

**UK GOVERNMENT RESPONSE**

European Commission  
Public Consultation on the  
Mutual Recognition of  
Professional Qualifications  
Directive

MARCH 2011

## 1. Introduction: A stronger single market for professionals

This document sets out the UK Government's suggestions for improving the system for recognising professional qualifications across the EU, in response to the European Commission's consultation.

With the European Union in the midst of the worst economic crisis for over a generation, reforms are needed that cost little, while also having the greatest positive effect on growth and job creation. Recent evidence suggests that there is significant untapped potential in EU services, both in terms of productivity and employment. Reforms that improved the single market in services could have a significant impact on growth within the EU.

Reforming the process for mutual recognition of professional qualifications in the EU is a key achievable priority in improving the single market in services, and creating growth. For further background on UK Single Market policy, please see the UK response to the Single Market Act.<sup>1</sup>

The system for the recognition of professional qualifications has already made vast improvements in the single market for professionals, providing a better climate for business. Harmonisation has been possible in a number of professions which practice similar tasks across all Member States. Nonetheless, the general system remains a complex piece of regulatory architecture. Creating a more effective single market for professionals will require cooperation between all parties.

The complexity of the system is perhaps unsurprising given how the system is formed. The first layer is a Member State decision to regulate a profession in its territory, based on a national view that professional standards are needed. The second layer is the need to recognise equivalent professionals from elsewhere in the EU in order to widen the labour market. A third level is added by the creation of a general system for the recognition of professional qualifications across a vast range of sectors of employment.

We might start by looking at the first layer: are there some professions which no longer need to be regulated, or regulated as heavily? The EU has a vast array of best practice on how professionals can operate without regulation, and this best practice should be shared (recognising that access to certain professions should be regulated to protect the public).

We could simplify the second layer by identifying synergies between similar regulated professions in different Member States, to reduce the need for complex comparisons. Third, we should make the general system for recognition as simple as possible, as well as modernising the system for automatic recognition.

This leads us to a summary of the main suggestions raised in this response:

1. A mutual evaluation process (for professions other than healthcare professions) with the aim of reducing the number of regulated professions (discussed under question 16)

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<sup>1</sup> <http://www.bis.gov.uk/assets/biscore/europe/docs/u/11-760-uk-response-single-market-act>

2. Facilitating focus groups for professions where Competent Authorities can share information about their national systems, discuss best practice and investigate possibilities for aligning their practices(discussed under section 3)
3. Simplifications to the general system (discussed under question 2)
4. Modernise the system for automatic recognition, especially by revision of minimum training requirements (discussed under questions 21-24).

The Directive has very close synergies with the Services Directive. The Services Directive mutual evaluation process revealed major difference in the ways Member States had interpreted the relationship between the recognition of professional qualifications Directive and the Services Directive. The UK would like the Commission to publish an interpretative communication on the interface between the Services Directive and the Directive on professional recognition.

## 2. Simplification

### 2.1 Why simplification

**Question 1: Do you have any suggestions for further improving citizen's access to information on the recognition processes for their professional qualification in another Member State?**

The Europe-wide network of National Contact Points on professional qualifications already provides citizens and Competent Authorities with high a quality source of information. There are two main problems with accessing this information however. Firstly, National Contact Points are not easy to find, and could benefit from greater visibility. One way of improving visibility would be to link National Contact Points (NCPs) into existing well-known platforms:

- Better promotion of NCPs on EU-wide portals and contact points: Your Europe, the EUGO network, Europe Direct
- Linking up NCPs with Points of Single Contact under the Services Directive.
- Promotion on Member States' national information internet portals (such as [www.direct.gov.uk](http://www.direct.gov.uk) in the UK)

In the longer term, we should consider some linkage of professional qualification recognition procedures into Points of Single Contact (discussed further under Question 2).

The main source of information for professionals is often the Competent Authorities themselves. The UK SOLVIT Centre regularly deals with cases of professionals who receive letters from Competent Authorities which do not explain why they have declined their application. A new Directive should emphasise the duty of Competent Authorities to explain:

1. What information they require from the applicant under the Directive (as outlined in the Code of Conduct);
2. Why compensation measures are applied and what options the applicant has for taking compensation measures (as outlined in the Code of Conduct);
3. Why an applicant falls outside the scope of recognition under the Directive.

