



Modernisation of the Professional Qualifications Directive

Proposal of the Commission amending Directive 2005/36/EC and the IMI Regulation





Preparatory works

- Comprehensive evaluation of the Professional Qualifications Directive (published 5.7.2011)
- Public consultation from January 2011 to March 2011 (summary of the responses published on 5.7.2011)
- Public consultation by Green Paper on the modernisation of the Directive (over 420 replies, summary published on 19.12.2011)
- EP Report of 15 November 2011
- Several hearings and conferences
- Study evaluating the Directive against recent educational reforms





Objectives for the reform

- Foster **access to information** and introduce **e-government** facilities
- Reduce the **complexity of procedures** through a European Professional Card
- Modernise **automatic recognition**, notably for nurses, midwives, pharmacists and architects
- Reform the rules on **establishment** and **free provision of services**
- Offer a legal framework for **partially qualified professionals** and **notaries**
- Clarify the **safeguards of patients** linked to language skills and risks of malpractice
- Ensure a greater transparency of **regulated professions**





Scope of the proposal

- Amending Directive
 - Directive 2005/36/EC on the recognition of the professional qualifications
 - Regulation on administrative cooperation through the Internal Market information System





Problem area 1

“Information and e-government for citizens”





Impact Assessment

- **Problems**
 - Difficult identification of competent authorities and documents required
 - Limited use of electronic means in recognition procedures
- **Proposed actions**
 - Extend the scope of the PSC to all professions: central online access point for the recognition of qualifications (with possibility to submit applications electronically)
 - Mandatory use of IMI for the professions covered by the PQD





Impact Assessment

- **Impacts of the proposed actions:**
 - Easier access to all administrative procedures for establishment and provision of services, for all professions
 - Improved efficiency thanks to the use of electronic procedures
 - Improved consistency between PQD and Services Directive
 - Limited costs thanks to the development of existing structures
 - Additional workload for extending the scope of PSC: between **100 and 300 working days** for each MS





Legislative proposal

- **Relevant provisions in the proposal:**
 - Central online access to information (Art. 57)
 - All relevant information on regulated professions and recognition procedures
 - Procedures by electronic means (Art. 57a)
 - Possibility to complete procedures online through PSC
 - Assistance centres (Art. 57b)
 - Assistance and advice to citizens





Problem area 2

“Efficiency of recognition procedures”





Impact Assessment – Problem definition

- **Problems**

- a. **Length of recognition procedures**

- 40% of SOLVIT cases related to PQD in 2010 concerned not respect of deadlines by competent authorities
 - No impact on citizens of quicker communications between competent authorities (through IMI)

- b. **Compensation measures**

- Lack of justification / lack of proportionality
 - Availability and organisation of compensation measures

- c. **No common platforms**





Impact Assessment

a. Length of recognition procedures

- **Proposed action: European professional card**
 - Involvement of the home MS in the treatment of applications
 - Developments in IMI: repository of professionals' files
 - Public interface
 - Shorter deadlines and tacit authorisation
 - Voluntary tools; to be made available for the interested professions
- **Reactions to the Green Paper:**
 - Large support from MS (14) and stakeholders to the idea of accelerating recognition procedures; suggestions on deadlines taken on board
- **Impacts of the proposed action:**
 - Quicker recognition procedures for citizens
 - Reduced workload for the host MS
 - Workload of the home MS constant (equivalent to the issuance of certificates)
 - Systematic use of IMI: rationalisation, increased trust
 - Development costs for IMI: **124000 EUR**
 - Development online application tool (public interface): **380000 EUR**





Legislative proposal

European professional card

- **Relevant provisions in the proposal:**
 - Definition of the European professional card (Art.3(a)): electronic certificate
 - Principles of the European professional card (Art. 4a, 4b): need for implementing acts
 - Application for the card and IMI file (Art. 4b)
 - Use for temporary provision of services (Art. 4c)
 - EPC replaces declaration for two years
 - Valid at the same time in all MS requested for
 - Use for establishment (Art. 4d)
 - Reduce time for recognition by 50%
 - Validation by host Member State remains but challenge of tacit authorisation
 - Data protection (Art. 4e)





Impact Assessment

b. Compensation measures

- **Proposed actions:**
 - Better justification of compensation measures
 - Ensure a regular organisation of compensation measures
- **Impacts of the proposed actions:**
 - More appropriate use of compensation measures
 - Better understanding by the applicants
 - Quicker access to the profession in the host MS
 - Possible costs linked to the organisation of more compensation measures justified by immediate benefits for migrants





