067659/EU XXIV.GP
Eingelangt am 19/12/11

EUROPEAN COMMISSION

Brussels, 19.12.2011
SEC(2011) 1558 final

Part II

COMMISSION STAFF WORKING PAPER

IMPACT ASSESSMENT

Accompanying the document

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}
{SEC(2011) 1559 final}

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Annex 1: Statistics on recognition decisions

ESTABLISHMENT: RECOGNITION DECISIONS 2007-2010 (distribution by recognition systems)

	2007	2008	2009	2010	TOTAL	%
Number of decisions taken under the general system						
Number of positive decisions	8509	12329	10744	7971		
Number of positive decisions after CM	2120	2727	1706	836		
Number of negative decisions*	1834	2122	1420	968	**53286**	**47,2**
Number of decisions taken under automatic recognition						
Number of positive decisions	9911	17382	14271	6591		
Number of negative decisions	182	233	296	141	**49007**	**43,4**
Number of decisions taken under automatic recognition for crafts						
Number of positive decisions	4426	3112	1670	1469	**10677**	**9,5**
TOTAL	**26982**	**37905**	**30107**	**17976**	**112970**	**100**
Total positive decisions	24966	35550	28391	16867	**105774**	**93,6**
Total negative decisions	2016	2355	1716	1109	**7196**	**6,4**

*Also includes negative decisions for craft professions

Source: Regulated Professions Database
(http://ec.europa.eu/internal_market/qualifications/regprof/index.cfm?fuseaction=home.home)

ESTABLISHMENT: RANKING OF RECOGNITION DECISIONS BY PROFESSIONS

2007			
	Profession	**Number of positive decisions**	**Number of negative decisions**
1.	Secondary school teacher	2189	676
2.	Doctor of Medicine	3989	29
3.	Nurse	2883	130
4.	Electrician / Senior electrician / Specialised electrician	1758	260
5.	Dental Practitioner	1456	19
6.	Physiotherapist	1091	59
7.	Second level nurse	1096	35
8.	Veterinary Surgeon	1062	5
9.	Architect	957	10
10.	Pharmacist	800	5

2008			
	Profession	**Number of positive decisions**	**Number of negative decisions**
1.	Doctor of Medicine	7950	20
2.	Nurse	6210	211

3.	Secondary school teacher	2749	677
4.	Second level nurse	3680	148
5.	Electrician / Senior electrician/ Specialised electrician	1688	535
6.	Dental Practitioner	1864	29
7.	Physiotherapist	1120	22
8.	Pharmacist	1199	16
9.	Veterinary Surgeon	1182	3
10.	Architect	988	0

2009			
	Profession	**Number of positive decisions**	**Number of negative decisions**
1.	Doctor of Medicine	7066	23
2.	Nurse	6432	305
3.	Secondary school teacher	3304	659
4.	Dental Practitioner	1585	54
5.	Physiotherapist	939	27
6.	Pharmacist	846	3
7.	Veterinary Surgeon	655	0
8.	Second level nurse	334	63
9.	Social worker	441	49
10.	Lawyer/Barrister/Solicitor	126	18

2010			
	Profession	**Number of positive decisions**	**Number of negative decisions**
1.	Nurse	4134	183
2.	Secondary school teacher	2543	537
3.	Doctor of Medicine	2727	36
4.	Physiotherapist	600	35
5.	Dental Practitioner	637	23
6.	Social worker	409	11
7.	Second level nurse	277	52
8.	Veterinary Surgeon	438	3
9.	Pharmacist	302	1
10.	Primary school teacher	183	52

Source: Regulated Professions Database
(http://ec.europa.eu/internal_market/qualifications/regprof/index.cfm?fuseaction=home.home)

Annex 2: Legislative framework

1. PROFESSIONAL QUALIFICATIONS DIRECTIVE

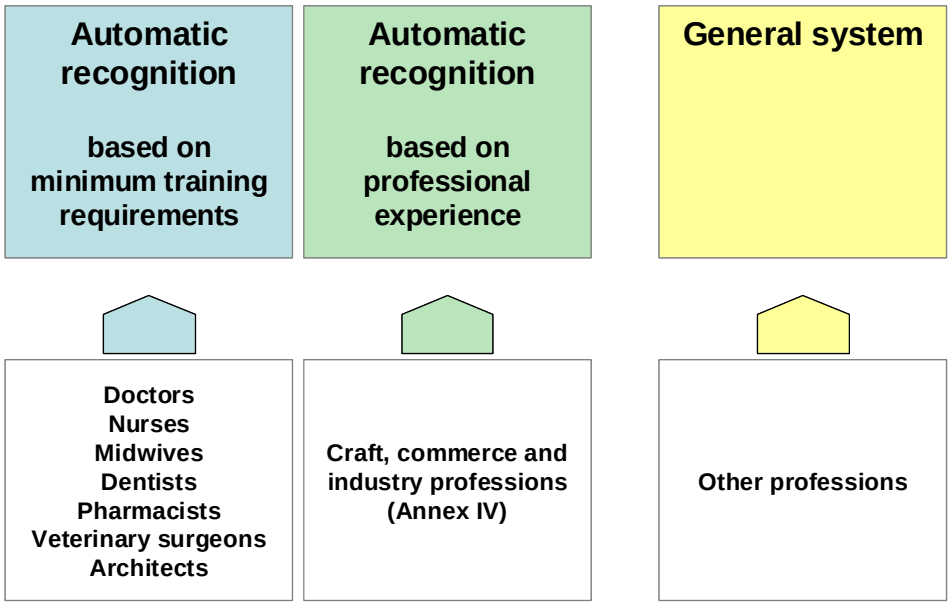
For the **establishment** of a professional in another Member State, the Professional Qualifications Directive from 2005 defines three different regimes, which, to a large extent, represent a legacy of the previous directives in this area:

– The general system is based on the mutual recognition directives adopted in 1989, 1992 and 1999. Under the general system, professionals wishing to become established in another Member State need to send an application for the recognition of their professional qualifications to the competent authorities of the host Member State. The applications are examined on a case-by-case basis: competent authorities look at the duration and content of the training accomplished by the professional in order to determine if there are substantial differences between this training and the qualifications required in the host Member State for the exercise of the profession. In case of substantial differences, competent authorities need to examine whether such differences are not already compensated by relevant professional experience. As a last resort, the host Member State can impose "compensation measures" on the applicant. These can take the form of an aptitude test or an adaptation period. In 2005, the Directive introduced the concept of "common platforms" as a means of simplifying the implementation of compensation measures for professions falling under the general system.

– Provisions on automatic recognition based on harmonised minimum training requirements consolidate the system put in place for doctors, dentists, nurses, midwives, pharmacists, veterinary surgeons and architects in a series of directives adopted between 1975 and 1985. Under this system, professionals still need to send an application to the host Member States. However, competent authorities should not verify the contents and duration of the training. Qualifications should be automatically recognized throughout the EU if listed in the relevant annex to the Directive (Annex V). The Annex contains all the diplomas and titles that satisfy the minimum training requirements defined in the Directive. A professional who holds a qualification listed in the Annex can benefit from automatic recognition.

– Automatic recognition based on professional experience relies on the system developed in the 1960s for self-employed activities in the area of craft, commerce and industry. The sectoral directives from the 1960s were first merged into Directive 1999/42/EC and then taken up by the 2005 Directive. Under this system, a professional can benefit from automatic recognition on the basis of professional experience (for instance: 6 years as an independent craftsman).

