



Recognition of Professional Qualifications: SMEs caution against administrative burden and legal uncertainty

Position Paper on the Proposal for a Directive of the European Parliament and of the Council amending Directive 2005/36/EC on the recognition of professional qualifications and Regulation on administrative cooperation through the Internal Market Information System ([COM\(2011\) 883 final](#))

Key ESBA recommendations on the recognition of professional qualifications and the European Professional Card:

- *A quick and simple recognition procedure for professional qualifications is vital for increasing European professionals' mobility and for solving labour shortages.*
- *The European Professional Card (EPC) should be made available at the lowest possible cost for professionals.*
- *If the validation process will be performed by both the home and host Member States, this should not result in an increased administrative burden on professionals.*
- *A realistic timeframe for Member States to examine and validate applications is essential to avoid the need for the principle of tacit approval.*
- *In order to avoid legal uncertainty for mobile professionals, the principle of tacit approval of the EPC should be avoided.*
- *ESBA warns against crucial aspects of the Directive being determined through delegated acts. If delegated acts will be included, proper stakeholder consultation is vital.*

Background

In December 2011, The European Commission presented a proposal to amend and modernise the existing provisions on the recognition of professional qualifications as laid out in Directive 2005/36/EC. The objective of the proposal is twofold: to facilitate the mobility of professionals and to preserve the security and safety of consumers and patients, as well as the quality of the services provided.

There are several new elements in the proposal. The main innovation is the introduction of a European Professional Card in the form of an electronic certificate, which would offer to interested professionals the possibility to benefit from easier and quicker recognition of their qualifications. The Commission aims to create the possibility for professionals to obtain all information necessary for recognition of their professional qualifications through a one-stop-shop. The recast Directive also envisages updating the minimum training requirements for a number of regulated professions. Finally, to facilitate mutual recognition of profession qualifications, 'common training principles' and

'common training tests' will offer the possibility of extending the mechanism of automatic recognition to more professions.

According to the draft, Member States will have to justify the regulation of certain professions. A new alert mechanism will be set up to facilitate the circulation of information if a health professional has been prohibited to exercise its activity in this country. In terms of linguistic requirements, the recast Directive aims at clarifying the conditions under which a public authority can check the linguistic level of a mobile professional.

The draft report by Ms Bernadette Vergnaud MEP (S&D, FR) is scheduled to be voted on in the Committee on the Internal Market and Consumers Protection (IMCO) on 28 November 2012. A vote on the report in plenary session is scheduled for 14 January 2013.

General opinion

ESBA welcomes the proposal by the European Commission and the review of the current regime for recognition of professional qualifications. Making recognition of qualifications easier and quicker is vital for reducing the lack of skilled workers that small businesses face in certain sectors. The new regime should also increase the mobility of self-employed persons.

ESBA acknowledges a delicate balance must be found between increasing mobility in the European labour market and ensuring the quality of services and consumer safety. ESBA supports the principle of deregulation where this is appropriate. ESBA member CEI, representing the real estate profession, particularly stresses that the final goal should be **to determine professionals' capabilities based on their qualifications and degrees**, not on whether a certain profession is regulated in their home country.

The development of **common training principles** for qualifications currently covered by the general system looks like a promising innovation. However, ESBA insists on the importance of considering these common training principles only as minimum requirements. They should not result in bringing down the general level of training requirements in Europe.

ESBA supports the use of the **Single Contact Point for the internal market**, which will reduce information-searching costs for both small business and self-employed professionals aiming to establish themselves abroad. However, SCPs must be established and implemented across the board, in *all* EU Member States.

Specific opinion on the European Professional Card

The issuance of an **electronic card** and **optimal use of the Internal Market Information System (IMI)** would have a positive effect in reducing costs and administrative burden for national administrations and small businesses. ESBA therefore welcomes the creation of a European Professional Card aiming at facilitating professional mobility. However, it remains cautious regarding the practical implementation of such a card.

ESBA recommends that particular care be demonstrated when **defining the roles of the home and host Member States** in the process of assessing and validating professional qualifications. Having both Member States' administrations involved in the process could lead to duplication of the work and end up being burdensome for the professionals seeking to have their qualifications recognised.

Further to the point above, a Member State should not have to issue a professional card for a profession it does not regulate itself, simply because it is regulated in another Member State. **This would lead to more professions being indirectly regulated** and create additional administrative burdens for mobile professionals.

Although it is crucial that Member States act swiftly in recognition procedures, ESBA believes that **the principle of tacit approval of the professional card can have undesirable side-effects**. Underqualified professionals might be wrongfully admitted. Moreover, although a professional might be able to get started quicker, the temporary nature of the approval creates a situation of legal uncertainty.

Finally, ESBA has concerns regarding the frequency with which **delegated acts** are envisaged to determine crucial aspects of the new regime. Clarity and legal certainty are necessary to create a regulatory environment facilitating the development of micro and small enterprises. If delegated acts will be used, proper stakeholder consultation is vital.