

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

2011/0435(COD) - 09/10/2013 - Text adopted by Parliament, 1st reading/single reading

The European Parliament adopted by 596 votes to 37, with 312 abstentions, a legislative resolution on the proposal for a directive of the European Parliament and of the Council amending Directive 2005/36/EC on the recognition of professional qualifications and Regulation on administrative cooperation through the Internal Market Information System.

Parliament adopted its position at first reading, following the ordinary legislative procedure. The amendments adopted in plenary were the result of a compromise reached between the European Parliament and the Council. They amend the Commission proposal as follows:

Subject-matter and scope: Directive 2005/36/EC is amended to stipulate that it seeks to establish rules concerning partial access to a regulated profession and recognition of professional traineeships pursued in another Member State.

It should be noted that this Directive should not apply to notaries who are appointed by an official act of government.

Professional traineeships: when a graduate completes a professional traineeship in another Member State, the traineeship in question should be recognised when the graduate applies for accessing a regulated profession in the home Member State. The recognition of a professional traineeship completed in another Member State should be based on a clear written description of learning objectives and assigned tasks, to be determined by the trainee's supervisor in the host Member State. Professional traineeships completed in third countries should be taken into account by Member States when considering a request to access a regulated profession.

Partial access: the recognition of professional qualifications by the host Member State should allow beneficiaries to gain access in that Member State to the same profession as that for which they are qualified in the home Member State and to pursue it in the host Member State under the same conditions as its nationals.

By way of derogation, the competent authority of the host Member State should grant partial access, on a case-by-case basis, to a professional activity in its territory only when all the following conditions are fulfilled:

- the professional is fully qualified to exercise in the home Member State the professional activity for which partial access is sought in the host Member State;
- differences between the professional activity legally exercised in the home Member State and the regulated profession in the host Member State as such are so large that the application of compensation measures would amount to requiring the applicant to complete the full programme of education and training required in the host Member State to have access to the full regulated profession in the host Member State;

Where there are overriding reasons of general interest, a Member State should be able to refuse partial access. This may in particular be the case for health professions if they have public health or patient safety implications.

Requirement of a minimum of one years professional experience: in the interest of protecting local consumers in the host Member State, temporary and occasional provision of services in Member States should be subject to safeguards, in particular a requirement of a minimum of one year's professional experience during the last ten years preceding the provision of services, in cases where the profession is not regulated in the home Member State.

The condition of one year's pursuit shall not apply if the profession or the education and training leading to the profession is regulated.

European Professional Card: it is stated that the purpose of the European Professional Card is to simplify the recognition process and to introduce cost and operational efficiencies that will benefit professionals and competent authorities. The introduction of a European Professional Card should take into account the views of the profession concerned and should be preceded by an assessment of its suitability for the profession concerned and its impact on Member States. The European Professional Card should be issued at the request of a professional and after submission of necessary documents and completion of related verification procedures by the competent authorities.

Where the European Professional Card is issued for the purpose of establishment, it should constitute a recognition decision and be treated as any other recognition decision under Directive 2005/36/EC. It should complement rather than replace any registration requirements associated with access to a particular profession.

For the purpose of establishment, the issuance of a European Professional Card should not provide an automatic right to practise a particular profession if there are registration requirements or other control procedures already in place in the host Member State before a European Professional Card is introduced for that profession.

A European Professional Card may be issued for establishment or for the temporary and occasional provision of services according to strict conditions laid down in the amendment to the Directive.

Provisions are laid down to establish a framework for the introduction of a European Professional Card for particular professions, by implementing acts.

There is no need to introduce a European Professional Card for the legal professions for which professional cards already exist (e.g. for lawyers).

Professional Card and Internal Market Information System (IMI): the amended Directive stipulated that the functioning of the European Professional Card should be supported by the Internal Market Information System (IMI) established by Regulation (EU) No 1024/2012 of the

European Parliament and of the Council. The Card and IMI should enhance synergies and trust among competent authorities, while at the same time eliminating duplication of administrative work and recognition procedures for the competent authorities, and creating more transparency and certainty for professionals.

The process for the application and issuing of the European Professional Card should be clearly structured and incorporate safeguards and the corresponding rights of appeal for the applicant. Implementing acts should specify translation requirements and the methods of payment of any fees to be provided by an applicant so that the workflow in IMI is not disrupted or impaired and the processing of the application is not delayed.

Fees: setting the level of fees is a matter for Member States. Member States should however notify the Commission about the level of fees set.

Professional card and data protection: the European Professional Card and the related workflow within IMI should ensure the integrity, authenticity and confidentiality of the data stored and avoid unlawful and unauthorised access to information contained therein.

Common training frameworks: common training framework should mean a common set of minimum knowledge, skills and competences necessary for the pursuit of a specific profession. A common training framework shall not replace national training programmes unless a Member State decides otherwise under national law.

It should be possible for common training frameworks also to cover specialties that currently do not benefit from automatic recognition provisions under Directive 2005/36/EC and that relate to professions encompassed by Chapter III of Title III and that have clearly defined specific activities reserved to them. Common training frameworks on such specialties, in particular medical specialties, should offer a high level of public health and patient safety. Professional qualifications obtained under common training frameworks should automatically be recognised by Member States.