Illustration of the tree different regimes existing for establishment



Under the provisions on temporary mobility: Member States can only require an annual prior declaration, in which the professional should inform of his intention to provide services. Member States are allowed to carry out a prior check of qualifications only in the case of professions with serious implications for public health or safety of clients.

2. INTERACTION WITH THE SERVICES DIRECTIVE

Directive 2006/123/EC (the "Services Directive") is a horizontal instrument which applies to a large number of service sectors including the services of the regulated professions. The Professional Qualifications Directive and the Services Directive regulate different aspects of the free movement of professionals. The Professional Qualifications Directive deals with issues linked to the recognition of professional qualifications, use of professional and academic titles as well as knowledge of languages. The Services Directive deals with most of the other requirements applicable to the regulated professions (and it is important to note that these are not only requirements imposed by law or regulation but also by the rules of professional bodies in the exercise of their legal autonomy). This includes issues such as tariffs, legal form requirements, ownership requirements, professional liability insurance, as well as restrictions on the use of commercial communications and multidisciplinary activities. The rules in the Services Directive aimed at administrative simplification and administrative cooperation also apply to the regulated professions. All in all, the two Directives complement each other in order to provide a comprehensive legal framework for regulated professions providing services and therefore to facilitate the free circulation of professional services across Europe.

One of the most important obligations in the area of administrative simplification in the Services Directive is the setting up of "Points of Single Contact" through which service providers can obtain all relevant information and complete on-line all administrative procedures required in order to be able to provide their services. This includes the recognition of professional qualifications where the Points of Single Contact have to be available both for

the information and completion of formalities imposed on professionals in the case of permanent establishment (Title III of Directive 2005/36/EC) and for the information and completion of formalities imposed on professionals in the case of temporary provision of services[1].

In contrast, the "contact points" referred to in Article 57 of the Professional Qualifications Directive pursue a different objective (gathering of information and response to citizens' questions[2]) than the "Points of Single Contact" established under the Services Directive (e-government centres)[3].

Where necessary, specific provisions have been included in the Services Directive to avoid from the outset any conflict arising from its parallel application with the Professional Qualifications Directive. For instance, in the area of authorisations, the procedural rules and time limits set out in the Professional Qualifications Directive apply fully to any issue linked to the recognition of professional qualifications and are not touched upon by the Services Directive. Similarly, the application of Title II of the Professional Qualifications Directive (notably the possibility for Member States to require a prior annual declaration in the context of the cross border provision of services of the regulated professions) is ensured by the specific derogation from the freedom to provide services clause included in the Services Directive[4].

Professions excluded from the scope of the Services Directive (such as health professions, notaries and bailiffs) but covered by the Professional Qualifications Directive remain fully covered also by the Internal Market freedoms under the TFEU. Therefore, in order to guarantee the free circulation of those professional services, Member States have to both implement the Professional Qualifications Directive for matters linked to the recognition of professional qualifications and ensure the compatibility of their rules with the TFEU provisions, notably its Articles 49 and 56 for any other issue.

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1 Points of Single Contact should allow to complete procedures and formalities related to the recognition of qualifications both for natural persons (self-employed professional) and for legal persons (a company employing a number of professionals and having to have their qualifications recognised, for instance in the context of a cross border provision of services).

2 Article 57 of Directive 2005/36/EC.

3 Articles 6 and 8 of Directive 2006/123/EC.

4 Article 17(6) of Directive 2006/123/EC foresees a specific derogation from the application of Article 16 for matters covered by title II of the Professional qualifications Directive.

Annex 3: Executive summary of the Evaluation Report[5]

This evaluation assesses the functioning of the European rules applying to the recognition of professional qualifications and identifies the remaining obstacles to the mobility of professionals. The Professional Qualifications Directive[6] is aimed at facilitating mobility within the EU: it defines a set of rules allowing professionals qualified in one Member Sate to exercise their profession in another Member State.

The Single Market Act[7], published in April 2011, identifies the modernisation of the system of recognition of professional qualifications as a key action for improving mobility of EU citizens in the single market.

The evidence presented in this evaluation report has also been used to prepare the Green Paper on the modernisation of the Professional Qualifications Directive[8], adopted by the Commission on 22 June 2011.

Scope of the evaluation

The Professional Qualifications Directive (the Directive) was adopted in September 2005 and transposed in Member States between 2007 and 2010. However, since the Directive consolidates the rules set out in 15 previous Directives adopted from the 1960's onwards, the evaluation covers a much older acquis.

Since 2007, more than 100 000 recognition decisions have been taken under the Directive, enabling the mobility of 85.000 professionals. The most mobile professions are health professions, teachers, social/cultural professions and craftsmen.

Methodology

This evaluation is based on twelve questions, covering the various situations in which the Directive is applied (establishment and temporary mobility), the different regimes set out in the Directive (general system and automatic recognition) and the most relevant horizontal provisions (assessment of language skills, recognition of third country diplomas, administrative cooperation and assistance to citizens).

The evaluation was carried out in order to assess the rules on the recognition of professional qualifications from the point of view of the following criteria: effectiveness, efficiency, relevance, consistency and acceptability. It is based on a broad input from a wide range of all stakeholders (Member States, competent authorities, professional organisations, citizens,

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5 The complete evaluation report is available on: http://ec.europa.eu/internal_market/qualifications/docs/news/20110706-evaluation-directive-200536ec_en.pdf

6 Directive 2005/36/EC of the European Parliament and of the Council of 7 September 2005 on the recognition of professional qualifications; Official Journal L 255 , 30/09/2005 P. 0022 - 0142

7 "Single Market Act Twelve levers to boost growth and strengthen confidence "Working together to create new growth" - COM(2011) 206 final: http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=COM:2011:0206:FIN:EN:PDF

8 Green Paper on modernising the Professional Qualifications Directive, COM(2011) 367 final; http://ec.europa.eu/internal_market/consultations/docs/2011/professional_qualifications_directive/COM267_en.pdf

educational bodies, trade unions, SOLVIT centres and National Contact Points). The consultation process allowed to collect concrete evidence on the functioning of the Directive and to involve all interested parties in the assessment of possible improvements.

Main findings

Recognition under the general system

The functioning of the general system, applied for all professions for which training requirements have not been harmonised, has been carefully examined. It proved to be a pragmatic and effective solution, though the case-by-case assessment of each request for recognition is a burdensome exercise both for competent authorities and professionals. Some unnecessary obstacles to mobility and possible improvements have been identified, notably in relation to the conditions imposed on professionals coming from Member States that do not regulate a profession and to the classification of qualifications.

The compensation measures, used under the general system in cases of substantial differences between the qualifications of the applicant and the qualification required in the host Member State, can be useful in supporting the integration of migrant professionals in the host Member States but need to be better justified by competent authorities.

Demographic developments in the labour markets call for more flexibility in the rules for the recognition of qualifications: in this context, the scope of the general system could be extended in order to cover partial access to a profession and the mobility of young professionals who are not yet fully qualified.

Finally, the concept of common platforms, introduced in the Directive to facilitate the recognition of qualifications under the general system, did not deliver concrete results, notably because the purpose was not sufficiently clear and the conditions for setting up a platform were too demanding for professional organisations.

