BIS | Department for Business Innovation & Skills

EUROPEAN COMMISSION GREEN PAPER: MODERNISING THE PROFESSIONAL QUALIFICATIONS DIRECTIVE

UK Government response

SEPTEMBER 2011

Contents

Introduction and Context

The modernisation of the Professional Qualifications Directive comes at crucial time in the economies of EU. Decreasing public budgets and difficult economic circumstances cast new light on systems which originate from past decades, and create an urgency to ensure that these systems do not hinder economic growth. We therefore welcome the review of the Recognition of Professional Qualifications Directive (2005/36/EC), as one of the European Commission's 12 levers to boost growth in the single market.

In this context, the Prime Minister has called for much-needed action to boost the single market in services in the "Let's choose growth" pamphlet:

> *"The Single Market already adds €600 billion a year to our economy. Further liberalisation of services and the creation of a digital single market could add €800 billion more. This is the equivalent of making the average European household almost €4,200 better off each year."*[1]

The pamphlet called for a rigorous proportionality test on all of the restrictive practices that are permitted under the Services Directive. With around 4700 regulated professions across the EU, it is perhaps no surprise that the Mutual Evaluation process of the Services Directive found restrictive regulatory frameworks to be particularly prevalent among regulated professions.

In the face of decreasing Government budgets, there are still methods which remain at our disposal to boost growth. EU Member States are showing an increasing tendency towards regulatory reform, including removing regulated professions where these are not appropriate. For instance, this constitutes an important element of the market reforms being implemented by Greece to unleash its growth potential. IMF research has shown that a 25% reduction in product market regulations would yield an increase in GDP per capita of 7% in 4 years. In addition to potential benefits in productivity and growth in Member States' own markets, this creates significant potential for removing barriers to free movement of labour and of services in the single market. The Prime Minister's "Let's Choose Growth" pamphlet called for EU Member States to make the following commitment:

> *"Open up business and professional services by reviewing all of the 4,600 "regulated professions" and cutting them back to those areas where specific qualifications are really necessary."*

This response should be read in conjunction with the UK response to the Single Market Act consultation in February.[2] We would also like to highlight a forthcoming UKCES report which maps the extent of occupational regulation in the UK and begins to examine the effect of professional regulation on professional standards, wages and prices. The report will be published at ww.ukces.org.uk.

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[1] http://www.number10.gov.uk/wp-content/uploads/EU_growth.pdf
[2] http://bis.gov.uk/assets/biscore/europe/docs/u/11-760-uk-response-single-market-act.pdf

Health professionals require specific consideration. The actions of these professionals have a direct impact on the health and safety of members of the public, often in life or death situations. Safeguards for such professionals are necessarily more rigorous than for the vast majority of other professions, without having disproportionate or discriminatory effects on applicants. We would also invite the European Commission to consider the evidence given at the recent Inquiry in the House of Lords on this subject, entitled "Review of the Professional Qualifications Directive: Mobility of Healthcare Professionals".[3]

The UK Government response to the Green Paper was prepared in consultation with interested parties from a wide range of sectors, whose input has made a valuable contribution. Many will submit further detail on their professions to the Commission directly.

Summary

Against this background, the response makes the following main points in response to proposals:

- The most effective way of enabling the free movement of professionals will be to reduce the number of regulated professions. A new Directive should include a mechanism through which Member States check their regulatory provisions, apart from those related to healthcare professions, and remove them if they are not proportionate.

- Further evidence is needed before introducing professional cards, for a number of reasons outlined in the response. An impact assessment is needed to show the economic and practical costs and benefits of this proposal.

- To speed the processing of applications, greater mutual assistance needs to take place between Competent Authorities. In addition to mandatory use of IMI and a proactive alert system, networks of Competent Authorities should meet to share best practice and to understand different regulatory systems.

- We look forward to further work to modernise the minimum training standards related to doctors, nurses, midwives, pharmacists, dentists, veterinary surgeons and architects. To build further trust, all courses related to these professions should be reported for compliance to the Commission at least every ten years.

- We support a requirement to make application forms and more information available online. These should be linked to Points of Single Contact set up under the Services Directive.

It is our view that these points should be prioritised when drafting a new legislative proposal for the Professional Qualifications Directive. In many cases, work to implement these proposals in practice can start before a new Directive is agreed.

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[3] http://www.parliament.uk/documents/lords-committees/eu-sub-com-g/healthcare/evidencevolumemobhealthcare.pdf

Proposed new approaches

The European professional card

There is little doubt that the aims behind the creation of a European Professional card[4] are good. The first of these is to increase collaboration between competent authorities. We are committed to seeing competent authorities across the EU work together at a deeper level. Greater understanding of other Member States' systems is likely to enable authorities to process applications more fairly and more rapidly. Quick responses to requests for information about individual applications through IMI has already increased authorities' access to information and efficiency in handling applications, although the IMI's user-friendliness and response times overall need improving.

Greater involvement of the competent authority in the home (sending) Member State could create great benefits, as outlined under question 1.

We also support the aim of simplifying procedures for professionals, and reminding professionals of their free movement rights. If it is possible to reduce translations and the number of documents that professionals have to produce with an application, this would aid free movement. The key to this is greater collaboration between competent authorities who can provide each other with the required information.

However, we still have doubts that the professional card would achieve these aims. While it is true that the speed of handling professionals' applications needs to be improved, current delays are more likely to be caused by competent authorities with inefficient internal processes who delay applications, even to the point of breaching the timescales in the Directive. This suggests that they are not likely to improve response times for issuing professional cards or e-certificates. Rather than speeding the professional's application, this could further delay it, as it would be necessary for two separate authorities to process the application. The current timescales need enforcing more effectively, as outlined under Question 2.

In a time when public resources are decreasing, competent authorities are unlikely to be able to meet increases in cost and staffing which are likely to arise from the introduction of the professional card. Resource may be taken away from other necessary processes enabling professional recognition, which could also slow processing of applications.

From the professional's perspective, the professional card would not simplify the application if delays occur as a result of additional administration. In addition, competent authorities will still need the same information about an applicant as under the current regime (as outlined further under Question 2). There is a danger of misrepresentation: without a clear explanation of what the card does, a professional card may give the

[4] Recent European Commission proposals for a professional card involve a card with an identification number for the professional. This could be transmitted in electronic form as an e-certificate, or as a simple plastic card. Information about the professional's qualifications would not be held on the card itself. Instead, this information would be shared between competent authorities through IMI. Otherwise, keeping the professional's qualifications up to date on the card would be problematic.

impression that a professional can get established in another country without prior recognition of qualifications. Moreover, safeguards would need to be in place to prevent fraudulent use of the card and identity theft.