This information should be made available by electronic means.

Also, an improved resource on the Commission's website detailing the Competent Authority for each recognised profession would allow citizens of Europe identify the relevant body that they should contact.

**Question 2: Do you have any suggestions for the simplification of the current recognition procedures? If so, please provide suggestions with supporting evidence.**

Professionals face some difficulties in current recognition procedures because of bad practices and misapplications of the current legislation. This will be discussed under Question 3. However, some of the difficulties arise from to the current systems for recognition as they are outlined in the current Directive.

## ***Simplifying applications under the general system for recognition (current Title III Chapter I)***

The different number and type of professions regulated in different Member states already makes for a complex system. Possibilities for voluntary alignment of professions between member states are explored under question 16. On top of this, several requirements under the general system are unclear in the current Directive, meaning that recognition procedures can be opaque for professionals and authorities alike. We suggest the following changes:

**Revise the current provisions for education and training levels (Article 11):** we look forward to the proposals of the GHK report on this topic. In addition however, new provisions within the general systems approach must also take into account professional experience. For example, some professionals who come under the general system are mainly recognised in their home country on the basis of professional experience. The host country Competent Authority should recognise attestations of a professional's level of competence from the home Competent Authority which are based on experience as well as education.

When a professional moves from a Member State where the profession is unregulated, the Competent Authority of the host Member State should also take account of the professional's experience, as long as this experience is suitable and demonstrates the relevant level of competence, and academic and non-academic training. The Competent Authority should make it clear what information such a professional should provide, and in what form. It should also be made clear that Competent Authorities should accept a range of different documents as proof of professional experience, since not all Member State Governments provide attestations.

### **Case Study**

UK SOLVIT was recently contacted by an engineer whose application was refused by the host Competent Authority because he had not provided certificates showing his education. The engineer had trained 30 years before and was no longer in possession of the certificates. Since then, he had amassed considerable professional experience. Despite this, the host Competent Authority claimed that it could not verify whether the engineer required compensation measures.

The refusal to recognise the professional at all seems a clear breach of the current Directive, but an enquiry through IMI and greater recognition of professional experience could have shown that compensation measures were not necessary.

It is not always clear under the current Directive whether a professional has to provide information certificates for qualifications as well as attestations from the home Competent Authority. Where the professional has provided an attestation, host country Competent Authorities should **use IMI to clarify the professional's competencies** with the home Competent Authority if it suspects that compensation measures might be needed.

Some professionals also experience delays in obtaining attestations from their home Member State. They should have the option of **applying for recognition without providing an attestation**. The host country Competent Authority can then verify that the professional is recognised in his home country through IMI.

Misapplication of compensation measures has also been a major source of restrictions to free movement – see question 4.

## ***Revising automatic recognition based on professional experience (current Title III Chapter II)***

In some cases, it is unclear whether a professional should apply for recognition under Title III Chapter I or Chapter II of the current Directive. Clarification is needed in this respect. Closer alignment is also needed between qualifications requirements under the two Chapters. If the general system also applies, professional experience levels should be compared with general system levels to ensure the requirements are approximately equal. This will be aided if the general system is amended to enable Competent Authorities to take more account of suitable professional experience where it is appropriate to do so, at least in some professions.

We also suggest that the Articles on length of education and experience should be simplified.

### **Case Study**

An applicant moving to another Member State on a temporary basis had a total of 6 years' experience plus training, but did not strictly meet any of the sub-clause conditions of Article 17. A builder and bricklayer, he had 3 years and 10 months of self-employed experience and 2 years and 10 months of training, which meets neither the Article 17 (a), (b), nor (c) conditions exactly. This caused considerable confusion as to whether the host Member State would accept his Certificate of Experience for automatic recognition.