Automatic recognition

Doctors, dentists, pharmacists, nurses, midwives, veterinary surgeons and architects benefit from the automatic recognition of their qualifications, on the basis of harmonised minimum training requirements. This system is appreciated by competent authorities and professionals because it allows for efficient treatment of requests for recognition. The efficiency of the system is, however, undermined by a complex procedure for the notification of new diplomas (in particular for architects), which is an essential process for keeping automatic recognition up to date. Another issue raised in the evaluation exercise concerns the lack of transparency on the contents of training programmes for diplomas issued in the health sector. Other possible improvements have been identified to strengthen the confidence in automatic recognition (e.g. need to take into account not only the diploma but the fitness to practice) and to facilitate the access to the professions.

The outcome of the evaluation shows that the minimum training requirements, agreed between the 1960's and the 1980's, need to be updated in order to better reflect the current practice of professions. Depending on the profession, these training requirements cover the entry level, the duration and contents of study programmes and the supervised practical experience.

Professions in the areas of craft, trade and industry also benefit from automatic recognition, on the basis of periods of professional experience. This system works smoothly but the

classification of economic activities in Annex IV of the Directive, which was established many decades ago, makes the identification of the professions benefiting from this system quite difficult.

Temporary mobility

The Directive introduced a lighter regime for professionals interested in providing services on a temporary and occasional basis. This regime does not foresee a prior check of qualifications (except for professions with health and safety implications) and is based on a prior declaration sent by the professional to the competent authority. The feedback received from competent authorities shows that the use of this system is rather limited compared to cases of establishment. However, some professions expressed a strong interest in this regime and asked for a further simplification of the administrative requirements. The notion of "temporary and occasional" provision of services needs to be clarified in order to ensure a consistent application of this regime.

Language knowledge

The Directive foresees that the professionals benefiting from the recognition of their qualifications should have the language skills "necessary for practising the profession in the host Member State". On this basis, most of the competent authorities consider that it is up to employers to check language skills after the recognition of qualifications. Authorities in the health sector consider that the control of language skills should be strengthened under the Directive for the professionals treating patients.

Third country qualifications

EU citizens holding third country qualifications can benefit from the Directive if the qualifications have been recognised in one Member State and if they have acquired three years of professional experience in this Member State. The processing of these requests for recognition is considered complex, notably because competent authorities experience difficulties in verifying that the conditions for recognition are met (first recognition in a Member State and three years of experience). Third country nationals benefiting from equal treatment under legal immigration directives can also benefit from these provisions.

Administrative cooperation

The Directive widened the scope of administrative cooperation and requires competent authorities in the home and host country to exchange all the necessary information. Evidence collected during the evaluation shows that administrative cooperation allowed to simplify and accelerate recognition procedures, notably through the use of the Internal Market Information system (IMI). However, the exchange of information between competent authorities is still limited to disciplinary sanctions and fitness to practice.

The basis for the introduction of professional cards included in the Directive (recital 32) has not been sufficient for developing new solutions likely to offer concrete benefits for professionals.

Assistance to professionals / Access to information

Despite efforts to set up information and assistance structures (e.g. National Contact Points, Points of Single Contact, SOLVIT), professionals still encounter major difficulties in finding hands-on information on what to do to obtain a recognition of their qualifications

(identification of the competent authority, list of documents that need to be submitted). In addition, the limited use of electronic means for submitting recognition requests makes the recognition procedures more cumbersome for the applicants.

Annex 4: Summary of replies to the public consultation on the Professional Qualifications Directive (January – March 2011)

Executive summary[9]

On the 7th January 2011, the DG Internal Market and Services published a Consultation document on the modernisation of the Professional Qualifications Directive. Stakeholders and interested parties were invited to submit comments on a number of policy issues by 15th March 2011.

Overall, 371 responses to the public consultation were received from citizens, professional organisations covering a wide range of different sectors, employers, trade union representatives, educational bodies, competent authorities and governments from all 27 Member States and a few non-EU countries.

The main conclusions stemming from the consultation are the following:

The majority of respondents are in favour of improving citizens' access to information and further simplifying procedures.

- Most respondents consider it unnecessary to make the Code of Conduct mandatory. Flexibility and the need for regular updates would justify keeping its current status – perhaps under a different name (such as "guidelines").

- The principle of partial access to a profession – as developed by the Court of Justice – is not widely known and appears to be controversial.

- All citizens and educational bodies and many governments and professional organisations consider that it is necessary to support mobility of young graduates seeking to pursue a remunerated supervised practice in other Member States. Competent authorities seem more divided. It appears that the underlying jurisprudence of the Court of Justice is not well known.

- The development of a European professional card is supported by a large majority of stakeholders within all groups. Many respondents see in the card a means to increase transparency, enhance confidence and forge closer cooperation between Member States. Some respondents consider that the card could also reduce bureaucracy and help to speed up the recognition process. Most respondents consider that the card should be linked to the IMI and that the IMI should be strengthened. Others consider that it would be of benefit to link the card to a central database containing all relevant information. A small minority rejects the idea of the card altogether and suggests focussing only on improving the IMI.

- Opinions vary a lot on the idea to replace the concept of common platforms by European curricula Some respondents, notably certain competent authorities and professional organizations, foresee difficulties in moving away from common platforms towards a kind of 28th regime under a European curriculum. Many

[9] The complete summary of replies is available on: http://ec.europa.eu/internal_market/qualifications/docs/news/20110706-summary-replies-public-consultation-pdq_en.pdf

governments, but also educational bodies, are in favour of developing new mechanisms to extend automatic recognition to professions beyond those which currently enjoy it under the Directive.

- Views on the risk of an excessive number of regulated professions differ and suggest that this topic is quite controversial. Many respondents consider that no particular action is necessary, while some strongly argue that there is a serious issue.

- Stakeholders have mixed views on the idea of a lighter regime for professionals accompanying consumers from another Member State,: citizens and professional organisations are mainly in favour whilst competent authorities largely oppose the idea.

- A large majority of respondents consider that there is no need to simplify the rules on temporary mobility, including on pro-forma registration, under the Directive. Clarification of what "temporary and occasional" provision of services means is often requested.

- Respondents are overwhelmingly satisfied with the system of automatic recognition based on minimum training requirements (health professions and architects). At the same time, many respondents point to the need to modernise the system, notably by clarifying certain provisions, updating training subjects and taking into account recent reforms of the educational systems of the Member States.

- There is also widespread satisfaction with the system of automatic recognition for craft, trade and industry activities, which is largely based on a minimum duration of professional experience. However, most respondents deem it necessary to simplify and update the list of activities in Annex IV of the Directive.

- The majority of respondents would like a future Directive to put more emphasis on continuous professional development (CPD). The main idea is that professionals who did not follow domestic requirements on CPD in their home Member State should not benefit from automatic recognition in the host Member State.

- The majority of respondents support making the Internal Market Information System (IMI) mandatory. In the same vein, an overwhelming majority would favour introducing an alert mechanism for professions for which such a mechanism does not already exist under the Services Directive.

- Sufficient language knowledge by professionals is seen by almost all respondents as necessary for their integration into another country. Concerns over the current rules are expressed with respect to health professionals.

The results of the consultation fed into the Green paper on the modernisation of the Professional Qualifications Directive which the Commission published on 22nd June 2011.

Annex 5: Preparatory steps towards the impact assessment

1. EX-POST EVALUATION OF THE ACQUIS

A Steering Group for the evaluation of the Directive was set up in 2010 and met 5 times between January 2010 and May 2011. In June 2011, the Group was transformed into the Steering Group on the Impact Assessment to ensure continuity in the work on the modernisation of the Directive.