Professional organisations which are representative at Union level and, under certain circumstances, national professional organisations or competent authorities should be able to submit suggestions for common training principles to the Commission, in order to allow for an assessment with the national coordinators of the possible consequences of such principles for the national education and training systems, as well as for the national rules governing access to regulated professions.

Regulated professions: specific provisions are provided for a certain number of regulated professions in the Member States. These professions include:

(1) Doctors: to ensure a high level of public health and patient safety within the Union and modernising Directive 2005/36/EC, it is necessary to modify the criteria used to define the basic medical training so that conditions relating to the minimum number of years and hours become cumulative. The objective of this modification is not to lower the training requirements for basic medical education.

(2) Nurses: nurse training, the organisation of which still differs according to national traditions, should provide a more robust and more output-oriented assurance that the professional has acquired certain knowledge and skills during the training, and is able to apply at least certain competences in order to pursue the activities relevant to the profession. New provisions have been introduced to strengthen the minimum level of training for nurses. They should be able to prove by a diploma or certificate that they received at least 10 years of general education.

(3) Midwives: in order to prepare midwives to meet complex healthcare needs relating to their activities, midwifery trainees should have a solid general education background before they start midwifery training. Therefore, admission to midwifery training should be increased to 12 years of general education or successful examination of an equivalent level, except in the case of professionals who are already qualified as a nurse responsible for general care.

(4) Pharmacist: a significant number of Member States have decided to allow access to all activities in the field of pharmacy and the pursuit of these activities based on the recognition of qualifications of pharmacists acquired in another Member State since the entry into force of Directive 2005/36/EC. Such recognition of a professional qualification acquired in another Member State should not, however, prevent a Member State from maintaining non-discriminatory rules governing any geographical distribution of pharmacies on their territory because Directive 2005/36/EC does not coordinate such rules. However, any derogation from the automatic recognition of qualifications which is still necessary for a Member State should no longer exclude pharmacists who are already recognised by the Member State using such derogation and who have already been lawfully and effectively practising as a pharmacist for a certain period on the territory of that Member State.

(5) Other regulated professions: specific measures have also been provided to improve the professional recognition of architects and veterinary surgeons.

Continuous professional development: Member States should in particular encourage continuous professional development for doctors of medicine, medical specialists, general practitioners, nurses responsible for general care, dental practitioners, specialised dental practitioners, veterinary surgeons, midwives, pharmacists and architects. The measures taken by Member States to promote continuous professional development for those professions should be communicated to the Commission, and Member States should exchange best practice in that area. Continuous professional development should cover technical, scientific, regulatory and ethical developments and motivate professionals to participate in lifelong learning relevant to their profession.

Language controls: competent authorities should be able to apply language controls after recognition of professional qualifications. Language controls should however be reasonable and necessary for the professions in question and should not aim at excluding professionals from other Member States from the labour market in the host Member State. In order to ensure respect of the principle of proportionality, and in the interests of enhancing the mobility of professionals in the Union, the controls carried out by, or under the supervision of, a competent authority should be limited to the knowledge of one official language of the host Member State, or one administrative language of the host Member State, provided that it is also an official language of the Union. This should not preclude host Member States from encouraging professionals to acquire another language at a later stage if necessary.

Alert mechanism: a specific alert mechanism should apply to veterinary surgeons as well as to professionals exercising activities relating to the education of minors, including professionals working in childcare and early childhood education. All Member States should be alerted if a professional is no longer entitled, due to a disciplinary action or criminal conviction, to practise, even temporarily, the professional activities in a Member State. The alert should contain any available details of the definite or indefinite period to which the restriction or prohibition applies. The alert procedure should comply with Union law on the protection of personal data and fundamental rights.

Delegated acts: in order to take account of generally acknowledged scientific and technical progress, the Commission shall be empowered to

adopt delegated acts to update the knowledge and skills to reflect the evolution of Union law directly affecting the professionals concerned.

Implementing acts: the Commission shall, by means of implementing acts, adopt measures necessary to ensure the uniform application of the provisions on the European Professional Cards, including measures concerning the format of the European Professional Card, the processing of written applications, the translations to be provided by the applicant to support any application for a European Professional Card, details of the documents required to present a complete application and procedures for making and processing payments for a European Professional Card.

Evaluations: several evaluations shall be carried out by the Commission to assess the need to review the current provisions governing the acquired rights regime applicable to the Romanian evidence of formal qualifications as nurse responsible for general care.

Coordinator for the activities of the competent authorities: each Member State should designate a coordinator for the activities of the competent authorities and should inform other Member States and the Commission thereof.

The coordinators' tasks shall be:

- to promote uniform application of this Directive;
- to collect all the information which is relevant for application of this Directive, such as on the conditions for access to regulated professions in the Member States;
- to examine suggestions for common training frameworks and common training tests;
- to exchange information and best practice for the purpose of optimising continuous professional development in Member States;
- to exchange information and best practice on the application of compensation measures.