## ***Simplifying applications for sectoral professions***

Apart from a few minor points covered under other questions, automatic recognition for the sectoral professions appears to run smoothly, facilitating a great deal of movement across borders. There is little scope for simplification of procedures in this area.

## ***Electronic recognition procedures***

To ease the application process, all Competent Authorities should aim in the long term to accept electronic applications. If the authenticity of documents is doubted, Competent Authorities should use IMI to verify these with the Competent Authority in the home Member State. This information is invariably more reliable than certified copies of certificates. In addition to the advantages for professionals, some UK Competent Authorities who accept applications electronically have experienced cost and time savings.

We should also consider making electronic applications accessible through Points of Single Contact set up under the Services Directive, at least for professions who receive many applications, but not for health professions. Further effort is needed now for Points of Single Contact to fully meet the provisions of the Services Directive.

## **2.2 Making best practice enforceable**

***Question 3: Should the Code of Conduct become enforceable? Is there a need to amend the contents of the Code of Conduct? Please specify and provide the reasons for your suggestions.***

The Code of conduct was intended to provide guidance in practice, and the UK does not consider that translation into enforceable regulation would be advisable. It may be worth including individual aspects in the text of the new Directive, where case law supports that these

aspects are already binding on Member States, although the detail of this would need further consideration. Better enforcement of provisions which are already in the Directive or case law would also be effective in boosting mobility.

Where the Code of Conduct is known, it already works well as a tool. The UK National Contact Point regularly advises professionals to quote the Code to Competent Authorities, and this often ensures the application process runs correctly. In addition, processing requirements which are already in legislation are not always implemented on the ground. Therefore, raising awareness of the Code of Conduct is more important than making it enforceable.

### Case Study

A UK-trained teacher with a PGCE and GTCE registration sought registration in another EU Member State. Despite being a UK-qualified teacher, the host teaching authority required detailed information about all of the applicant's prior training dating back to the 1980s. UK NCP quoted the Code of Conduct in advising the individual on her possible courses of action.

### ***Timings (current Article 51)***

Breaches of the deadlines for decisions under the Directive by Competent Authorities often slow or hinder the movement of professionals. The UK SOLVIT Centre and the UK National Contact Point receive many queries from citizens whose applications have not received a decision after four months. We therefore suggest the need for greater enforcement in this area. Reports of breaches from SOLVIT and National Contact Points could be investigated more actively, with the help of National Coordinators.

### Case Study

One UK physiotherapist seeking recognition in another Member State waited four months for a reply from the host Competent Authority, before hearing he needed to submit further information. Seven months later, he was asked to provide the documents again in a different format. A further six months later, he still had not received a decision and contacted the UK NCP.

## **2.3 Mitigating unintended consequences of compensation measures**

***Question 4: Do you have any experience of compensation measures? Do you consider that they could have a deterrent effect, for example as regards the three years duration of an adaptation period?***

It is clear that differences in regulations between Member States mean that compensation measures have to be allowed for, and for some professions there are good public interest grounds for applying proportionate compensation measures in conformity with the Directive. We would however suggest that Competent Authorities who are regularly reported by SOLVIT

and National Contact Points, and others who demand disproportionate compensation measures, should be investigated.

Problems in this area seem more related to implementation than the wording of the current Directive. However, further clarification is needed on what is meant by proportional compensation measures. Implementation in this area could be a topic of discussion in mutual evaluation groups, as detailed under question 16.

It is also unclear to what extent all Member States provide compensation measures where they are required to. Greater transparency as to what constitutes proportionality in terms of (i) geographical spread and availability of provision, (ii) duration, and, (iii) cost of such provision to migrants, and details of practice in other Member States, would be welcomed.

If an individual is assessed as requiring three years of adaptation training, this does give rise to questions about the extent to which the qualification itself provides a firm enough foundation for recognition of qualification. There may well be a case for reducing the maximum length of compensatory training to between 18 and 24 months. If this were the case, where deficiencies in a migrant's qualifications, training, and experience could not be rectified through a compensatory measure of 18 to 24 months duration, then the expectation would have to be that the Competent Authority would refuse recognition.

