activities” which were already carried out in the home Member State. Applying the concept of equivalence poses many problems and finally leaves to situations where professionals need to undergo a further test or supervised practice (so-called compensation measures).

Second, Member States reported difficulties in applying compensation measures in their practice, notably the effort and costs for organising tests or supervised practices (stage). It would often not be simple to deal with professionals who failed or with employers who are not willing to offer work contracts for such migrant workers).

- Competent authorities report on **complaints about language skills in the health sector**. Most of the authorities, notably in the health sector, puts lots of emphasis on the fact that it is up to the employer to check language skills of a professional and not for the competent authorities. That said, some authorities consider that check of language skills of professionals which are in contact with patients in the health sector may be part of the requirements to access a profession, including recognition of the qualification.

Next steps

To date, the Commission has just reached out to the administration. The next important step will be to understand how professionals, consumers, and citizens at large see the Directive. For this purpose, the Commission intends launching a public consultation before the end of the year.

The Commission is also about to launch an external study about the impact of most recent educational reforms on the Professional Qualifications Directive.

At the end of the evaluation, the Commission will present a comprehensive report but also a Green Paper setting out the major strands for reform; this should be published in autumn 2011. Following this, a proposal to amend the Directive could be presented in 2012.

Commissioner Barnier publicly announced these steps in a speech to the European Parliament on 26 October.