We remain open to the concept of the professional card if further analysis reveals concrete solutions which would benefit the professional, and be acceptable to representatives of each profession. The proposal however still needs proper cost-benefit analysis and an impact assessment. A pilot of the card for one profession or region would provide the most robust test.

There are currently several models of professional card, each of which need investigating in further detail and made relevant to specific professions. We look forward to hearing of further work by the Steering Group on the professional card and the work to create a card for ski instructors based on a common training standard.

Question 1: Do you have any comments on the respective roles of the competent authorities in the Member State of departure and the receiving Member State?

Many of the proposals outlined by the Commission so far would mean the need for greater use of IMI by authorities in the professional's home Member State. We have heard regular reports of delays for professionals because the home authority has delayed producing a certificate required for automatic recognition, or because of delays in responses to IMI requests. Greater involvement of the competent authority in the home Member State is therefore welcome.

If the professional has already moved between EU countries once, there are sometimes problems in defining the relevant home competent authority. In such circumstances, the Directive should make it clear that the Member State of original recognition of the professional qualifications is the home Member State. In addition, authorities in states where the professional has previously practiced should also have a responsibility in attesting that a professional has been legally registered in their state.

When a professional moves between two states who both regulate a profession, it would be helpful for the home state authority to send the information they have on the professional's qualifications to the host Member State, along with information on the scope of the profession in that Member State. Creating a function in IMI through which a home competent authority could explain these qualifications to a host authority could remove the need for translations of documents. The professional should be entitled to request this action from their home state authority. In this situation, an e-certificate or a one-off reference number provided by the home state authority to both the professional and the host state authority would assist and expedite communication. This would also serve to inform the home state authority that a regulated professional is seeking to establish in another Member State, thus enabling the home state to notify any restrictions in the professional's eligibility to practise in the home state.

However, delays caused in this additional process (e.g. a peak in workloads in the home state competent authority) should not unduly delay the professional from moving. The recognition system must be flexible to ensure that the professional's qualifications are

recognised with the smallest delay possible. The professional should therefore always have the option of submitting documents.

Without changes to the underlying systems, or even alignment of different scopes of practices in different Member States, recognition will still rely on checks on documents by the home Member State. The home state authority cannot be expected to know about the scope of practice in the host state authority, and vice versa. Ideally, both authorities should be involved in every application. However, to ensure a trusted system, **the primary responsibility for checking qualifications must remain with the host state competent authority.** If there are differences in the scope of a profession between one Member State and another, the professional could still need to provide additional evidence of experience or further qualifications to the host state authority.

If the home state competent authority is aware that a professional is seeking to establish himself in another Member State, it would be helpful if the host Member State would notify the home Member State of this through IMI. This would provide a safeguard for some professions that the professional was eligible to practise in the home Member State.

Where a professional moves from a country where the profession is unregulated, there is no home state competent authority able to give evidence of their qualifications or experience. This fact is often disregarded by competent authorities in countries where a profession is regulated. The National Contact Point, or its equivalent in a new Directive. should be entrusted with certifying the professional's experience and/or their broad level of qualification under the European Qualifications Framework (EQF). This evidence provided by the National Contact Point would assist the host Authority in checking the professional's qualifications.

Giving professionals in this position a professional card requires a flexible solution. The option to create an authority just to dispense cards, such as National Contact Points, would create a cost to public budgets. In addition to this, it should be open to Member States to delegate the issuing of cards to relevant organisations. These would not be competent authorities, since the profession is not regulated, but they would be empowered to give evidence of qualifications to regulating Member States, to assist with the evaluation process.

It is also worth noting that many current UK competent authorities are commercial entities, at least in the sense that they are resourced by fees rather than public funds. They are still accountable to the UK Government in terms of their functions. This does not in any way undermine their competence as authorities. Rather, they function as effective forms of regulation in an age of restricted public budgets. Several are recognised as world leaders in maintaining professional standards. Such bodies should be permitted to issue professional cards, if their profession adopts this proposal.

Question 2: Do you agree that a professional card could have the following effects, depending on the card holder's objectives?

a) The card holder moves on a temporary basis (temporary mobility):

- Option 1: the card would make any declaration which Member States can currently require under Article 7 of the Directive redundant.

- Option 2: the declaration regime is maintained but the card could be presented in place of any accompanying documents.

If a Member State has decided to regulate a profession, this often means that competent authorities need to be aware of a professional's presence in their state. Option 1 would therefore be unworkable in the vast majority of cases. Requiring a declaration in electronic form would not be too burdensome for the professional.

In relation to some of the professions for which the practice presents no direct risk to public health, sending the professional card details to the host state authority could replace the documents which accompany a declaration. The host state competent authority could verify qualifications with the home Member State in any case of doubt.

For health professionals or others presenting a risk to public health or vulnerable people, it is important that authorities are still able to make necessary enquiries regarding the professional's qualifications, to guard against mistakes, fraud or other issues. If details of qualifications are sent through by the home Member State authority, this process could benefit the professional who is planning to move, but the necessary checks would still need to be undertaken.

b) The card holder seeks automatic recognition of his qualifications: presentation of the card would accelerate the recognition procedure (receiving Member State should take a decision within two weeks instead of three months).

In general, delays in processing applications currently occur not because current timescales are too long, but because they are difficult to enforce. Proposals should therefore concentrate on making current timescales more easily enforceable.

Otherwise, it is unclear how the card would speed procedures for the seven "sectoral" professions (doctors, nurses, midwives, dentists, pharmacists, architects and veterinary surgeons, for which there are minimum training standards). Under the current system, professionals already have to produce a certificate from their home state authority, with a similar aim to a professional card. In fact, many authorities regulating Architects across the EU currently use a common e-certificate.

Host competent authorities for these professions will still need the same information about an applicant as under the current regime, to check that the applicant is indeed eligible for automatic recognition. The proposal to involve the home Member State authority in providing more information to the host authority about the applicant may speed applications processes, but this relies on the compliance of the home Member State.

The timescale should at least allow for a verification of the card through IMI. Responsibility for a quick response through IMI would need to lie with the home Member State authority through mandatory deadlines, as outlined under the section on IMI below.