***Question 5: Do you support the idea of developing Europe-wide codes of conduct on aptitude tests or adaptation periods?***

While it would be helpful to have guidance on what constitutes proportionality in terms of (i) access to adaptation training provision, (ii) duration, and, (iii) cost of such provision, there are very different education and training systems in different Member States and these differences may often be appropriate. We would not want any code to stray into prescribing the approach to delivery of compensatory measures, as the approach taken in one part of Europe might be fundamentally different to the approach taken elsewhere. Different professions may require different kinds of adaptation periods. These could be discussed by Competent Authorities, including in the focus groups outlined under section 3. Focus groups could exchange best practice on compensation measures.

***Question 6: Do you see a need to include the case-law on "partial access" into the Directive? Under what conditions could a professional who received "partial access" acquire full access?***

The provisions of the case law on partial access should be included in an amended Directive. For all professions, it could potentially be useful for migrants to be able to undertake some work while they are undergoing a compensatory measure on the areas of deficiency that would then lead to full recognition. However, we think that any proposals would need to be thoroughly explored with the UK Competent Authorities, as 'partial access' should not be used as an excuse to prevent full access wherever possible.

Full access could be subject to a further assessment by way of the production of a portfolio of evidence of good practice, an aptitude test or the satisfactory completion of a period of supervised and assessed practice overseen by the Competent Authority, or a person accredited by the Competent Authority for these purposes.



### Case Study

A UK aeronautical engineer working on jet engines in another Member State was required to have training in building runways in order to be registered, so he could sign off his repairs. The UK Competent Authority intervened on his behalf, and the Member State allowed him to register on the condition that he did not work on runways.

## 2.4 Facilitating movement of new graduates

**Question 7: Do you consider it important to facilitate mobility for graduates who are not yet fully qualified professionals and who seek access to a remunerated traineeship or supervised practice in another Member State? Do you have any suggestions? Please be specific in your reasons.**

**Question 8: How should the home Member State proceed in case the professional wishes to return after a supervised practice in another Member State? Please be specific in your reasons.**

The UK is a signatory of the Bologna process, and as such is committed to the free movement of graduates. However, variations in national systems mean there are different definitions of what is required for supervised practice, and other individual components of training. Recognition of specific traineeships or supervised practices should be left to discussions between Competent Authorities and training institutions. These could take place in existing discussions among the sectoral professions and in the focus groups proposed below.

Also, while there needs to be equal access for EU nationals, a requirement on a Member State to provide state funded training for migrants, without the need for migrants to compete for access on the same basis as domestic trainees, could disadvantage trainees in the home Member State (who would not be eligible for such state funding). Competitive entry to training programmes for UK nationals is often used as a way of promoting high professional standards by ensuring that only the most suitable candidates qualify for entry to a profession, and it is important that standards are not eroded.

## 2.5 Facilitating movement between non-regulating and regulating Member States

**Question 9: To which extent has the requirement of two years of professional experience become a barrier to accessing a profession where mobility across many Member States in Europe is vital? Please be specific in your reasons.**

In most professions, the requirement for two years of professional experience seems proportionate. Professionals do however experience difficulties in proving professional experience. Increased adherence to the Code of Conduct would prevent this (see question 3).

### Case Study

A university lecturer who gained experience in the UK was asked by the host Competent Authority to provide an official attestation of two years' experience. However, the UK Government does not provide such attestations. The UK NCP referred to the section of the Code of Conduct which outlined what documents should be accepted as proof of experience. However, the lecturer's application for recognition was delayed.

***Question 10: How could the concept of "regulated education" be better used in the interest of consumers? If such education is not specifically geared to a given profession could a minimum list of relevant competences attested by a home Member State be a way forward?***

Greater clarity is needed in this area. The concept of regulated education may benefit from a greater level of information exchange between Member States, to clarify what Member States understand by the term. Where there is no Competent Authority in a Member State, training institutions could attend the focus groups (outlined under section 3) to give general clarifications about the nature of courses to Competent Authorities in other Member States. Providing lists of competences could prove a burdensome reporting requirement, as course types and competences achieved are likely to change often.