2. INTERSERVICE STEERING GROUP

The modernisation of the Professional Qualifications Directive is foreseen in the European Commission's Work Programme 2011. An Impact Assessment Steering Group was set up in June 2011 and held three meetings[10] to assess the progress of the impact assessment, to provide contributions and guidance on drafting, and to approve the final document. The Steering Group comprised representatives of the Secretariat General and of the Legal Service, DG Competition, DG Employment, Social Affairs and Inclusion, DG Education and Culture, DG Justice, DG Home Affairs, DG Health and Consumers, DG Trade, DG Enterprise and Industry, DG Research and Innovation, and DG Information Society and Media.

3. INVOLVEMENT OF EXTERNAL STAKEHOLDERS

In January 2011 DG Internal Market and Services launched the first public consultation[11] which attracted more than 370 contributions from citizens, professionals, professional organisations and competent authorities. In the framework of this consultation, the DG Internal Market and Services organised a public hearing with all interested stakeholders[12].

Building on the outcome of the first consultation and the evaluation, the European Commission published a Green Paper on the modernisation of the Directive[13] on 22 June 2011. The European Commission received more than 400 contributions from citizens, professionals and competent authorities. The results of this consultation have been taken into account throughout this Impact Assessment. The European Parliament is considering an own-initiative report to the Green Paper. The adoption of the resolution is scheduled for November.

On one specific issue - the need for and feasibility of a European Professional Card -, the Commission set up, in January 2011, a steering group with external experts. The Group brings together representatives of various professional associations[14] and competent authorities. The

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10 The first meeting was organised in June 2011, the second on 8 September 2011; the third on 6 October 2011.

11 See http://ec.europa.eu/internal_market/consultations/2011/professional_qualifications_en.htm

12 This meeting was held on 21 February 2011.

13 Green Paper, Modernising the Professional Qualifications Directive – COM(2011)367 final

14 The Steering Group was composed of professional organisations representing the following professions: doctors, nurses, physiotherapists, pharmacists, midwives, veterinarians, engineers, teachers, lawyers, tourist professions, mountain guides, real estate professions and surveyors/construction experts. Minutes of the meetings, including the list of participants, are available on:

Group completed a number of case studies[15] on the benefits that the card could bring in the context of several particular professions.

The results of this process have been presented to the Single Market Forum in Krakow, Poland on 3 and 4 October 2011, which was attended by around 1200 representatives from professional, consumer and employers' organisation, from government and authorities but also citizens. The declaration following the Single Market Forum underlined that "a European professional card could help promote cross-border mobility in the EU, in particular by speeding up and simplifying recognition procedures, giving more certainty to professionals and enhancing trust among national authorities"[16].

4. EXTERNAL STUDIES

In November 2010, DG Internal Market and Services commissioned a study to evaluate the Professional Qualifications Directive in the light of the recent educational reforms. The study focuses on the Bologna process and the development of national qualifications frameworks linked to the European Qualifications Framework (EQF). The study has been published on 31 October 2011[17].

These educational reforms promote a shift towards new concepts (ECTS[18], learning outcomes[19]), which do not correspond to the concepts used in the Directive (duration and training contents) for defining and comparing qualifications.

The aim of the study was to assess if the use of these new concepts facilitated the recognition of professional qualifications.

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http://ec.europa.eu/internal_market/qualifications/policy_developments/european_professional_card_en.htm

15 The case studies are available on line at the following address: http://ec.europa.eu/internal_market/qualifications/policy_developments/european_professional_card_en.htm

16 The Kracow declaration: http://ec.europa.eu/internal_market/top_layer/docs/simfo-declaration-op-conclusions_en.pdf

17 Study evaluating the Professional Qualifications Directive against recent educational reforms in EU Member States; final report available on: http://ec.europa.eu/internal_market/qualifications/docs/policy_developments/final_report_en.pdf

18 European Credit Accumulation and Transfer System. ECTS credits may be based on student's workload (including teaching hours, but also exams and preparation for such exams).

19 Learning outcomes refer to the knowledge, skills and competencies a student is expected to have acquired at the end of a training programme.

The results of the study show that the reforms promoted at EU level (Bologna and EQF) are very much an ongoing process, and that the authorities competent for the recognition of foreign qualifications often have little familiarity with these developments. Consequently, for many of them, basing the recognition of qualifications solely on these new concepts would be premature.

Annex 6: Justification and organisation of compensation measures

1. PROBLEM DEFINITION

This Annex explains in more detail the problem definition in 3.2.2 third indent and the corresponding policy options.

Article 14 (1) of the Directive defines the conditions according to which the host Member State can impose compensation measures. One of these conditions relates to the duration of training. A difference in the duration of training of at least one year is currently a sufficient justification of compensation measures. This provision does not seem to be consistent with the need to assess "substantial differences", as defined in the Directive[20]. Competent authorities should not only look at the differences linked to the duration of training programmes, but should also focus on the contents of training.

Concerns have been raised about the lack of justification and lack of proportionality with respect to decisions on compensation measures taken by competent authorities. In 2010, 9% of the SOLVIT cases linked to the recognition of professional qualifications were related to problems with compensation measures. This problem can be explained by the fact that competent authorities have a wide margin of discretion in determining what constitutes "substantial differences" in the training and thus in deciding whether to impose compensation measures; but the information provided to the applicant to justify compensation measures does not always testify to a careful comparison of the training contents. In this respect, the Directive only mentions that "the procedure (…) must lead to a duly substantiated decision" (Article 51).

Another problem raised by competent authorities, as well as citizens, is related to the organisation of compensation measures. On the one hand, competent authorities pointed to difficulties in designing and offering aptitude tests and in providing places for adaptation periods. On the other hand, citizens expressed concerns about the availability of the compensation measures. The development of compensation measures tailored to each applicant can take a lot of time and cause delays in the recognition procedures. Consequently, citizens may have to wait for a long time before having the possibility to sit a test or start an adaptation period.

2. POLICY OPTIONS

- Option 1: No policy change

With no action at EU level, the existing situation presented above will continue and will have a deterrent effect on mobility, with missed employment opportunities. Member States will sometimes face difficulties in organising tailor made compensation measures and adaptation periods, while professionals will be subject to insufficiently motivated decisions and will have to wait long periods to sit a test or to start an adaptation period.

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[20] Article 14 (4) of the Directive specifies that "'substantially different matters' means matters of which knowledge is essential for pursuing the profession and with regard to which the training received by the migrant shows important differences in terms of duration or content from the training required by the host Member State."

- Option 2: Develop comprehensive guidelines on the use and organisation of compensation measures

Under this option, the Commission would develop comprehensive guidelines together with Member States and promote the exchange of best practices between competent authorities on the use and organisation of compensations measures.

- Option 3: Optimise the use of compensation measures

Under this option, competent authorities should better justify their decision to impose compensatory measures. They should give a clear description of the substantial differences identified between the national requirements and the training followed by the professional and explain how the compensatory measures will compensate for the differences. Compensatory measure should not lead to a disproportionate burden on the applicant nor hinder or render less attractive the exercise of a given activity.

Decisions on compensation measures should no more be based only on a difference in the duration of the training: even if the training followed by the professional is one year shorter than the one required in the host Member State, competent authorities should not considered this automatically as a substantial difference allowing for compensation measures. The decision imposing compensation measures should also justify the choice of the type of the compensation measure (adaptation period or test), the length and the content of it in the light of the differences identified.

This option would ensure a more appropriate use of compensation measures and a better understanding of these measures by the migrants. However, it will not prevent the delays and difficulties arising from the lack of resources of the competent authorities to organise the compensation measures.