For automatic recognition based on experience (current Annex IV professions), a professional card should replace the documents which are currently needed to provide proof of experience. Mobility of these professionals is regularly hindered by excessive documentation requests.

c) The card holder seeks recognition of his qualifications which are not subject to automatic recognition (the general system): presentation of the card would accelerate the recognition procedure (receiving Member State would have to take a decision within one month instead of four months).

Similar general points apply here: delays in processing applications occur not because current timescales are too long, but because they are difficult to enforce. In addition, host state competent authorities will still need the same information about an applicant as under the current regime, even with professional cards. It is unlikely that the process will always be speeded by the home state authority providing the documents instead of the professionals themselves.

It is especially clear under the General System that host state competent authorities still need to check qualifications to ensure that the scope of practice in the home Member State is not substantially different. This is a process which requires careful thought (especially concerning the nature and extent of any Compensation Measures which may need to be imposed). Therefore, although preparation of information in the home Member State may lead to efficiencies in processing times, the goal of limiting the end to end process to one month seems unrealistic.

For the more mobile professions, this process of checking could be accelerated by more proactive collaboration between authorities at EU level. Authorities would benefit from a knowledge of the general scope of practice of a profession in another Member State, or a network of contacts who are able to provide this information. Such a proposal to build trust between authorities is discussed below alongside proposals for IMI.

Partial access

Question 3: Do you agree that there would be important advantages to inserting the principle of partial access and specific criteria for its application into the Directive? (Please provide specific reasons for any derogation from the principle.)

We agree that partial access as it is defined in case law could be a useful recognition route for a minority of professionals. Our understanding of the case law is that partial access would apply in the following way:

1. Where the professional activity to be pursued can objectively be separated from the remaining activities covered by the corresponding profession in the host member state, especially if the activity is performed separately in the home Member State;

2. Partial access can be denied if there are overriding reasons based on the general interest, suitable for securing the attainment of the objective which they pursue and not going beyond what is necessary in order to attain that objective.

3. Partial access may be denied if gaps in education and training could be effectively made up by compensatory measures, but not if the applicant requests partial access and the gaps in their qualifications would require a complete programme of training.

As the concept exists in case law, it seems advantageous to codify these principles in the Directive, so that there is no confusion as to the limitations of partial access as a concept.

In particular, partial access should not apply to the health professions or those who care for vulnerable people, since the possibility of patients, the public, and service users being misinformed about the restricted nature of a professional's activity could pose greater risks than for other professions. This is because preservation of human health and the protection of vulnerable persons would constitute an overriding reason related to the public interest. In any event, we think there would be difficulties in applying partial access where there are EU-wide minimum training standards for professions (i.e. for the seven "sectoral" professions).

For other professions, the concept of partial access should not be used to restrict a professional from acquiring full access. If the professional is eligible for consideration for full access under the Directive, partial access need not apply. Full access must continue to be the norm for professionals to prevent fragmentation of markets and confusion for consumers, and the restrictions outlined in the case law provide for this. However, competent authorities should be free to allow partial access to a profession when requested while compensation measures are being undertaken to comply for full access.

In cases where partial access is applied, the professional could practise under their home Member State title, or a title which indicates their sphere of competence.

Examples of professions where partial access should apply include:

- snowboard instructors in countries where these come under the regulation of ski instructors;
- engineers whose scope of competence only covers part of what is required (such as the example of the airplane engineer who does not have the required knowledge about airport runways);
- teachers specialising in special needs education;
- tourist guides who only have some of the of the local knowledge required by the local law;

Partial access could reasonably facilitate the movement of such professionals, and a number of others, on a case by case basis. The concept of partial access as currently defined in case law should therefore be included in a new Directive.

Common platforms

Question 4: Do you support lowering the current threshold of two-thirds of the Member States to one-third (i.e. nine out of twenty seven Member States) as a condition for the creation of a common platform? Do you agree on the need for an Internal Market test (based on the proportionality principle) to ensure a common platform does not constitute a barrier for service providers

from non-participating Member States? (Please give specific arguments for or against this approach.)

The possibility of easier common platforms organised by the professions themselves is welcome, as long as it does not create a greater barrier to entry for professionals from states outside the common platform.

In particular, professionals from states that do not regulate them should be taken into account. When they are authorised by Member States' governments to do so, professional bodies should also take part in forming common platforms, and subsequently setting qualifications which are recognised in other Member States (even if such qualifications are not legally required for practice in the home Member State).

An internal market test would seem a reasonable way of doing this. The test should invite participation from all Member States, including those who are not yet included in the proposed platform.

However, common platforms are only likely to be created if there is pro-active collaboration between authorities at EU level, either through existing EU professional bodies, or better through groups facilitated by the Commission and Member State representatives. Possibilities for more structured collaboration, including on common platforms, are discussed below alongside IMI.

Regulated professions

Question 5: Do you know any regulated professions where EU citizens might effectively face such situations [disproportionate and unnecessary requirements for professional qualifications]? Please explain the profession, the qualifications and for which reasons these situations would not be justifiable.

We are aware of a number of regulated professions where the requirements for qualifications seem disproportionate and unnecessary, including in the UK. The current economic climate means there is an urgent need to examine such requirements which limit competitiveness. **There will be little momentum or incentive to adjust or remove these requirements unless there is a process in the Directive itself to look at the need for regulated professions according to agreed criteria.** Such a process should start by looking at professions which are only regulated in a minority of Member States, but should exclude the health sector where the need for regulation is clear.

Member States have valid reasons for regulating professions in different ways, according to national practices, tradition and how they regulate other aspects of the economy. A stylised example is that some countries regulate the construction of buildings and others regulate the people constructing houses. Some form of regulation for construction is necessary, but different systems can be instituted to achieve the same effect.

However, professions generally become regulated at Member State level, without having in mind the effect this could have on cross-border mobility. Where there is regulation in another Member State, this has sometimes led to calls for regulation amongst unregulated professions in the UK so that professionals can more easily obtain recognition abroad. This only creates more barriers to mobility.

The Commission's recent report on the outcome of the Services Directive mutual evaluation process commented that 25% of activities reserved for certain operators in regulated professions were only regulated in one Member State. As part of the mutual evaluation process for the Services Directive, barriers among regulated professions were probably most frequently raised.[5] The European Commission's planned study to map "reserved activities" across the EU will provide important evidence on opportunities to reduce the number of regulated profession.

The Services Directive provides a clear precedent for examining legislation in Member States for specific requirements and removing these, or objectively justifying them. The mutual evaluation process then enabled a further unearthing of evidence of how Member States had approached implementation and interpretation of the Directive.