The UK National Contact Point reports that at the moment, most professionals have to seek clarification from their home Member State that their education is regulated. Greater use could be made of IMI in this area to speed information transfers (with the National Coordinator or an IMI coordinator involved in contacting the training institution for further details).

### 3. Integrating professionals into the single market

The discussion around a European professional card raises the subject of cooperation between Member States more generally. This response will discuss cooperation between member states which could meet similar aims to a professional card, before considering specific features of a card.

#### ***Forging closer cooperation between Member States: Focus groups***

Although attempts have been made to explore the synergies between professions, these have often been at a general level, whereas differences in training and practice between countries are often specific to individual professions. Common platforms created the potential for cooperation between Competent Authorities across the EU, but in a too restrictive manner.

However, the potential benefits of collaboration between Competent Authorities in specific professions are clear: greater transparency and understanding of national systems for recognition (to assist in understanding applications from different Member States); sharing best practice (such as on compensation measures, the movement of graduates, the use of IMI, the operations of processing applications); identifying possibilities for greater synergies and possible harmonisation, or common projects such as professional cards or European curricula. Collaboration at this level could lead to applications being processed more quickly, compensation measures being applied less frequently, and possibly cooperation at a deeper level.

We would therefore like to suggest the creation of focus groups to fulfil these purposes (where the Competent Authorities do not meet regularly in other fora). These would not have to require substantial resources: they could be facilitated by the European Commission, a National Coordinator or a member of an EU-level professional body. Participation would be voluntary, and could involve professional bodies, training institutions, consumer and business bodies as well as Competent Authorities.

Focus groups could be particularly useful for high-mobility professions which are regulated in most Member States, especially where there is no EU-wide professional body or little EU-level cooperation. This could be said for physiotherapists and teachers, for example. For physiotherapists, there could be considerable scope for greater harmonisation. Even where a profession is not regulated in a number of countries, training institutions and professional bodies could participate and share information about the systems in place.

Such groups would not have to be provided for in legislation, though this may assist the allocation of resources to such a project.

#### **3.1 A European Professional Card**

***Question 11: What are your views about the objectives of a European professional card? Should such a card speed up the recognition process? Should it increase transparency for consumers and employers? Should it enhance confidence and forge closer cooperation between a home and a host Member State?***

***Question 12: Do you agree with the proposed features of the card?***

**Question 13: What information would be essential on the card? How could a timely update of such information be organised?**

**Question 14: Do you think that the title professional card is appropriate? Would the title professional passport, with its connotation of mobility, be more appropriate?**

First, we cannot see the added value of a professional card in the sectoral professions, where it is already easy to check the professional's qualifications, and we would not support development of card schemes for these professions.

For professions under the general system, the practical implications of a professional card need to be investigated further before launching any initiative. First, Competent Authorities would need to discuss this, as they best understand what is needed for recognition and what would be needed to build trust in the card. A professional card would be of most benefit amongst professions with a high level of mobility.

Any professional card should be entirely voluntary to both the professional and the Competent Authorities involved. Competent Authorities could discuss the nature of the card and its administration in focus groups.

After Competent Authorities for a particular profession have agreed the scope of a card, a full cost-benefit analysis of the scheme should be carried out before its implementation (taking account of any case for the standard model to be adapted for certain professions in the public interest). The next stage would be to run a pilot, a trial card for one particular profession, e.g. tourist guides, with the objective of seeing whether mobility was facilitated through use of the card or not.

The cost of a professional card to applicants may limit its usefulness. Also, the information on a professional card may in many cases not be sufficient for Competent Authorities to recognise a professional, as it could not capture all of the information required under the current Directive. Further evidence would be needed of the content of qualifications, for example. Some kind of e-portfolio of experience and qualifications may be required to accompany the card, for example in the Europass format.

“Professional card” seems an appropriate title for this initiative. We look forward to the conclusions of the Steering Group on the professional card before considering the Government's position further.