Legislative proposal

Compensation measures

- **Relevant provisions in the proposal:**
 - Condition for compensation measures (substantially different matters) (Art. 14(1, 4-5))
 - Implementing decision on derogation request within six months (Art. 14(2))
 - Motivation of decisions imposing compensation measures (Art. 14(6))
 - Organisation of aptitude tests twice a year (Art.14 (7))





Impact Assessment

c. No common platform

- **Proposed actions: Revising the concept of common platform**
 - Reduce the threshold to start a common platform
 - Allow for automatic recognition on the basis of a common set of competencies
- **Reactions to the Green Paper:**
 - Large majority of MS (17) and professional organisations in favour of reshaping common platforms
- **Impacts of the proposed action:**
 - New opportunity for obtaining recognition without compensation measures
 - Costs linked to the set up of common platforms compensated by the reduction of the number of compensation measures





Legislative proposal

Revision of common platforms

- **Relevant provisions in the proposal:**
 - Common training frameworks (Art.49a): harmonisation of training on the basis of a common set of knowledge, skills and competences
 - Common training tests (Art.49b): no harmonisation of training but common aptitude test for access to the profession
 - Qualifications automatically recognised
 - Possible derogations
 - Use of delegated acts





Problem area 3

“Functioning of the system of automatic recognition”





Impact Assessment – Problem definition

- **Problems**

- a. **Notification of new diplomas**

- Automatic recognition depends on the accuracy of the Annexes (title missing / non compliance with training requirements)
 - Burdensome assessment of architecture diplomas
 - Late notifications

- b. **Minimum training requirements**

- Minimum training periods for doctors, nurses and midwives
 - Admission requirements for nurses and midwives
 - Restriction in opening up new pharmacies
 - Medical/dental specialities
 - Minimum raining period for architects

- c. **Automatic recognition of professional experience**





Impact Assessment

a. Notification of new diplomas

- **Proposed action: National compliance function**
 - Independent body to assume compliance function (including timely (re)notification)
 - Report from compliance body with each notification
 - The national compliance report does not replace examination by Commission and MS
- **Impact of the proposed action**
 - Safeguarding automatic recognition
 - Ensure timely notification
 - Easier examination of diplomas
 - De facto existence of national compliance bodies (no need for setting up new bodies)





Legislative proposal

Notification of diplomas

- **Relevant provision in the proposal: Article 21a**
 - Notification to the Commission (and other MS for architects)
 - Accompanied by a report from an appropriate authority or body
 - Update of the Annexes via delegated acts
 - Implementing decision on non compliance





Impact Assessment

b. Minimum training requirements

- **Proposed actions**

- Clarification in the minimum number of years and training hours for doctors, nurses and midwives; minimum duration can be expressed in ECTS
- **Doctors:** adaptation of the number of years
- **Medical/dental specialities:** threshold to one third and possibility of partial exemptions
- **Nurses and midwives:** entry level after 12 years of general education or equivalent level
- **Pharmacists:** delete Article 21(4)
- **Architects:** minimum 6 years of training, consisting of minimum 4 years of academic training and 1 year of practical experience





Impact Assessment

b. Minimum training requirements

- **Reactions to the Green Paper:**
 - Majority of MS and stakeholders in favour of the proposed changes
- **Impact of the proposed actions**
 - Legal certainty on duration of training and more flexibility for doctors; possibility to use ECTS
 - Maintain trust and confidence in nurse and midwife education
 - End of discrimination for foreign pharmacists
 - Strengthen mutual trust for specialised doctors/dentists
 - Meet international educational standards for architects while providing flexibility





Legislative proposal

Minimum training requirements

- **Relevant provisions of the proposal (doctors)**
 - Article 24
 - Basic medical training: at least 5 years (possibility to express it in ECTS) consisting of 5500 hours
 - Possibility to specify skills and competences via delegated act
 - Article 25
 - Admission to specialist training based on basic medical training
 - Possibility of partial exemptions if the same training was followed in the same MS
 - Notification to the Commission and MS of legislation and justification
 - Delegated acts to adapt minimum periods of training
 - Article 26: inclusion of new medical specialities common to at least 1/3 of the MS via delegated acts
 - Article 28: admission to specific training in general medical practice based on basic medical training





Legislative proposal

Minimum training requirements

- **Relevant provisions of the proposal (nurses)**
 - Article 31
 - Admission contingent upon 12 years of general education or equivalent
 - Possibility to amend the education programme via delegated act
 - Training of at least 3 years consisting of 4600 hours
 - Possibility to specify skills and competences via delegated act
 - Article 33
 - Acquired right for general care nurse education with admission level less than 12 years
 - Update of reference for Polish bridging programme





