

Recognition of professional qualifications: European Professional Card supported by the Internal Market Information System (IMI)

2011/0435(COD) - 19/12/2011 - Legislative proposal

PURPOSE: to amend [Directive 2005/36/EC](#) on the recognition of professional qualifications with a view in particular to creating the **European professional card** and making use of the Regulation on administrative cooperation through the Internal Market Information (IMI) System.

PROPOSED ACT: Directive of the European Parliament and of the Council.

BACKGROUND: even if mobility within the European Union of qualified professionals, a Eurobarometer poll in 2010 shows that **28% of EU citizens** are considering working abroad. In this context, the recognition of professional qualifications is essential to ensure that European citizens may genuinely benefit from the fundamental freedoms of the internal market and respond to the needs of Member States facing **increasing shortages of skilled workers**, in particular in sectors such as health, education, construction or business services.

The Communication on the [Single Market Act](#) identified the **recognition of professional qualifications as a major issue**. It underlined the need for the modernisation of the existing framework. On 23 October 2011, the European Council invited the Institutions to undertake their utmost to reach a political agreement by the end of 2012 on the 12 initiatives in the Single Market Act, including on a Commission proposal for modernising Directive 2005/36/EC. The European Parliament also called for urgent action in its [report](#) dated 15 November 2011.

IMPACT ASSESSMENT: the Commission conducted an impact assessment on various policy alternatives. This analysis identified eight groups of problems, deriving mainly from the outcome of the evaluation and from the reactions to the Green Paper. These groups of problems cover: the access to information on recognition procedures, the efficiency of recognition procedures, the functioning of the automatic recognition system, the conditions applying to establishment and those applying to temporary mobility and the scope of the Directive. Since public health emerged as a particular issue during the evaluation, the protection of patients has also been mentioned in the problem definition.

The analysis identified three general objectives:

- facilitating the mobility of professionals and the intra-EU trade in services,
- addressing the challenge of filling high-skill jobs and
- offering more possibilities for job seekers.

A wide range of options were examined for each group of problems. The [main conclusions of the impact assessment](#) relating to each group of problems addressed are published in parallel with this proposal.

LEGAL BASIS: Articles 46, 53(1), Article 62 and 114 of the Treaty on the Functioning of the European Union (TFEU).

CONTENT: the Commission is not proposing a new Directive but a **well-targeted modernisation of the existing provisions**. The main proposed changes relate to:

- **The creation of a European Professional Card:** to reduce the complexity of procedures, it is proposed to create a European Professional Card (EPC). The EPC will be an alternative tool which can be implemented for those professions which meet several objectives:

- bottom-up demand by members of the profession,
- significant mobility and
- better cooperation between competent authorities through IMI.

The EPC also offers potential for those professions interested mainly in temporary mobility. The introduction of the EPC will **depend on whether professions request its introduction**. The EPC aims to facilitate and accelerate the recognition procedure while at the same time making it more transparent. Therefore, the card requires more involvement by the home Member State, which implies **the shift of certain costs and administrative burdens from the host Member State to the home Member State**.

The use of the Internal Market System becomes compulsory under the Directive. Since the successive extensions of IMI to cover all recognition mechanisms under the Directive, a significant number of competent authorities use IMI regularly with good results. Therefore, the proposal obliges Member States to use IMI for the exchange of information relating to recognition of professional qualifications. The use of IMI should reduce costs.

The proposal lays down in detail the framework and the rules applicable to the issue of an EPC. The EPC's advantages include reduced deadlines for the treatment of an application on the basis of the European professional card compared to the current procedure which will continue to exist for professionals preferring not to use the EPC.

- **Reforming the general rules for establishing in another Member State or moving on a temporary basis:** a special regime for the free provision of services on a temporary basis was introduced through Directive 2005/36/EC. It foresees lighter rules for temporary service providers: they can provide services without the prior check of professional qualifications (except for professions with health and safety implications).

Several amendments are proposed in this context. **By removing the professional experience requirement imposed on service providers** from non-regulating Member States when the service provider accompanies the service recipient, the proposal seeks to better cater to the needs of consumers crossing borders. Where the requirement of professional experience still applies, the proposal foresees that it can be acquired in one or several Member States which creates more opportunities for the services providers compared to the current situation.