A similar process should be carried out for the revised Professional Qualifications Directive. Based on evidence from the Commission study on reserved activities, the process should concentrate on mobile professions which employ a large number of EU nationals, and which are regulated in a minority of Member States (e.g. a third or less of Member States). The process could also look at professions where the level to which Member States apply regulation varies greatly.

In the health sphere, the UK has no plans to deregulate because the regulation of such professionals is based upon the need to protect the public. Because of the specific safety issues which can arise for health professionals, such professions should not be considered as part of this process.

This process of reviewing regulated professions involves three stages:

1. Establish a set of criteria against which the regulation of professions should be justified. Relevant criteria in Articles 9(1) and 15(3) of the Services Directive can be taken as a starting point, which states that a profession should only be regulated if:

a) it is done in a non-discriminatory way,

b) it is justified by an 'overriding reason relating to the public interest,' and

c) the objective cannot be pursued in a less restrictive way.

The definition of "Overriding reasons relating to the public interest" can be applied relatively widely. The third criterion is therefore important. For Member States to effectively test whether objectives could be pursued in less restrictive ways, they need to actively search for alternatives to regulation or less intrusive forms of regulation. This process

5 COM(2011) 20 http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=COM:2011:0020:FIN:EN:PDF

could be assisted outside of the formal legislative process by agreeing some short guidance. The work done by the UK Government's Better Regulation Executive on alternatives to regulation may be useful as a starting point.[6]

Of course, when an alternative to regulating a profession has already not proved successful in achieving public interest aims, this would be a clear justification for Member States to regulate.

2. Screening of legislation: This will be a major exercise, but less burdensome than for the Services Directive, since the laws relating to regulated professions are fewer and already well known by officials responsible:

i. Member States screen laws on regulated professions against the set of criteria, removing those which do not comply;

ii. Where there is a clear reason for regulation, Member States use the guidance on alternatives to regulation to ensure it is proportionate;

iii. Member States then report regulated professions which partially remain to the Commission.

Member States' reports should include information about alternatives to regulation considered. The reports would also reveal further valuable information about the nature of regulation in their country, and could provide some transparency in terms of the scope and competences of different professions.

3. Expert group on reserved activities: To ensure the work of screening legislation is scrutinised and followed up, one or several expert groups could be set up to look at the reports from Member States. This group could involve voluntary participation from Member States, but would need to look at regulated professions in all EU Member States. Some of the methodology used for the mutual evaluation process of the Services Directive could be used here, while ensuring the process does not become too burdensome to national administrations.

Alongside this, sectoral working groups or focus groups could look at implementation in their specific professions, alongside other work such as comparing their national practices, making decisions and collaborating in other areas, and proposing initiatives. These proposals are discussed further below alongside IMI.

In addition, provisions could be made for recognising professionals who are members of professional bodies which are officially recognised in some way, even if entry to the sector does not require a professional qualification. In the UK, for instance, anyone can work as an accountant. However, there are a number of accountancy bodies where membership is permitted only to those passing professional exams. This means that membership confers some assurance of professional competence. Members of such professional bodies should benefit from the system in the same way as professionals trained to the same level in a Member State where the profession is regulated.

[6] http://bis.gov.uk/alternatives

Building on achievements

Access to information and e-government

Question 6: Would you support an obligation for Member States to ensure that information on the competent authorities and the required documents for the recognition of professional qualifications is available through a central on line access point in each Member State? Would you support an obligation to enable online completion of recognition procedures for all professionals? (Please give specific arguments for or against this approach).

This section of the Green Paper raises two main issues.

The first is whether Member States should make available a central online access point with complete information on competent authorities and document requirements for the recognition of qualifications for all professionals, regardless of their profession or the region in which they intend to exercise it. We would be in favour of this, as it is clear that it can often be difficult for professionals (and sometimes for competent authorities in other Member States) to establish who the relevant competent authority is for a particular profession in another Member State.

The second issue raised is whether National Contact Points should be linked with Points of Single Contact (PSCs) set up under the Services Directive, or similar portals. Existing PSCs could provide the basis and the model for online access points for the recognition of professional qualifications. This system provides an online one-stop shop where service providers can find relevant competent authorities, and also complete forms online. The competent authorities themselves still deal with the applications once completed.

We would support an obligation to enable online completion of recognition procedures for all professionals, as long as this enables adequate safeguards to avoid inadvertent mistakes or to check for fraudulent documents. Modern technologies generally enable such checks to take place electronically. However, competent authorities should be able to ask for certified copies of documents in case of doubt, once they have checked a professional's status through IMI. We are conscious, however, that developing such a system might require long term investment on the part of competent authorities across Europe and so any timescales proposed in relation to introduction of such an idea would have to reflect this.

For the sake of clarity, it is worth outlining that we would not support National Contact Points or PSCs in some way assuming the responsibilities which competent authorities have for checking and processing applications. The involvement of a "third party" in the process could also actually slow down or confuse the recognition process.

The advice service provided by National Contact Points is valuable for mobile professionals, who are involved in a particularly complex legal framework. Even if National Contact Points become part of PSCs, this advice service should continue.

Temporary mobility

Consumers crossing borders

Question 7: Do you agree that the requirement of two years' professional experience in the case of a professional coming from a non-regulating Member State should be lifted in case of consumers crossing borders and not choosing a local professional in the host Member State? Should the host Member State still be entitled to require a prior declaration in this case? (Please give specific arguments for or against this approach.)

Other than professions where the practice of a profession poses a specific risk to public health or vulnerable people, removing the requirement for both a declaration and two years' experience would seem reasonable if this only allows the provision of a service for the consumers actually accompanying the professional. This approach should apply to most professions, with Member States seeking derogations where public health is affected.

One derogation would be for the health professions, where it is key that those delivering services can demonstrate that they have kept "up to date" in developments in their chosen area of practice. For these professions, we would not wish to see the provisions of the current Directive changed by removing the requirement for two years' experience. They still need to be able to operate within the UK context, and often need to communicate with UK-based professionals.

Regulated education

Question 8: Do you agree that the notion of "regulated education and training" could encompass all training recognised by a Member State which is relevant to a profession and not only the training which is explicitly geared towards a specific profession? (Please give specific arguments for or against this approach.)

We understand that the lack of definition of "regulated education and training" causes confusion. As the knowledge of how this concept applies is likely to differ between Member States, we would like the new Directive to oblige Member States to provide information including provision online about what constitutes regulated education in their national context. The National Contact Points or Points of Single Contact can be used for this purpose.