Legislative proposal

Minimum training requirements

- **Relevant provisions of the proposal (dentists)**
 - Article 34
 - Possibility to express basic dental training duration in ECTS
 - Possibility to update the training programme via delegated acts
 - Possibility to specify skills and competences via delegated act
 - Article 35
 - Possibility to express specialist dental training duration in ECTS
 - Possibility to update minimum training duration via delegated act
 - Inclusion of new dental specialities common to at least one third of the MS via delegated acts
- **Relevant provisions of the proposal (veterinaries)**
 - Article 38
 - Possibility to express veterinary training in ECTS
 - Possibility to adapt study programme via delegated acts
 - Possibility to specify skills and competences via delegated act





Legislative proposal

Minimum training requirements

- **Relevant provisions of the proposal (midwives)**
 - Article 40
 - Possibility to adapt midwife study programme via delegated acts
 - Admission requirement to 12 years of general education or equivalent
 - Possibility to specify skills and competences via delegated act
 - Article 41
 - Midwife education of at least 2 years consisting of 3600 hours or at least 18 months consisting of 3000 hours
 - Article 43
 - Acquired right for midwife education with admission level less than 12 years





Legislative proposal

Minimum training requirements

- **Relevant provisions of the proposal (pharmacists)**

- Article 44

- Possibility to express pharmacist training in ECTS
- Traineeship at the end of the training
- Possibility to amend the training programme via delegated act
- Possibility to specify skills and competences via delegated act

- Article 45(2)

- Extension of the list of activities: report on adverse reactions of pharmaceutical products

- **Relevant provisions of the proposal (architects)**

- Article 46

- Training of 6 years, possibly expressed in ECTS, with min. 4 years academic education and min. 1 year practical experience
- Rules on the remunerated traineeship
- Possibility to specify skills and competences via delegated act

- Article 49

- Specific acquired rights for 5 years training





Impact Assessment and legislative proposal

c. Automatic recognition of prof. experience

- **Proposed action**
 - Revision of the classification in a second stage
 - External study
 - Possibility to add activities to Annex IV
- **Impact of the proposed action**
 - More legal certainty
 - Possibility to adapt to changing economic environment while safeguarding existing rights
- **Relevant provision in the proposal: Article 20**
 - Use of delegated act
 - Update or clarify the nomenclature
 - Narrowing of the scope excluded





Problem area 4 “Establishing in another Member State”





Impact assessment - Problem definition

- **Problems**
 - a. Qualification levels**
 - “Exclusion” effect and legal uncertainty
 - Competing classifications (EQF)
 - b. Partial access**
 - ECJ case law
 - Legal uncertainty
 - Link with the number of regulated professions
 - c. Mobility from non regulating to regulating MS**
 - a. Professional experience or regulated education and training





Impact Assessment

a. Qualification levels

- **Proposed actions: refocus and simplify the classification of education levels**
 - Classification to be used as a benchmarking tool to examine if there are substantial differences
 - Possible use of ECTS in the comparison of qualifications
 - Exception for applicants without any formal qualification seeking access to profession requiring university diploma
 - Possibility for MS to give no choice in the compensation measure (test or stage) if 2 or more levels of difference





Impact Assessment

a. Qualification levels

- **Impact of the proposed actions**
 - Greater flexibility in the use of the general system (application are not rejected if there are 2 levels of difference in the qualifications)
 - Reduce legal uncertainty
 - Possible need for more compensation measures
- **Context**
 - **Green Paper:**
 - Majority of MS (17) opposed to the deletion of the classification; need to maintain a common language for comparison of qualifications
 - Stakeholders divided on this question but many are in favour of keeping the classification until EQF is fully implemented
 - **EP Report** in favour of the deletion of qualification levels





Legislative proposal

Qualification levels

- **Relevant provisions in the proposal: Articles 3(2), 11, 12 and 13**
 - Use of ECTS in the definition of the levels
 - Reformulation of level (c) and deletion of Annex II
 - Reformulation of level (e) for a clearer distinction between level (d) and (e)
 - Derogation for levels (d) and (e) for holders of an attestation of competence
 - Update of Annex I via delegated act; implementing decision on non compliance (reserve of professional title – Art. 52(3))
 - Clarification on the equal treatment of qualifications





Impact Assessment

b. Partial access

- **Proposed action**

- Introduce the possibility of partial access in the Directive except for professions with public health implications

- **Impact of the proposed action**

- More legal certainty and encouragement to use partial access
- Better protection of consumer and patient safety

- **Context**

- **Green Paper**: mixed views from MS and stakeholders on partial access, strong reservations on health professions; support from professions in the construction sector
- **EP Report** called for case by case application with exclusion of professions with health and safety implications