- Option 4: option 3 + ensure a regular organisation of compensation measures

In addition to the changes explained in option 3, this option foresees the regular organisation of compensation measures (at least twice a year). The organisation of aptitude tests should take into account the specificities of the given professions (ie. at the beginning of the winter season for ski instructors). This option would allow migrants to have a quicker access to the profession in the host Member State.

- Comparing policy options

In terms of effectiveness, Options 2 could encourage competent authorities to improve the use and organisation of compensation measures, however the guidance may not be sufficient to obtain the expected results. While Option 3 would prove more effective in achieving a better justification of the decisions, it does not address the problem linked to the practical implementation of the compensation measures.

Option 4 seems to be more effective since it addresses both issues. Imposing a stronger obligation to motivate the decisions should not lead to additional costs (competent authorities should already make this assessment) and may even result in less compensation measures (notably if compensation measures are not imposed only on the basis of duration). The regular organisation of aptitude tests could generate some costs for competent authorities (competent authorities for engineers reported costs ranging from 95 to 175 € for an aptitude test while

competent authorities for physiotherapists indicated costs ranging from 45 to 3000€) which however could be justified by the immediate benefits for the migrants (possibility to start working without delays).

The effectiveness of option 4 will be guaranteed only if competent authorities are obliged to better justify their decisions and to organise compensation measures regularly. Indeed, the Code of Conduct, which already defines the best practices concerning the organisation of compensation measures[21], has not been sufficient to ensure that aptitude tests and adaptation periods are regularly proposed to migrants. The provisions of the Directive concerning compensation measures (article 14) should be amended to better specify these elements.

	Effectiveness	Efficiency	Consistency	Impact on stakeholders			
				Profess.	*MS*	*Cons.*	*Empl.*
Option 1	-	-	-	-	-	0	0
Option 2	+	+	+	+	+	0	0
Option 3	++	+	0	+	+	0	0
Option 4	+++	++	+	++	++	0	0

[21] See section 3 of the Code of Conduct

Annex 7: Notification of new diplomas

This Annex explains in more detail the problem definition in 3.2.3. and the policy options in section 6.3.

1. PROBLEM DEFINITION

The sectoral professions benefit from automatic recognition of qualifications based on professional titles attesting that their training complies with the minimum training requirements defined in the Directive for each of these professions. These titles are listed in Annex V to the Directive which is updated by Commission twice a year. The functioning of the system of automatic recognition thus depends on the accuracy of the information contained in the annexes. If a title is missing from the relevant annex, its holders may not benefit from automatic recognition in another Member State. If, conversely, a programme corresponding to one of the titles listed in the relevant annex is found not to meet the training requirements, confidence in the qualifications of migrating professionals could be undermined.

A particular case concerns architects, a profession for which the Directive does not require Member States to apply the minimum training conditions. They are free to authorise training programmes at national level which do not meet these conditions. Graduates from these programmes cannot benefit from automatic recognition. Consequently, the relevant annex of the Directive must list specific diplomas which are compliant with the Directive's training requirements, as it cannot be assumed that all training programmes offered in a Member State meet the minimum standards. The compliance of each training programmes corresponding to each diploma must be verified by the Commission and experts from all Member States prior to inclusion of the diploma in the annex. Evidence from the evaluation of the Directive demonstrates that the procedure for notifying and examining new diplomas in architecture is considered complex and burdensome. A major problem in this context is the fact that notifications are mainly prepared by the universities themselves. They do not have the expertise or experience allowing them to present information about the programme in a way that facilitates examination with respect to compliance with the provisions of the Directive. As a result, the notifications often contain large amounts of information which is irrelevant whilst missing crucial data. Consequently, the examination takes longer and frequently must be supplemented by a series of bilateral contacts or meetings in Brussels between experts with the authorities from the universities in order to comply with the Directive.

In addition, late notification by some Member States of new diplomas can have a direct impact on graduates who may not be able to benefit from automatic recognition of their qualifications. These difficulties should not be underestimated in the current context of economic crisis, when young graduates are frequently not able to find a job in their home country and may be forced to move to another Member State.

In contrast to architects, the minimum training requirements for the six professions in the health sector are mandatory for all Member States. This means that all training programmes offered across the EU for these professions must in principle comply with the Directive. There should therefore be no need for competent authorities to assess the individual training programmes.

However, the evaluation of the Directive has revealed concerns that the training requirements may not always be respected on the ground. Uncertainty over compliance might erode confidence in automatic recognition and could create political pressure to limit its application thus restricting free movement. The challenge is thus to create more transparency about the contents of individual training programmes between Member States without creating a similar burden to that associated with diplomas in architecture. This transparency is particularly necessary in the context of the modernisation of higher education systems under the Bologna process, where training institutions gain more autonomy and many existing diplomas have been (or will be) revised or new diplomas created. For example, 35 diplomas in architecture have been notified to the Commission and Member States in 2010 due to the Bologna process. Even larger numbers of notifications of new diplomas are expected from some Member States.

2. POLICY OPTIONS

- Option 1: No action

Although important improvements have been introduced in order to streamline the process of examination of diplomas in architecture, the administrative burden remains very high and delays continue to be a problem. Even though various guidelines on the format of notifications have been developed over the years, the degree to which the notifying bodies are aware of them and apply them varies significantly from Member State to Member State and from university to university. Whilst some improvements have been noted (e.g. extensive use of tables correlating specific subject in a curriculum to the list of skills and knowledge required by the Directive), without more direct measure the quality of the notification will remain problematic.

Member States organise the process of examination differently, and some are more actively engaged than others, so costs will vary. However, the costs can be fairly high, both for the Commission and for the Member States. If no action is taken, they will increase as the number of notifications has been on the increase and even more are expected in the future (one Member State alone has recently signalled 50 new notifications).
For example, the UK competent authorities estimated at around 600€ the cost of examining one notification (staff costs). In 2010, there were 32 notifications. This means the total cost would have been around €18000, excluding the cost of participation in expert meetings in Brussels (which is shared by the Commission and the Member States). Similar costs have been estimated by Germany (€15000 excluding participation in expert meetings).

In addition, two administrators and one assistant in the Commission's services are involved in the process (examination of diplomas, coordination of the exchanges of information between Member States when notifications are incomplete or when there are doubts as to compatibility with the Directive). The Commission also organises up to three meetings a year to discuss problematic notifications.

With regards to training programmes for the health professions benefiting from automatic recognition, where greater transparency is the challenge, taking no action could lead to the loss of trust between Member States. This would undermine the system of automatic recognition. Non-compliance with minimum training requirements could also impact public health.

- Option 2: Assistance from the Commission

The problem of delays in notifications and lengthy examination of architectural diplomas could be tackled by offering assistance from the Commission services who could valuate draft notifications before they are formally submitted. This option has been tested in the past, with several Member States submitting draft notification for the Commission's appreciation. However, with increasing numbers of notifications, the Commission has not had the resources to offer such assistance on a consistent basis and in a timely manner, leading to further delays of the formal notification.

- Option 3: National compliance function

Under this option Member States would nominate an appropriate body to assume a compliance function under the Directive. Existing bodies could fulfil this role, as long as they are independent from the professions and the institutions which provide the training.

The compliance function would consist of ensuring that training programmes are in line with the minimum training conditions of the Directive and that Directive-compliant programmes are notified in a timely fashion. They would also be responsible for determining the necessity of re-notifying programmes which have undergone changes, based on criteria which should be specified in a modernised Directive. Each notification would be accompanied by a report from the national compliance body.