### **3.2 Abandon common platforms, move towards European curricula**

**Question 15: What are your views about introducing the concept of a European curriculum – a kind of 28th regime applicable in addition to national requirements? What conditions could be foreseen for its development?**

In the sectoral professions, a 28<sup>th</sup> regime would add little to the current system where minimum training standards are harmonised.

For other professions, such a regime would, of course, have to be within the bounds of the Treaty, which places education and training as the responsibility of Member States, on a similar basis to the European Credit System for Vocational Education and Training (ECVET) project.

To establish such a curriculum in a particular profession, Competent Authorities and professional bodies would need to agree themselves on what it would cover. A proper cost benefit analysis of administering a proposed curriculum would then need to be carried out, before a trial European curriculum in one profession. If all Member States are to recognise professionals who train under the European curriculum, then all Member States would need to agree on its content. A European Curriculum should be introduced as a guideline to facilitate development of a common core curriculum, rather than as an additional requirement.

Authorities, professional bodies and interest groups could discuss a European curriculum or increased convergence of their training as part of focus groups outlined above.

### 3.3 Offering consumers the high quality service they demand

**Question 16: To what extent is there a risk of fragmenting markets through excessive numbers of regulated professions? Please give illustrative examples for sectors which get more and more fragmented.**

This is a question which deserves deeper investigation. In creating an open and fair single market for professionals, it is worth investigating whether the number of regulated professions across the EU could be reduced in professions outside the health sector and vets.

#### ***Mutual evaluation of regulated professions***

The mutual evaluation process initiated by the Services Directive revealed in unprecedented depth the changes Member States have been making to improve the single market in services.<sup>2</sup>

It generated a valuable evidence base from which the Commission and Member States can identify where barriers remain in the provision of cross-border services. A similar mutual evaluation process could look at the recognition of professional qualifications across the EU at several different levels:

1. Examining whether professions need to be regulated: starting with the approximately 200 categories of professions which are only regulated in one Member State, or highly mobile professions only regulated in a few Member States, mutual evaluation groups could consider whether these regulations could be removed using objective criteria to assess the proportionality and necessity of the regulatory frameworks.
2. Mapping the extent to which different professions are regulated: from voluntary regulation, to regulation of certain tasks, to the requirement for recognition in order to access a profession;
3. Evaluating implementation of the Directive: looking at specific provisions such as compensation measures, timings;
4. Consulting with professional bodies, training institutions and business and consumer bodies to evaluate ways forward.

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<sup>2</sup> See [http://ec.europa.eu/internal\\_market/services/services-dir/implementation\\_en.htm](http://ec.europa.eu/internal_market/services/services-dir/implementation_en.htm)

Where there is voluntary regulation, mutual evaluation could study the impact this has on the market, either in facilitating or restricting economic activity. For other professions, including the health professions, the need for regulation is clear and a mutual evaluation process would not be needed.

Mutual evaluation could concentrate mainly on the professions which are heavily regulated but where the justification for regulation requires further explanation. These could be looked at according to whether there is an “overriding reason relating to the public interest” for regulating the profession. The EU has a vast array of best practice on how professionals can operate without regulation, and this best practice should be shared.

Alongside a clarifying communication from the Commission, a new Directive could also make the interface with the Services Directive clearer.

***Question 17: Should lighter regimes for professionals be developed who accompany consumers to another Member State?***

This requires further analysis. The potential deregulation of certain professions would seem more useful.

### **3.4 Making it easier for professionals to move temporarily**

***Question 18: How could the current declaration regime be simplified, in order to reduce unnecessary burdens? Is it necessary to require a declaration where the essential part of the services is provided online without declaration? Is it necessary to clarify the terms “temporary or occasional” or should the conditions for professionals to seek recognition of qualifications on a permanent basis be simplified?***

Competent Authorities who are aware of the practicalities of the recognition process should investigate options for temporary movement in more detail.

It is worth noting that temporary movement can be very complex in the modern economy. Increased use of the internet and online service provision means professionals from a number of different member states can be involved in providing a service in a number of different locations. This makes declarations difficult in practice, as it is not always clear which Member State functions as “home” or “host” under the current Directive.