Legislative proposal

Partial access

- **Relevant provision in the proposal: Article Articles 1, 4 and 4f**
 - Conditions of applying partial access based on the ECJ case law
 - Possibility of rejection of partial access (reasons of general interest, e.g. public health)
 - Applies both to establishment and free provision of services
 - Exercise of the profession under the home MS professional title





Impact Assessment and legislative proposal

c. Mobility from non regulating MS

- **Proposed action**
 - Remove all specific requirements imposed on professionals coming from non regulating MS in case of establishment (2 years of prof.exp or regulated education)
- **Impact of the proposed action**
 - Larger scope for the Directive
 - Simplification of administrative requirements
 - Facilitate the mobility of young professionals
 - All applications under the general system examined in the same manner
- **Relevant provision in the proposal**
 - Article 13: Recognition based on an attestation of competence or evidence of formal qualifications issued by another Member State which does not regulate the profession





Problem area 5

“Moving on temporary basis”





Impact assessment - Problem definition

- **Problems**

- a. **Mobility with prior check of the qualifications**

- Extensive use of the derogation for professions with health and safety implications
 - Lack of legal certainty: in some MS it is up to individual competent authorities to decide on case by case basis for which professions a prior check of qualifications is required

- b. **Professionals from non regulating MS**

- Safeguards not always justified from a consumer protection point of view (professional moving together with the client) and might go against the consumer's choice





Impact assessment

a. Mobility with prior check of the qualifications

- **Proposed action**

- MS to produce a comprehensive list of professions with health and safety implications
- Need for a detailed justification for the prior check

- **Impact of the proposed action**

- Legal certainty for professionals
- Streamline the procedure allowing for a clearly foreseeable timeline





Legislative proposal – Temporary mobility with prior check of qualifications

- **Relevant provisions in the proposal:**
 - Article 7(2)(e)
 - Possibility to require proof of no suspension or conviction
 - Article 7(2a)
 - Declaration valid through the entire territory of the MS
 - Article 7(4)
 - MS to notify to the Commission the list of professions for which prior check is necessary
 - Specific justification for each profession
 - Clarification of deadlines
 - Article 8(1)
 - Possibility to ask details on the training of the professional





Impact assessment

b. Professionals from non regulating MS

- **Proposed action**
 - Exempt professionals accompanying consumers from the 2 years of experience or regulated education
 - Exclude professional activities with health and safety implications
- **Reactions to Green Paper**
 - Small majority of MS (12 vs 8) supporting this idea; no consensus from professional organisations
- **Impact of the proposed action**
 - Flexible solution for professionals
 - Reduction of administrative burden
 - Meeting consumer choice





Legislative proposal – Mobility from non regulating MS

- **Relevant provision in the proposal: Article 5(1)(b)**
 - Service provider is accompanying the service recipient
 - Recipient's habitual residence on the territory of the provider's MS of establishment
 - The profession is not on the list of professions with health and safety implications (Article 7(4))





Problem area 6 “Scope of the Directive”





Impact assessment - Problem definition

- **Problems**

- a. **Remunerated traineeship**

- Gap between policies fostering mobility of students and professionals
 - Legal uncertainty for professionals

- b. **Notaries**

- ECJ judgment of May 2011





Impact assessment

a. Remunerated traineeship

- **Proposed action**

- Enlarge the scope of the Directive to cover “partially qualified professionals”: application of the general system
- Clarify the situation in the home MS (recognition of the remunerated traineeship carried out in another MS)

- **Impact of the proposed action**

- Extend the scope of the Directive
- Foster the mobility of young professionals
- Coherence between EU policies





Legislative proposal

Remunerated traineeship

- **Relevant provisions in the proposal: Articles 1, 2, 3 and 55a**
 - Extension of the scope of the Directive
 - Definition of remunerated traineeship
 - Home MS to recognise remunerated traineeship pursued abroad and certified by that MS





Impact assessment

c. Notaries

- **Proposed action:**
 - Extend the Directive to notaries in case of establishment and provision of services (under specific conditions):
 - Compensation measures for establishment:
 - Possibility for MS to take into account the specific activities of the notary on its territory
 - No choice between the adaptation period and the aptitude test
 - Provision of services
 - Exercise of the profession under the home professional title
 - Law of the MS of establishment, European or international law
 - Exclusion of authentic deeds
- **Impact of the proposed action**
 - Clarifying the situation of mobile notaries
 - Legal certainty
 - Comprehensive: both establishment and provision of services are covered