This would not entirely replace examination of training programmes at EU-level by the Commission and Member States- thus the associated costs would not be entirely eliminated - but could significantly facilitate and shorten the process which would lead to savings by the Commission and Member States in man hours expended for the examination of notifications and in travel and other costs involved in the organisation of meetings with experts.

Based on feedback from the Member States, notably during a workshop on the minimum training requirements for architects in May 2011 and during a meeting of the Group of Coordinators in September 2011, it appears that there would be no need for the Member States to set up new bodies. Whilst different Member States signalled different possible solutions (and a minority indicated reservations towards this proposal), it is believed that an appropriate existing body could be found in every Member State.

- Option 4: EU-level compliance body

Under this option the compliance function would reside with an EU-level rather than national body. The assessment of compliance of training programmes with the Directive could be performed by an advisory committee set up by the Commission. Alternatively, an accreditation agency could be created at EU level.

An EU-level body would guarantee uniform assessment of all training programmes and even greater transparency, although it may not be capable of ensuring the same level of scrutiny as can be ensured by bodies at national level, both because of limitations in the level of familiarity with the national educational systems and geographical/linguistic limitations.

However, although it is difficult to indicate concrete figures (past experience with setting up and operating other EU-level bodies is of limited value, as the costs will vary depending on the responsibilities, location, etc.) the implementation of this option would certainly entail significant costs.

- Comparing the policy options

Both options 2 and 3 would be effective in supporting the mobility within the professions covered by the system of automatic recognition. They also demonstrate similar potential in safeguarding automatic recognition for the benefit of the professional. Option 2 has the added advantage of creating better conditions for more timely notifications of diplomas to ensure professionals holding Directive-compliant qualifications are not left out of the system of automatic recognition. Both options would ease the burden associated with examination of diplomas by the Member States, whilst ensuring minimum training requirements are respected to ensure consumer/patient safety. However, Option 2 is more efficient, as it should not lead to significant cost for Member States: in many Member States a national compliance function already de facto exists. By contrast, the cost of creating a new structure at EU level appears to be disproportionate to the potential benefits. Thus, it is less efficient than the status quo.

Option 2 is thus the preferred option. In order to ensure its effectiveness, it should be implemented through the insertion of an explicit reference to a national compliance function into the Directive.

	Effectiveness	Efficiency	Consistency	Impact on stakeholders			
				Profess.	*MS*	*Cons.*	*Empl.*
Option 1	O	O	O	O	O	O	O
Option 2	+	-	n.a.	O	+	O	O
Option 3	+	++	n.a.	++	+	+	O
Option 4	+	-	n.a.	+	+	+	O

Annex 8: Minimum training requirements for health professionals

This Annex explains in more detail the problem definition in 3.2.3. and the policy options in section 6.3.

1. CLARIFICATION OF MINIMUM TRAINING PERIODS FOR DOCTORS, NURSES AND MIDWIVES

1.1. Problem definition

The Professional Qualifications Directive grants automatic recognition for certain health professions, based on the harmonization of the training requirements for these professions at EU level. One basic condition is the minimum duration of the training. In case of the basic medical training, the general care nurse training and certain midwife trainings, the minimum duration of training is expressed in terms of years or training hours. The Directive foresees that the basic medical training comprise at least six years of study or 5500 hours of theoretical and practical learning. For general care nurses, the training should comprise at least three years of study or 4600 hours of theoretical and clinical training. This can give rise to diverging interpretations whether the two criteria constitute two options or if they should be applied together

Until recently there was an understanding between the Member States that these criteria are equivalent, and Member States cannot deviate from it significantly. However, from 2007 the Commission has received several complaints against Member States which deviated significantly from one of these two conditions, in particular for basic medical training, to such an extent which compromised the required quality of the training. These complaints concern a small number of training institutes across the EU. In addition, the Commission is aware that in one Member State, basic medical training is structured on the basis of the requirement of 5500 training hours, which can be distributed in less than six years of study, depending on the organisation of the training programmes proposed by universities.The above mentioned complaints have shown that there is a need for clarification of the minimum duration requirements. The existence of a solid minimum duration benchmark in these three training is very important, since in case of the basic medical training the EU legislator has not harmonized the minimum training subjects, and in case of general care nursing and midwifery trainings the level (secondary or higher education) varies between Member States, therefore the harmonization of the minimum duration plays an even more important role than in case of other professions.However, in order to preserve the benefits of automatic recognition across the EU, there is also a need to respect the organisation of the national education and training systems and to offer some flexibility in this respect.

1.2. Policy options

- Option 1: No action

If there will not be an action at EU level, the possibility to interpret the minimum duration provisions in different ways might cause the formulation of substantially different training programmes in the different Member States, which would compromise the assumption of the existence of high quality trainings in all Member State which is the basis of automatic recognition.

- Option 2: Exclude one of the two criteria:

This option would have the similar effect as policy option 1. If Member States would be only obliged to take into consideration the minimum number of years, they would be allowed to devise significantly different trainings. On the other hand, if only the minimum number of training hours would be kept, Member States would be allowed to offer compressed trainings.

- Option 3: Combination of the two criteria and adaptation of the number of years for doctors

One possible solution would be to clarify in the wording of the Directive that both the requirements of minimum number of years and training hours is compulsory. This would provide for more clarity and it would be easier to enforce the implementation and application of the provision, therefore it would be easier to guarantee the consistent application of the minimum duration requirement at EU level. However, for doctors, combining the minimum number of years (6 years) and training hours (5500 hours) may excessively limit the autonomy of educational institutions and not reflect the situation of medical studies in all Member States. In some cases, the number of training hours may be distributed over 5 years and there is no evidence that this organisation compromise the quality of the training. Indeed, introducing flexibility in programme design and delivery, with rigorous quality assurance arrangements, should not undermine the quality of education. In its reply to the Green Paper, the network of medical competent authorities stressed that several member states have established intensive graduate-entry or fast-track programmes which meet high quality standard but are not organised over six years. In this context, they consider that any change to the minimum duration would undermine the flexibility necessary to organise medical education and training in line with national healthcare needs and workforce requirements. For these reasons, the combination of the two criteria – number of years and hours – for basic medical training implies reviewing the number of years (5 years instead of 6 years). This change would imply that, depending on national regulations on basic medical training, universities currently offering basic medical training in 6 years would have the possibility to move to 5 years, if they consider this would improve the efficiency of the training without undermining the quality.

- Option 4: Option 3 and introduce a reference to ECTS

In order to align with the recent reforms in higher education, the minimum training requirements could also be expressed using the European Credit Transfer and Accumulation System (ECTS). It may be too early to replace the number of years and training hours by ECTS, however there should be a possibility to express the duration of training programmes in ECTS. Member States choosing to do so should ensure that the number of ECTS is equivalent to the number of years and hours defined in the Directive.

This option could be foreseen only for professions where the harmonized training level of training is higher education (doctors, dentists, pharmacists).

- Comparing the policy options

Option 1 and 2 would not help to solve the problem related to the possible diverging interpretation of the minimum training duration provisions. This could lead to substantially different training programmes and diminishing trust in the trainings in other Member States.

Option 3 would help to clarify the provisions while offering the necessary flexibility for doctors' training. Option 4, which foresees the reference to ECTS, complements option 3 and allows introducing a concept frequently used in higher education, in particular for the courses leading to the qualifications required for the exercise of a regulated profession .