***Question 19: Is there a need for retaining a pro-forma registration system?***

***Question 20: Should Member States reduce the current scope for prior checks of qualifications and accordingly the scope for derogating from the declaration regime?***

Online pro-forma registration could be very simple to complete, if this is necessary.

As mentioned above, declarations could be subject to a mutual evaluation process as outlined under question 16, for professions outside the health sector. A requirement to link declarations to Overriding reasons relating to the public interest could be introduced, as in the Services Directive.

## 4 Injecting more confidence into the system

### 4.1 Retaining automatic recognition in the 21st century

#### 4.1.1 Automatic recognition based on education and training

**Question 21: Does the current minimum training harmonisation offer a real access to the profession, in particular for nurses, midwives and pharmacists? Should these requirements also include a limited set of competences? If so what kind of competences should be considered?**

The current system does offer real access to the profession as reflected in the numbers of nurses and midwives coming to the UK from within the EEA. Competent Authorities, who have a real knowledge of training requirements, should discuss the options for moving towards competence-based requirements in the long term.

**Question 22: Do you see a need to modernise the minimum training requirements?**

There may be a case for modernising the minimum training requirements in respect of some professions.

The UK feels that the existing set of harmonised minimum conditions is somewhat outdated in relation to the demands of member state nationals for flexibility in accessing professions. Specifically, yearly periods of full-time training, e.g. for architects, can be restrictive. Access to education and achieving professional status could, in some professions, be achievable in a more flexible manner better suited to individuals' personal circumstances.

We would therefore propose that the existing harmonised minimum training criteria should be reviewed, in order to consider what scope there is in the long term to move towards use of learning outcomes, in a form best suited to typical training patterns in each sector. This could take the form of credits, competencies or hours of study rather than stipulating (for instance) years of full time education. This would not require that the minimum harmonised conditions be changed in themselves, but would require that they are translated into a format more relevant to modern training and educational practice and more supportive of access to professions for individuals.

In the short term, we look forward to the conclusions of the current working group on minimum training standards.

**Question 23: Should a Member State be obliged to be more transparent and to provide more information to the other Member States about future qualifications which benefit from automatic recognition?**

More transparency in qualifications which benefit from automatic recognition is greatly needed. Competent Authorities should share more detail about qualifications which they deem to comply with common training standards (including details of the content of training) to ensure qualifications across the EU are of an adequate standard in the sectoral professions. Schemes led by the professional bodies themselves could be incorporated, such as EAEVE accreditation for veterinary schools.

However, this should not involve a significant increase in the administrative burden for Competent Authorities.

**Question 24: Should the current scheme for notifying new diplomas be overhauled? Should such notifications be made at a much earlier stage? Please be specific in your reasons.**

We agree that the system for this notification needs to be simplified so that the annex can be added to/ deleted from more quickly than at present and to ensure that there is a way of notifying the relevant Competent Authorities. The general principle is that there should be no surprises to the relevant Competent Authorities of that profession.

#### **4.1.2 Automatic recognition based on professional experience**

**Question 25: Do you see a need for modernising this regime on automatic recognition, notably the list of activities listed in Annex IV?**

The provisions for the system need simplifying. (further detail under question 2).

There is little doubt that the list of professions in the current Directive needs updating to reflect the current economy.

**Question 26: Do you see a need for shortening the number of years of professional experience necessary to qualify for automatic recognition?**

The number of years of professional experience is generally workable, and we do not have evidence to suggest what impact a reduction in this period might have on consumer protection and professional competency. Professional experience periods should be proportionate to the needs of particular professions. They should be better aligned with the requirements of the general system. Further clarity is needed to ascertain when these provisions apply.

#### **4.2 Continuing professional development**

**Question 27: Do you see a need for taking more account of continuing professional development at EU level? If yes, how could this need be reflected in the Directive?**

In certain professions – for example, professions with a direct impact on health, it is reasonable that up-to-date continuing professional development should be made a requirement for recognition, but only to the same extent as this is required for home nationals in each Member State. However, this should not be introduced in an overly prescriptive way, allowing continuing professional development to become an unreasonable barrier to professionals.