Widening the definition of regulated education to all relevant accredited training would enable greater flexibility in the system for professionals without necessarily reducing the standards to which professionals need to adhere. Defining what constitutes "relevant" training should however be left with Member States.

Where the training is not deemed to be relevant, competent authorities of professions which give rise to public health risks or direct risks to vulnerable people will still need to check whether applicants have fulfilled core requirements which are necessary to practise the profession (e.g. professional ethics, local health and safety law compliance, etc). If the regulated training is not sufficiently "relevant" to cover some of these aspects, Member States should still be able to ask for two years of experience (as well as compensatory measures).

In particular, if a Member State requires experience which can only be obtained in a local geographical context, they should not restrict incoming nationals from at least partial access to areas of the profession for which local experience is not necessary.

The General System

Qualification levels

Question 9: Would you support the deletion of the classification outlined in Article 11 (including Annex II)? (Please give specific arguments for or against this approach).

We would not be in favour of a complete removal of reference in the Directive to levels of education. Instead, the Directive should encourage Competent Authorities to compare qualifications according to EQF levels.

UK competent authorities have reported that the current Directive's education levels are helpful for a general comparison of an applicant's qualifications with the requirements. The evaluation reports produced in Autumn 2010 did not highlight Article 11 as a significant problem. Rather than adding complexity to the system, the education levels often provide a useful reference point, and help prevent competent authorities from assessing applications for recognition too harshly.

However, the current education levels are open to misinterpretation, and could be replaced by reference to the European Qualifications Framework (as a non-binding classification system). We note that the Commission's study on the benefits and limitations of different systems of classification for purpose of recognition (e.g. the Art 11 levels and the EQF) is still ongoing, and we will comment further when the outcomes of the study have been published.

The proposal to remove the education levels raises the question of whether professionals who are significantly under-qualified for a profession in a Member State should be considered under the Directive. Wide variations in the scope of practice between Member States means there are cases where gaps in a professional's qualifications could not be adequately made up by compensation measures. In these cases, Competent Authorities should be able to reject requests for registration from significantly under-qualified applicants.

Compensation measures

Question 10: If Article 11 of the Directive is deleted, should the four steps outlined above be implemented in a modernised Directive? If you do not support the implementation of all four steps, would any of them be acceptable to you? (Please give specific arguments for or against all or each of the steps.)

Step 1: the removal of a justification for compensation measures purely based on a shorter training period of at least one year: Even without the deletion of reference to levels of education in the Directive, this would seem appropriate. A difference in a professional's skills should be assessed on the basis of competence, not purely on the basis of the length of their education. A shorter length of training would in

any case often reveal gaps in skills related to the scope of practice required in the host Member State, which would be grounds for compensation measures. Compensation measures should be applied on the basis of gaps in skills, not length of training.

Step 2: removing the requirement for two years' experience: Even if the education levels are not removed, this proposal could have some benefits in some contexts.

The current Directive does not apply to unregulated professionals who do not have two years of experience, even if these professionals have relevant training. In general, the Directive's provisions should apply to those without two years of experience, so that newly graduated professionals can be considered. However, it is important that competent authorities should retain the right to ask for two years of experience where there is a good reason for this, for example a significant gap in skills.

Step 3: clearer information from the competent authority about why a compensation measure is imposed: We would welcome this increase in transparency. The Directive should make it very clear that authorities need to explain their decisions to the professional. SOLVIT cases regularly reveal cases where the authority has not explained why compensation measures apply, or why the Directive does not apply to a professional. This provision would also benefit from better enforcement.

Step 4: Making relevant aspects of the Code of Conduct mandatory: Since the running of compensation measures can be burdensome for smaller competent authorities, we would not be in favour of more detailed mandatory requirements for compensation measures.

Partially qualified professionals

Question 11: Would you support extending the benefits of the Directive to graduates from academic training who wish to complete a period of remunerated supervised practical experience in the profession abroad? (Please give specific arguments for or against this approach.)

The UK is in favour of graduates being able to complete remunerated supervised experience abroad. However, in our view, including this proposal in a revised Directive would represent a significant departure from its subject matter, which is the recognition of the qualifications of those who have attained their professional status. It would be necessary to ensure that the proper Treaty base was used to support this extension. The Morgenbesser case argues that access should be granted to training courses on the basis of free movement provisions of the Treaty. The Directive concerns the movement of fully qualified professionals across Member States.

We have concerns that expanding the Directive's scope as the Green Paper suggests would cause confusion, and detract from the core purpose of the Directive. We understand that graduates derive free movement rights from other provisions in the Treaty and so do not believe that any refinement to the Directive is required in this area.

IMI and Administrative Cooperation

We welcome the Commission's proposals on IMI, which are discussed below. However, we are increasingly of the view that collaboration between competent authorities and professional bodies is needed outside of IMI. This would have two main purposes: first, sharing best practice to boost authorities' knowledge about Member State's regulatory systems, which would better inform their processing of applications. Second, major professions need forums in which they can discuss proposals relevant to their professions. This second point is especially true for the seven sectoral professions, but also for other professions who might consider common platforms or professional cards.

Forging closer cooperation between Member States: Networks of competent authorities

As outlined in the UK response to the Commission consultation in March 2011, differences in training and practice between countries are specific to individual professions. Common platforms created the potential for cooperation between competent authorities across the EU, but in too restrictive a 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. 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 that regular networks of competent authorities are established to fulfil these purposes, especially for professions which are highly mobile or where regular barriers to movement exist. 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.

These networks 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. Even where a profession is not regulated in a number of states, training institutions and professional bodies could participate and share information about the systems in place.

For the seven sectoral professions, automatic recognition based on minimum training standards increases the need for mutual trust, as well as cooperation in aspects such as revising minimum training standards. We would therefore strongly recommend that the Commission organises **regular meetings of expert working groups for each of the seven sectoral professions**. The demand for such groups is clear from the fact that health regulators have organised their own EU-wide meetings to discuss current aspects of implementation such as information sharing.

Such groups should be provided for in general terms in the new legislation, without specifying their role apart from sharing best practice and promoting mutual assistance.

Public online registers

We would also like the Commission and Member States to consider the use of public online registers. Many UK authorities hold such registers, which permit members of the public and authorities in other countries to verify that a professional's qualifications are currently recognised.

IMI already includes a list of public registers, made available under the Services Directive's mutual assistance provisions. The Cross-Border Health Directive also makes reference to sharing certain registers. We would therefore like to recommend that the new Professional Qualifications Directive contains a similar requirement to share public registers.