Therefore option 4 is the preferred option.

	Effectiveness	Efficiency	Consistency	Impact on stakeholders			
				Profess.	*MS*	*Cons.*	*Empl.*
Option 1	O	O	O	O	O	O	O
Option 2	-	O	-	-	-	-	-
Option 3	+	+	+	+	+	+	+
Option 4	+	+	++	+	+	+	+

2. ADMISSION REQUIREMENTS FOR NURSES AND MIDWIVES

2.1. Problem definition

The admission requirement for nurse trainings is currently minimum ten years of general education. The same requirement applies to midwifery training under the so-called route I training (Article 40 (2) a).

National governments, competent authorities, professional organizations and academic bodies argued during the public consultation that the admission requirement for these trainings should be raised to 12 years of general education. They argued that the nursing and midwifery professions have significantly evolved in the last three decades: community-based healthcare, the use of complex therapies and constantly developing technology presuppose the capacity for more independent work by nurses and midwives. As a result of the shortage of doctors, nurses and midwives are expected to perform tasks which were previously undertaken only by doctors in many Member States. There is a general concern that students who enter nursing and midwifery trainings after only ten years of general school education do not have the necessary basic skills and knowledge to start a training which should prepare them to meet complex healthcare needs.

As a result, 24 Member States already require 12 years of general education as the condition for admission to these trainings, while one Member State is planning to this adopt this requirement. This also corresponds to an international trend: in 2009, a World Health Organization's (WHO) Task Force published "Global standards for the initial education of professional nurses and midwives[22]" that put emphasis on the need to move initial education to a higher education level ("*Nursing or midwifery schools have entry requirements that meet national criteria for higher education institutions including, but not limited to, completion of*

[22] Global standards for the initial education of professional nurses and midwives, WHO, 2009, http://www.who.int/hrh/nursing_midwifery/hrh_global_standards_education.pdf

secondary education"). The WHO also published a survey in 2009 on nurses and midwives[23] analysing the recent changes in these professions and found that these changes were mainly "*related to the widening and expansion of the scope of nursing and midwifery practice*" and "*mainly focused on moving initial nursing and/or midwifery education into the higher education sector*". This survey also indicated that the need for highly educated nurses and midwives has increased compared to a previous survey conducted in 2009.

The OECD Health Working Paper on "Nurses in Advanced Roles"[24] confirms this trend and explains that in most countries the main reason for developing more advanced roles for nurses is to improve access to care in a context of limited supply of doctors and to reduce waiting times, thereby also making overall cost savings for the healthcare systems.

2.2. Policy options

- Option 1: No action

If no action is taken at EU level, there will be a more and more substantial difference between nurse and midwifery trainings of Member States with higher admission requirements and lower admission requirements. As a result, it will be very difficult for nurses who graduated in Member States with lower admission requirement to integrate to the health care system of the Member States with higher admission requirements. Such a difference in the training requirements would cause a mistrust in qualifications obtained in Member States with lower admission requirements.

- Option 2: Require 12 years of general education for both nursing and midwifery trainings

This solution would help to adapt nurse and midwifery trainings to the development of these professions. At the same time all Member States could educate nurses and midwives with broader skills and knowledge, and the ability to play a more significant role in the national health care systems.

This option implies that the two Member States where the entry requirement is currently at 10 years of general education upgrade the entry level for their education programmes for nurses and midwives. This might incur significant costs which are difficult to estimate; however, the examples of similar choices made by other countries show that these costs can be compensated by the benefits of having more skilled nurses and midwives: in particular, the delegation of certain tasks from doctors to nurses and/or midwives allows to deliver the same services at a lower cost. The OECD paper mentioned above on "Nurses in Advanced Roles" explains that "*advanced practice nurses are able to deliver the same quality of care as doctors for a range of patients, including those with minor illnesses and those requiring routine follow-up*". This paper also reviewed a number of evaluations on the impact of advanced practice nursing on costs, which reported that "*when new roles for nurses involve*

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[23] Nurses and midwives: a force for health. Survey on the situation of nursing and midwifery in the Member States of the European Region of the World Health Organization, 2009; http://www.euro.who.int/__data/assets/pdf_file/0019/114157/E93980.pdf

[24] OECD Health Working Papers No. 54: "Nurses in Advanced Roles - A Description and Evaluation of Experiences in 12 Developed Countries", July 2010, available on: http://www.oecd-ilibrary.org/social-issues-migration-health/nurses-in-advanced-roles_5kmbrcfms5g7-en

substitution of tasks (tasks previously done by doctors), *the impact is either cost reducing or cost neutral*".

- Option 3: Upgrading the admission requirements for midwives but not for nurses

Currently students who enter to the midwifery training only after 10 years of general education have to practice in the home Member State for two years before they can benefit from automatic recognition. If the admission requirement for midwives could be upgraded to 12 years, there could be a possibility to repeal this provision as well, so that all midwives could benefit from automatic recognition directly after graduation. Around 70% of midwives in Germany already have 12 years of general education.

- Option 4: Require "12 years of general education or equivalent" as the admission requirement both for nurses and for midwives, and provide 5 years additional transition period for Member States to implement these changes

This solution is the same as option 2, however, recognizing that this amendment requires major educational reforms in the Member States which do not yet require 12 years of general education as an admission requirement.

At the same time Member States would be provided with the opportunity to organize alternative exams for candidates for nursing and midwifery trainings. At this exams, candidates could prove that although they have not completed 12 years of general education, they possess the same knowledge and competences as students who complete such education. This would allow Member States to impose higher level admission requirements, but at the same time provide an opportunity for those candidates who want to enter to nursing trainings at a later stage in their life, through non-traditional or vocational routes. If such candidates can prove that they acquired the necessary knowledge and skills through non-conventional methods, this is in line with the aim of life-long learning to allow them choosing the nursing and midwifery training.

- Comparison of the policy options

If no action is taken at EU level to increase the admission requirements as proposed in option 1 the difference between the trainings will became so substantial that nurses and midwives trained in Member States with lower admission requirement will find it very difficult to integrate into the health care system of the host Member State with higher admission requirements. At the same time, the trust in qualifications obtained in other Member States will erode, jeopardizing automatic recognition.

Option 3 provides only a solution for midwives: it would improve their situation as it would enhance the convergence of trainings between Member States, which could help maintaining the trust in qualifications obtained in other Member States. At the same time the new admission requirement would be more beneficial for graduates as it could be possible to repeal the professional practice requirement as a condition for automatic recognition.

Options 2 and 4 would enable Member States to educate more skilled and independent nurses and midwives, and at the same time to maintain trust in nurse and midwife qualifications obtained in an EU Member State.

It is suggested to opt for option 4, which also takes into consideration of the short time challenges that Member States face who have not yet implemented the necessary educational reforms, and provides a possibility for people without the necessary formal education to opt for general care or midwifery trainings in accordance with the principle of life long education.