#### **4.3 More efficient cooperation between Competent Authorities**

**Question 28: Would the extension of IMI to the professions outside the scope of the Services Directive create more confidence between Member States? Should the extension of the mandatory use of IMI include a proactive alert mechanism for cases where such a mechanism currently does not apply, notably health professions?**

IMI is an invaluable 21<sup>st</sup> century tool to enable mutual cooperation between Competent Authorities. We would fully support the expansion of IMI across the full range of professions. It should be mandatory for authorities to respond to requests made through IMI within a reasonable timescale. Full and proper use of IMI could in many cases be a substitute for a professional card. In countries where a profession is not regulated, the National Coordinator or an IMI coordinator could provide information about training. (further suggestions for using IMI are made under question 2).



IMI should be updated to comply with and make use of any amendments in data protection legislation.

Recent high profile cases across Member States have highlighted the potential need for a proactive alert mechanism, particularly for healthcare professions. The Directive contains provisions creating obligations for Competent Authorities to share and exchange information between themselves - specifically, Article 56. However, in practice, a home Member State may not necessarily be aware that the obligations on it are triggered if it is unaware that one of its nationals has established him or herself in another Member State. Therefore, a European-wide approach is needed, using the IMI system as the vehicle for sharing such information. This would enhance public and patient safety across all Member States.

### ***Strengthening mutual assistance***

More generally, the provisions on mutual assistance could be strengthened, ensuring that Competent Authorities have a responsibility to share information about a professional to speed the application process. Mandatory and widespread use of IMI by Competent Authorities is most likely to achieve this aim.

### ***Question 29: In which cases should an alert obligation be triggered?***

Primarily, an alert should be triggered where a Competent Authority has taken action against a professional leading to their ability to practice a profession being fettered or removed in their home Member State. Given the goals of greater mobility, it is important to guard against any potential for professionals to move from Member State to Member State to continue to practice where there are concerns about their ability to do so safely. This is in the interests of citizens from all Member States.

In addition, where for some reason a criminal conviction in a Member State has not led to action of the sort described above taking place there are also potential public safety risks. Therefore, consideration should be given to what extent the ECRIS system should be accessible by Competent Authorities and/or Member States, subject to appropriate data protection and proportionality safeguards.

## **4.4 Language skills**

### ***Question 30: Have you encountered any major problems with the current language regime as foreseen in the Directive?***

Significant differences in the delivery and structure of health services across Member States mean that compliance with the Directive's language regime differs across Europe. For non-EEA international doctors seeking inclusion on a professional register in the UK, communication skills are checked at the point of registration by the relevant regulatory body. In the case of EEA migrants, the Directive does not currently allow for the provision of systematic language checks at the point of registration. However, it does allow employers to check language competence.

For migrants who are healthcare professionals, patient safety must be the overriding consideration, and it is essential that they are demonstrably fit to practise their profession. All healthcare professionals in the UK will provide services to persons who are potentially vulnerable and/or in need of medical assistance. It is therefore essential that healthcare professionals are able to demonstrate that they meet at least a minimum level of ability in the

language of the host Member State, in order to fully understand the medical history of a patient (which may be relevant to treatment) and to communicate the needs of patients to other healthcare professionals in the event of a medical emergency occurring.

Competent Authorities have reported occasional but significant problems with the language skills of EEA qualified health professionals working in the UK. The Commission will wish to consider specific evidence of the problems caused by the current arrangements. The Department of Health has asked the Competent Authorities to provide this evidence, and we will supply it to the Commission when received. In light of the fact that implementation of a new Directive is likely to be a number of years away, UK-specific options for strengthening language testing continue to be explored, including consideration of a role in overseeing a strengthened system of local checks in the NHS, through the proposed new NHS Commissioning Board.

We are mindful that many healthcare professionals work in a self-employed capacity and, in these circumstances, there is no employer to ensure that checks on fitness to practise are undertaken. For migrants wishing to work in a self-employed capacity, there are therefore limitations to a system of employer-led checks, and we need to find a proportionate way of ensuring that migrants have the necessary communication skills in these circumstances.

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