Legislative proposal

Notaries

- **Relevant provisions in the proposal: Articles 5(4) and 14(3)**
 - Recital explaining establishment
 - Compensation measure: possibility to take into consideration the specific activities of the profession
 - Exclusion of authentic instruments and other activities of authentication requiring the seal of the host MS





Problem area 7 “Protection of patients”





Impact assessment - Problem definition

- **Problems**
 - a. **Guarantees on the status of the professional**
 - Continuous professional development not covered by the Directive, no common understanding across MS
 - Health professional out of practice for many years
 - Legal status of the professional
 - b. **Language knowledge**
 - No particular mean prescribed to enforce the existing obligation
 - Concerns only regarding health professionals





Impact assessment

a. Guarantees on the status of the professional

- **Proposed action: alert mechanism and transparency on CPD**
 - Existing possibility to require information on the status of the professional
 - Introduce a system allowing Europe-wide alerts (between competent authorities) if professional are forbidden to exercise
 - Regular reports on CPD policies
- **Impact of the proposed action**
 - Reduce the risk of abuse from banned health professionals
 - Increased confidence in automatic recognition
- **Context**
 - **Green Paper**: large majority of MS (20) and stakeholders supporting a European-wide alert mechanism; divided views on CPD
 - **EP Report** in favour of the introduction of CPD into the recognition procedure and demands comparability table and exchange of information on national requirements





Legislative proposal – Guarantees on the status of the professional

- **Relevant provisions in the proposal**

- Article 56a

- Extensive alert mechanism: information to all MS on the identity of a professional who has been prohibited from pursuing, even temporarily, a health profession (subject to automatic recognition)
- Limited alert mechanism for professions not covered neither by the Services Directive nor by the extensive alert mechanism (unemployed, bailiffs, notaries)
- Implementing acts

- Article 22

- Publicly available reports each 5 year on continuing education and training for sectoral professions (except architects)

- Article 50(3a)

- Possibility to require confirmation of legal status





Impact assessment

b. Language knowledge

- **Proposed action**
 - Clarify the rules of enforcement on a case by case basis, in line with ECJ case law
 - Cover cases where there is no employer to check the professional's language skills
- **Reactions to the Green Paper:**
 - Large majority of MS (20) in favour of amending the Directive for clarifying the rules applying to health professionals; approach also welcomed in the health sector
- **Impact of the proposed action**
 - Ensures patient safety
 - Limited impact on mobility





Legislative proposal

Language knowledge

- **Relevant provisions in the proposal**
 - Article 7(2)(f)
 - Evidence of language knowledge for sectoral professions in case of free provision of services
 - Article 53
 - Language check only after the recognition of the professional qualifications; only in case of serious and concrete doubt
 - Professions with patient safety implication: systematic check if requested by national health care system or patient organisations
 - One of the official languages of the MS at the choice of the professional
 - Check of language skills must be free of charge; possibility of appeal





Problem area 8

“Lack of transparency and justification of qualifications requirements in regulated professions”





Impact Assessment

- **Problems**

- Great diversity of regulated professions, reserved tasks and qualifications requirements across EU MS
- Lack of transparency and justification of qualifications requirements and reserved tasks
- Link between regulated professions and public policy objective sometimes unclear
- Possible impacts on competition and cross border trade in professional services

- **Context**

- Results of the mutual evaluation process of the Services Directive
- EP Resolution called to reduce the number of regulated professions
- Ongoing reforms on regulated professions in some MS





Impact Assessment

- **Proposed actions:**
 - Organise a greater transparency on the regulation of the professions: obligation for MS to list and justify the professions they regulate
 - Launch a mutual evaluation of the national legislations regulating access to the professions: “cleaning exercise”; peer review
- **Discarded option:**
 - European-wide deregulation of certain professions





Impact Assessment

- **Impacts of the proposed actions:**
 - More clarity on the scope of regulated professions; better understanding of the need for regulation
 - Impact on mobility: easier comparison of qualifications between MS
 - Comparison of regulatory approaches, sharing best practices
 - Incentive to simplify the regulatory framework
 - Costs:
 - Transparency exercise: btw €3700 and €115000
 - Mutual evaluation: btw €400 and €7000





Legislative proposal

- **Relevant provisions in the proposal:**
 - Transparency and mutual evaluation (Art.59):
 - Notification of regulated professions
 - Examination according to the following principles: non-discrimination, public interest, proportionality
 - Identification of the requirements to be maintained / to be removed or made less stringent
 - Report to the Commission and observations of the reports submitted by other MS
 - Summary report by the Commission
 - Communication to EP and Council





Technical errors

- Article 21(6)
 - First subparagraph should stay