For professions with health and safety implications, Member States implemented the prior check of qualifications in diverse ways which has led to legal uncertainty for service providers. The proposal addresses this issue by requiring Member States not only to provide **a list of all professions** they consider as belonging to this category but also to justify their reasons for the inclusion of each profession. The proposal also clarifies the list of documents **a Member State may require** prior to the first provision of services.

Two additional changes are proposed:

- **general system:** the revision concerns the existing possibility to exclude on the basis of Article 11 certain qualifications from the scope of the Directive when there are two or more levels of difference between the professionals' training and the requirements in the host Member State. The qualification levels should, in principle, be used only as a benchmarking tool and **not as a basis for**

excluding professionals from the scope of the Directive. The only exception relates to persons whose qualifications are based on professional experience who are seeking access to a profession requiring a university degree;

- **partial access:** it is also proposed to introduce the concept of partial access into the Directive. This will bring more legal certainty for professionals and will allow professionals fulfilling the conditions for partial access to establish themselves or to provide services where they were previously excluded from the benefits of the Directive. However, Member States may not apply this principle where there are overriding reasons such as in the case of health professions.

- **Modernising the system of automatic recognition:** the proposed change in this field aims at introducing more flexibility for the Commission to adapt the list of activities contained in Annex IV of this Directive. This list no longer reflects the current structure of economic activities.

As regards **automatic recognition based on minimum training requirements**, in order to improve transparency at EU level, the proposal requires each Member State to notify the legislative, regulatory and administrative provisions related to the issuing of new or changed qualifications. Member States will also be obliged to involve an appropriate existing authority or body, such as an accreditation board or a ministry, to report about the compliance of the qualification with the Directive's minimum training requirements.

The proposal also includes:

- new provisions to enhance **the mobility of doctors (in particular specialists), nurses, architects and pharmacists;**
- **a series of common training principles:** a common training framework or common training tests. These aim at introducing more automaticity in the recognition of qualifications currently covered by the general system and should better respond to the needs of the professions. The qualifications obtained under this regime should be automatically recognised in the Member States which might however benefit from derogations in applying them. In addition, the conditions for setting up common training principles are less difficult to fulfil than the conditions for setting up common platforms.

- **Offering a legal framework in the Directive for partially qualified professionals and for notaries:** the proposal extends the scope of the Directive to professionals who hold a diploma but have yet to complete a remunerated traineeship which might be required under the law of the Member State where they graduated (this can apply, for example, to lawyers, architects and teachers). Furthermore, in response to a Court of Justice decision that **nationality requirements cannot be imposed on notaries**, the scope of the directive needs therefore to be clarified. Considering the specificities of the profession, the rules on establishment and free provision of services have to be well tailored.

- **Clarifying safeguards for patients:**

- the checking of language knowledge is to take place only after the host Member State has recognised the qualification. In the case of health professionals, it also specifies that it is up to the national health care systems and patient organizations to check whether competent authorities should carry out language controls where strictly necessary;
- national competent authorities are **obliged to alert each other** in case a health professional benefiting from automatic recognition under the Directive is prohibited, even temporarily, to practice the profession.

- **Access to information on rules applicable to recognition of qualifications:** to allow an easy identification of the competent authority and the required documents for a recognition request, the proposal foresees that the **points of single contact**, created under the Services Directive, become central

online access points for all professions covered by the Professional Qualifications Directive. Therefore, the scope of the points of single contact is extended to categories of professionals not covered by the Services Directive (health professionals and job seekers).

- **Launching a systematic screening and mutual evaluation exercise for all regulated professions in the Member States:** lastly, the proposal provides for the introduction of an obligation for Member States to notify a list of professions they regulate and to assess their legislation on the access to regulated professions against the principles of necessity (public interest), proportionality and non-discrimination.

BUDGETARY IMPLICATION: the proposal is expected to have implications for the EU budget to the extent that the future EPC will use the IMI System as its operational backbone. The IMI will have to be adapted to the EPC processes and storage requirements and supplemented with some additional functions, namely a specific interface, an alert mechanism and a declaration mechanism. The implications for the EU budget are already covered by planned allocations and will however be modest in view of the fact that using the IMI to underpin the EPC will provide important economies of scale and scope. The adaptation and development costs will therefore be substantially reduced.