Mandatory use of IMI for all professions

The absence of a question on this subject in the Green Paper no doubt reflects the widespread support for IMI (the Internal Market Information system) which has already been evident from the vast majority of interested parties.

In addition to making IMI mandatory for all professions, its effectiveness would be increased by more timely responses to information requests. **Enforceable deadlines for responses** to IMI requests should therefore be introduced. This would highlight the responsibility of the home authority in providing information about a professional. An absolute maximum deadline of one month would seem appropriate – any longer would create serious delays in a professional's application for recognition.

Alert mechanism for health professions

Question 12: Which of the two options for the introduction of an alert mechanism for health professionals within the IMI system do you prefer?

Option 1: Extending the alert mechanism as foreseen under the Services Directive to all professionals, including health professionals? The initiating Member State would decide to which other Member States the alert should be addressed.)

Option 2: Introducing the wider and more rigorous alert obligation for Member States to immediately alert all other Member States if a health professional is no longer allowed to practise due to a disciplinary sanction? The initiating Member State would be obliged to address each alert to all other Member States.)

To ensure that health professionals who pose a risk to patient safety are not able to practise, it is essential that Member States proactively share information about disciplinary sanctions with all other Member States. We would strongly prefer option 2.

However, we note that the Green Paper contemplates sharing of information only in relation to sanctions which mean that a professional is no longer able to practise. We would advocate an approach which goes further – that is, where a competent authority has made a decision which affects a professional's ability to practise (e.g. when it has

suspended them, or imposed restrictions on their practice short of an absolute ban), this information should be passed to competent authorities from other Member States.

The sharing of such information is not to punish the professional, but rather to provide vital information so that regulatory authorities and employing organisations in host Member States are aware of the professional's background. Information given should explain the nature of the restriction of the professional, and the reason for this if possible, so that other Member States can make an informed decision about whether to register the professional in their state. This also enables authorities to give the professional the support they need where relevant.

It is important that there are adequate safeguards in sharing this information. Unsubstantiated allegations in one Member State should not lead to restrictions being imposed on the professional in another. However, where a decision has been taken by a competent authority, we believe that the public interest is better served by sharing this information than by restricting it to protect the professional's reputation. The effectiveness of such a proactive alert system will rely on it being complementary to domestic and European Data Protection and Processing legislation, so that there can be no doubt that competent authorities can share such information. As a starting point, the interplay between current EU data protection legislation and the alert mechanism should be clarified in the code of Conduct.

It is not clear why an alert mechanism is only proposed for health professions. Once the IT infrastructure is in place, it would require very few resources to extend the possibility of alerts to other professions. We would therefore advocate that **all professions should be able to use the IMI alert system**, at least once it has been trialled for the health professions. All competent authorities should be obliged to use it in all individual cases where public health could be put at risk by a professional moving to another Member State (as in current Article 56(2)). The Code of Conduct should be updated to clarify cases in which alerts should be sent for professions outside the health sector.

When a home Competent Authority becomes aware that a professional is moving to another country, they should inform the host Competent Authority. This would provide an additional assurance to the host Competent Authority that the professional has been operating legally in his or her home Member State.

Language requirements

Question 13: Which of the two options outlines above do you prefer?

Option 1: Clarifying the existing rules in the Code of Conduct;

Option 2: Amending the Directive itself with regard to health professionals having direct contact with patients and benefiting from automatic recognition.

In the first instance, it should be made clear that the need for language competence to be proved at the point of registration has not posed a significant problem in any professions except the health professions. Changes in the language requirements for other professionals could encourage competent authorities to run unnecessary tests or checks, which would restrict free movement. However, greater sharing of best practice on

language checks between Member States could enable all Member States to adopt practices which allow for adequate checks.

For the health professions, repeated multiple checks on migrant healthcare workers would be highly likely to be disproportionate in European law. However, it is vital for the UK that checks on language and communication competence are undertaken effectively, particularly by employers and organisations contracting with health professionals.

We think there is already considerable scope for strengthening the UK system of local language checks. In particular, we are working with the Commission and others, as a priority to develop a proportionate system of checks on the language knowledge and communication competence of doctors which would be administered as part of normal employment or contracting processes. This would take account of the particular practice with patients which they undertake with those employers and other organisations.

In the UK, there are however situations where a health professional is not attached to an employer or contracting organisation. The Commission's proposals may not address this situation. In the health professions, the ability to communicate with patients and service users is vital. Where there is not an employer or contracting agency to perform proportionate checks, we are concerned that there is a potential public safety risks if competent authorities are unable to apply checks themselves. We would value clarity from the Commission about what scope there is to apply proportionate language checks by the competent authorities for self-employed health professionals. We are pleased that the Commission stated it is considering this issue in the evidence given to the recent House of Lords Inquiry.[7]

More generally, we would value greater clarity in the Code concerning the issue of language competence. It is clear that existing guidance, and the current text of Article 53, have led to differences of opinion as to the scale and extent of language checks which may be permitted and regarded as proportionate, who may undertake such checks, and at what point after an application for recognition they can take place. This confusion needs to be resolved urgently.

If the second proposal is taken forward, it would be essential that any change should in no way limit the ability of employers/contracting organisations to perform proportionate checks. Employers are best placed to assess professional competence for the specific role.

Checks are not only important for healthcare professionals who only have direct contact with patients. Many health professionals work within multi-professional teams. They need to communicate, orally and in written form, with other members of this team, just as much as they need to be able to communicate effectively with patients and services users. Member States should also be able to ensure that adequate language checks are in place for health professions covered by the general system for recognition. Professionals who exercise these professions without adequate communications skills can also pose public safety risks.

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[7] http://www.parliament.uk/documents/lords-committees/eu-sub-com-g/healthcare/evidencevolumemobhealthcare.pdf

Modernising automatic recognition

Modernisation in three phases

Question 14: Would you support a three-phase approach to modernisation of the minimum training requirements under the Directive consisting of the following phases:

- the first phase to review the foundations, notably the minimum training periods, and preparing the institutional framework for further adaptations, as part of the modernisation of the Directive in 2011-2012;

- the second phase (2013-2014) to build on the reviewed foundations, including, where necessary, the revision of training subjects and initial work on adding competences using the new institutional framework; and

- the third phase (post-2014) to address the issue of ECTS credits using the new institutional framework?

In general, this approach seems to move in the right direction. Assessment of training through a "time served" approach does not necessarily guarantee that a professional is competent. In addition, a rigid adherence to time-based requirements could act as a barrier to innovation in the field of education and training.

We have heard mixed views about the specific Commission proposals, but we are aware that the Commission is still carrying out preparatory work in this area. Proposals need to be developed in further detail before we can give a definitive view.

However, whilst we would advocate a move to fully competence-based minimum requirements in the long term, it would seem sensible to retain references to lengths of training as a safeguard in the short to medium term. The proposals may well necessitate a significant shift in processes across Member States, and so some trust and confidence in the reforms could be supported by maintaining these safeguards.

We are particularly concerned that the timescales quoted by the Commission for change do seem somewhat ambitious, and we would want to ensure that any new system proposed is workable and robust.

We have heard arguments from our partners and stakeholders that the phased approach in itself could lead to unintended consequences which it would be important to guard against. That is, there would appear to be a strong linkage between the work proposed in phases one and two, and it would be important that any changes are conscious of that. In addition, if phases one and two are delivered effectively, this may render action in relation to phase three redundant.

We feel that specific consideration of the issues posed by this question by networks of competent authorities, facilitated by the Commission, would generate valuable discussion on this important proposal for change. The change is fundamental and it would be important not to rush into it without full consideration.

On the issue of the use of implementing or delegated acts it is important that changes introduced following these proposals are transparent and subjected to appropriate level of scrutiny.

Since the standards required for practice as a health professional change rapidly, this review should not be a one-off. Instead, the Directive should be flexible to allow for training requirements to be adapted again in the future, with full Member State consultation.

Moving to credit-based minimum training standards would seem to make sense in the long term. However, we are unsure that the European Credit Transfer System (ECTS) will be fit for this purpose. The ECTS will need re-evaluating when the third stage of the process to review minimum training standards approaches.

Increasing confidence

Clarifying the status of professionals

Question 15: Once professionals seek establishment in a Member State other than that in which they acquired their qualifications, they should demonstrate to the host Member State that they have the right to exercise their profession in the home Member State. This principle applies in the case of temporary mobility. Should it be extended to cases where a professional wishes to establish himself? (Please give specific arguments for or against this approach.)

Verification that a professional has the right to exercise their profession in the home Member State would be carried out more effectively through IMI.

Question 15b) Is there a need for the Directive to address the question of continuing professional development (CPD) more extensively?

We have heard strong concerns from our partners and stakeholders concerning health professionals seeking recognition who have been out of practice in their home State for a number of years, but then seek to practise in another Member State. The current Directive seems to require competent authorities to register professionals who met minimum training standards some years ago, but have not practiced recently.

We believe this was an omission in the drafting of the current Directive. It is vital that professionals keep their skills up to date, especially in a sector where there are regular and significant advances in technology and practice.

Professionals should therefore be required to show not only that they have the right to practise in their home Member State, but also that they have been practising their profession recently. For the five health professions for which there are minimum training standards, one option would be to apply a **requirement of two years' experience in the last five years**, unless the applicant graduated in the last three years. If this requirement is not met, then the general system should apply.

For health professions and veterinary surgeons, we also would strongly wish to see a general requirement for CPD to be introduced for professionals in all Member States. This requirement should not be overly prescriptive, with specific national requirements being

determined by each Member State, but should highlight the fact that CPD is a vital component of effective practice for public safety reasons. Health professionals should also be required to demonstrate that they have up to date CPD when moving from a Member State where there is already a requirement in their home Member State to keep up to date. However, these provisions should not be extended to any professions other than health professions and veterinary surgeons.

We would encourage the use of CPD in all other professions, but this should not be a mandatory requirement in the Directive.

Clarifying minimum training requirements for doctors, nurses and midwives

Question 16: Would you support clarifying the minimum training requirements for doctors, nurses and midwives to state that the conditions relating to the minimum years of training and the minimum hours of training apply cumulatively? (Please give specific arguments for or against this approach.)

As acknowledged in the Commission's consultation which preceded the Green Paper, and in the Green Paper itself, there could be greater clarity in relation to this issue. We note that there are differences across professions as to which benchmark (hours or years) should apply. We would be concerned if a cumulative approach was applied in all professions, since this would risk stifling innovation in how education and training are delivered in Member States. This is particularly a concern in the field of medicine.

We note that the professions referenced in this question do not include dentists and pharmacists. For these professions, we are concerned that training is assessed in years only, which is too restrictive to reflect modern learning patterns. On balance, for all the sectoral professions, we would favour an approach which permits calculation by either years or hours, to allow flexibility.

We have heard arguments from UK partners and stakeholders about potential unintended consequences of changes in this area (e.g. dilution of quality and standards through delivery of significant numbers of hours of training in short periods of years). There may be a way to avoid these unintended consequences through references to "flexible envelopes" (that is, specifying the number of hours to be attained within a minimum and maximum time).

We have also heard arguments that minimum standards of time spent in training need to highlight the clear importance of clinical contact as part of training, in addition to academic study (see question 21). We would encourage further thought from the Commission on this issue which is not expressly raised in the Green Paper question.

The ideal end goal might well be a robust system which references time studied as well as the attainment of competencies.

Better national compliance

Question 17: Do you agree that Member States should make notifications as soon as a new program of education and training is approved? Would you support an obligation for Member States to submit a report to the

Commission on the compliance of each programme of education and training leading to the acquisition of a title notified to the Commission with the Directive? Should Member States designate a national compliance function for this purpose? (Please give specific arguments for or against this approach.)

Greater transparency in decision making is key to strengthening mutual confidence amongst competent authorities. Provided that this suggestion could be delivered in a manner which was proportionate and did not cause unnecessary delays, the UK would support this, and would be keen to work with the Commission and other Member States to discuss methods of delivery. We believe that this is another area where closer working amongst competent authorities could deliver real benefits, and we believe that the Commission could facilitate this.

Based on experience with a similar process for architects' qualifications, we do not believe there needs to be a requirement to involve Permanent Representations in the notification of degrees, as this creates extra unnecessary administration. Instead, networks of Competent Authorities should be involved in verifying new education and training programmes.

To truly promote trust in the system from Competent Authorities and the public, we would urge the Commission to consider a system whereby all qualifications for the automatic recognition professions requiring postgraduate qualifications are **reported to the Commission for compliance with the minimum training standards at least every 10 years**. In order to reduce the Commission's workload, peer review groups of Member State representatives could be set up to handle these reports.

For veterinary surgeons, an existing EU-wide accreditation system exists which would form a good benchmark for assessing new qualifications. The EAEVE "day one competences" have already been agreed by Competent Authorities as a good benchmark, and we see no reason why these should not form the basis for competences in the Directive. Further, involvement of the EAEVE's accreditation processes to ensure veterinary qualifications are of a good standard across the EU would help build trust between competent authorities.

Consideration of veterinary specialisms in the Directive in the future would also be welcome.

Specialist Doctors

Question 18: Do you agree that the threshold of the minimum number of Member States where the medical speciality exists should be lowered from two-fifths to one-third? (Please give specific arguments for or against this approach.)

There are some risks inherent to this proposal: lowering the threshold could result in more medical specialities coming into existence for the purposes of the Directive, some of which might be practised in only a few Member States. We have heard concerns from partners and stakeholders that over-specialisation can lead to an inflexible workforce, which poses

risks in terms of an ability to respond to changes in the needs of patients, the public, and service users.

Decisions on expansion of a specialism should be driven by the needs of patients as opposed to other concerns. Given the complexity of debate in this area we are, on balance, not in favour of reducing the threshold (indeed some of our partners and stakeholders have argued it should be raised). In addition, the current decision making process for expanding specialties, we have heard, is not particularly well understood by partners and stakeholders, and so would welcome proposals from the Commission which could provide greater clarity.

Question 19: Do you agree that the modernisation of the Directive could be an opportunity for Member States for granting partial exemptions if part of the training has been already completed in the context of another specialist training programme? If yes, are there any conditions that should be fulfilled in order to benefit from a partial exemption? (Please give specific arguments for or against this approach.)

The success of such an approach would again rely on greater transparency in relation to the nature and content of qualifications across Member States. A pre-requisite to such a move would need to be greater transparency so it could be clear to competent authorities that previous training relied upon did indeed merit the granting of partial exemption on the grounds that it was substantially similar and a valid component of the training required for the new specialism.

Whilst a modern approach to learning could and should be reflected in any revised Directive, it is also important to guard against unintended consequences. Graduates of education programmes go on, very soon after, to treat patients, the public and service users. Therefore, there must be adequate safeguards to ensure that professionals having complied with a revised system which recognises different forms of learning can practise safely. In general, therefore, whilst cautiously welcoming a more flexible approach we would like to see further detail on the Commission's proposal to ensure that they would not inadvertently compromise safety and quality.

Nurses and Midwives

Question 20: Which of the options outlined above do you prefer?

Option 1: Maintaining the requirement of ten years of general school education

Option 2: Increasing the requirement of ten years to twelve years of general school education

We have heard different views from our stakeholders and partners on this issue. For instance, we have heard arguments that a move to option 2 would raise quality and standards. However, little specific evidence has as yet been provided to suggest that the current ten years requirement is problematic. Were a move to a requirement of twelve years general school education to be considered, then consideration would need to be given to the impact on those in the prospective workforce in the UK who have completed

less than twelve years of general education due to illness or disability, schooling overseas, or academic excellence. We continue to discuss this question with our partners.

Pharmacists

Question 21: Do you agree that the list of pharmacists' activities should be expanded? Do you support the suggestion to add the requirement of six months training, as outlined above? Do you support the deletion of Article 21(4) of the Directive? (Please give specific arguments for or against this approach.)

We would welcome further discussion about the updating of the list of pharmacists' activities. Our stakeholders and partners have advised us that it would be relevant to include the following:

- activities relating to public health,
- provision of vaccinations,
- prescribing

The learning outcomes related to professional activities need adding to the current list of technical and supply outcomes, in order to reflect the modern delivery of pharmaceutical care.

We strongly support the Commission's proposal that the Directive be amended to provide for a mandatory period of practical training of six months in the final year before registration as a pharmacist.

Architects

Question 22: Which of the two options outlined above do you prefer?

Option 1: Maintaining the current requirement of at least four years academic training?

Option 2: Complementing the current requirement of a minimum four-year academic training by a requirement of two years of professional practice. As an alternative option, architects would also qualify for automatic recognition after completing a five-year academic programme, complemented by at least one year of professional practice.

To ensure flexibility, a move towards an hours-based measure for architects could be beneficial, in advance of moving towards competence-based measures.

Otherwise, we would prefer the introduction of a requirement for two years of professional practice together with the current minimum of at least four years academic training. Should Option 2 be introduced, with alternative scenarios of four years academic training plus two years' experience or five years academic training plus one years' experience, the

implications for implementing this and reflecting this in Annex V will need to be considered carefully.

Automatic recognition based on experience

Question 23: Which of the following options do you prefer?

Option 1: Immediate modernisation through replacing the ISIC classification of 1958 by the ISIC classification of 2008?

Option 2: Immediate modernisation through replacing Annex IV by the common vocabulary used in the area of public procurement?

Option 3: Immediate modernisation through replacing Annex IV by the ISCO nomenclature as last revised by 2008?

Option 4: Modernisation in two phases: confirming in a modernised Directive that automatic recognition continues to apply for activities related to crafts, trade and industry activities. The related activities continue to be as set out in Annex IV until 2014, date by which a new list of activities should be established by a delegated act. The list of activities should be based on one of the classifications presented under options 1, 2 or 3.

There can often be issues with recognition on the basis of professional experience, which usually come down to problems with the recognition of unregulated professionals (see answers above). The UK has few professions covered by this regime. We would therefore advocate the use of terminology which is clear for unregulated professionals.

Confusion has also arisen as to which system should apply when a profession is also covered by the general system. For this reason, we would advocate using a list of existing professions, submitted by Member States, for which a revised Annex IV should apply.

Failing this, we would prefer option 4, which allows for further time for consideration of these lists.

Third country qualifications

Question 24:

Do you consider it necessary to make adjustments to the treatment of EU citizens holding third country qualifications under the Directive, for example by reducing the three years rule in Article 3 (3)? Would you welcome such adjustment also for third country nationals, including those falling under the European Neighbourhood Policy, who benefit from an equal treatment clause under relevant European legislation? (Please give specific arguments for or against this approach.)

The three year requirement seems to be reasonable and proportionate. For the professions falling under the automatic recognition category, verifying that minimum training standards have been met in a course studied outside the EU is a difficult task.

Keeping the three year experience requirement is important to ensure the minimum training standards have been met in practice, and prevents forum shopping.

Opening professional recognition to third country nationals would be beneficial in many cases, but this should be left to Member States and not covered in a revised Directive. The current arrangements mean that the original recognition by a Member State of such professionals results in that state being considered the home state in relation to any subsequent moves within the EU. This seems to work in satisfactory way.

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URN 11/1297