	Effectiveness	Efficiency	Consistency	Impact on stakeholders			
				Profess.	*MS*	*Cons.*	*Empl.*
Option 1	O	O	O	O	O	O	O
Option 2	+	-	+	+	-	++	++
Option 3	+	O	-	+	-	+	+
Option 4	+	-/O	++	+	-/O	++	++

3. RESTRICTION OF OPENING UP NEW PHARMACIES FOR EU QUALIFIED PHARMACISTS

3.1. Problem definition

Article 21(4) of the Directive allows Member States not to give effect the recognition of a pharmacist's qualifications for the setting up or management of new pharmacies open to the public, including those which have been open for less than three years. This derogation was adopted in 1985 to allow Member States which did not apply geographical restrictions regarding the opening of new pharmacies to control the influx of newly graduate pharmacists from Member States which had geographical restrictions. The unclear wording of this provision leads in some Member States to legislations which prohibited EU qualified pharmacists to open up pharmacies or manage new pharmacies. This is a discrimination against EU citizens from other Member States and it is contrary to the Treaty on the Functioning of the European Union. More and more Member States no longer use this derogation. The Netherlands and Ireland abandoned it in the past, the United Kingdom also recently repealed the corresponding national provisions[25] . In addition, the Court of Justice approved using territorial restrictions for new pharmacies in Spain (June 2010). These restrictions are less burdensome than discrimination of professionals with foreign qualifications. Whilst the Court of Justice allows for territorial restrictions for opening up pharmacies under its jurisprudence, it does not accept that any restriction contains discriminatory elements[26].

3.2. Policy options

- Option 1: No action

[25] The Medicines Act 1968 (Pharmacy) Order 2011 came into force on the 4th November 2011 http://www.legislation.gov.uk/uksi/2011/2647/contents/made

[26] Court of Justice, joined cases C-570/07 and C-571/07, José Manuel Blanco Pérez, María del Pilar Chao Gómez, judgment of 1 June 2010

This option would maintain this unclear derogation in force, and Member States could adopt on the basis of this provision prohibitions at national level which are contrary to the Treaty on the Functioning of the European Union.

- Option 2: Repeal this provision

If this derogation would be repealed, Member States could not adopt discriminatory national legislation impeding EU qualified pharmacists to open up pharmacies or manage new pharmacies in another Member States.

- Comparison of the policy options:

If no policy action is taken at EU level, Member States can adopt new legislations impeding EU qualified pharmacists from the full exercise of freedom of establishment in another Member State.

	Effectiveness	Efficiency	Consistency	Impact on stakeholders			
				Profess.	*MS*	*Cons.*	*Empl.*
Option 1	O	O	O	O	O	O	O
Option 2	+	+	+	+	-	+	+

4. MEDICAL/DENTAL SPECIALITIES

4.1. Problem definition

The Professional Qualifications Directive grants automatic recognition for certain health professions, based on the harmonization of the training requirements for these professions at EU level. For seven sectoral professions this legal framework also contains harmonised minimum training requirements, which allows the automatic recognition of these professional qualifications. It concerns also 54 qualifications of specialised doctors, and two qualifications of specialised dentists which are listed in Annex V, point 5.1.3. and point 5.3.3. of the Directive 2005/36/EC.

The Commission has received numerous comments on specialist training, primarily focusing on two issues:

– First, according to the second paragraph of Article 26 of Directive, automatic recognition can currently only be extended to new medical specialities, if the speciality exists in at least two fifths of the Member States. The new speciality might be introduced into the Annex V, point 5.1.3. as this modification is designed to ammend non-essential elements of the Directive shall be adopted by Committee prcedure as prescribed in Article 58(3) of the Directive. This currently required threshold could create a disincentive for innovation and limit the opportunities for inserting new medical specialities into the Directive.

– The second issue concerns the general framework for organising specialist training. The Directive leaves little room for recognition of prior learning as part of training

on courses which are of at least an equivalent level to the training for a given speciality. If a doctor has followed a specialist training and afterwards follows another specialist training, he or she would, in principle, have to follow the full training programme for the second speciality, from the very start.

4.2. Policy options

- Option 1: No action

If there will be no action at this field the current regime would prevail, which means that thus to the requirement of the higher threshold, the holders of specialist qualifications which are existing in less than 11 Member States could not benefit from the automatic recognition system, but their specialist qualification would still be recognised under the general system, which might be an obstacle to their free movement.

On the other side the Commission has experienced from some complaints that some Member States are already organising their trainings by granting partial exemptions from parts of specialist training, if that part of the training has been followed already in the context of another specialist training programme. According to the current rules of the Directive these qualifications in principle could be only recognised under the general system.

- Option 2: Lower the threshold of the minimum number of Member States where the speciality exists from two-fifths to one-third of the Member States while not introducing the possibility of partial exemption

By the modification of the second paragraph of Article 26 to lower the required threshold from two fifths to one third of the Member States (technically from the current requirement of minimum 11 Member States to minimum 9 Member States) the Directive could be adapted easier to the current innovations and would make the procedure more flexible to insert new medical specialities in the Directive, which could promote the mobility of the medical specialists. In this way, the threshold for the insertion of new specialities into the Directive would correspond to the threshold proposed for common platforms.

With regards the organisation of specialist trainings the current regime would prevail, though the Commission has experienced from complaints that some Members States are already use these method with regards medical specialities.

- Option 3: Lower the threshold of the minimum number of Member States where the speciality exists from two-fifths to one-third of the Member States and introduce the possibility of partial exemption with regards the specialist medical/dental training

This option would go further while on the one hand it would also favour lowering the treshold as prescribed in option 2, but on the other hand it would also introduce the possibility of partial exemptions with regards specialist medical/dental trainings.

The modernisation of the Directive could be an opportunity to give Member States the possibility of granting partial exemptions from parts of specialist training, if that part of the training has been followed already in the context of another specialist training programme.

This is of particular relevance to specialities which have grown out of internal medicine or general surgery.

If this option would be adopted, on the one hand more specialists would be able to apply for the recognition of their specialist qualification under the automatic recognition system, while on the other hand if the possibility of granting partial exeptions would be given to Member States (or their competent authorities) a strict notification requirement should be introduced in order to guarantee the compliances of these training with the minimum training requirements and to strenghten the mutual trust between the Member States and the confidence in the automatic recognition system.

- Comparison of the policy options:

In case of Option 1 no policy action would be taken on EU level, though the Commission has experienced these problems from individual complaints.

Option 2 would already be a big achievement on the one hand because it could facilitate the free movement of medical specialist whose qualification would fall under the effect of the automatic recognition by the introduction of the more flexible rules for introducing a new specialisation into Annex V, point 5.1.3 of the Directive, but on the other hand this option would not give answers to complaints arising from the principle of partial exemption.

Option 3 could give the solution for both problem areas while it has to be considered that parallel to the introduction of the possibility of Member States for giving partial exemptions a strict notification system should be introduced as well to be able to monitor the compliance and to strengthen the mutual trust between the stakeholders on which the whole system is built on.

As the Commission could consider from the responses to the Green paper on Modernising the Professional Qualifications Directive the vast majority of the national governments and the EU-wide networks or associations are also in favour of Option 3, but they also recall the necessity of transparency in case Member States would be empowered to benefit from the possibility of partial exemptions.

	Effectiveness	Efficiency	Consistency	Impact on stakeholders			
				Profess.	*MS*	*Cons.*	*Empl.*
Option 1	O	O	O	O	O	O	O
Option 2	+	+	+	+	+	O	O
Option 3	+	+	++	++	+	O	O

Annex 9: Minimum training requirements for architects

This Annex explains in more detail the problem definition in 3.2.3 and the policy options in section 6.3.

1. PROBLEM DEFINITION

Article 46 of the Directive defines the minimum training requirements for around half a million architects in the EU. They must meet them in order to benefit from the automatic recognition of their professional qualifications in other Member States. The main characteristics are:

(i) duration of at least four years, at university-level;

(ii) architecture as the principal component, with a balance between its theoretical and practical aspects; and

(iii) guarantee of acquisition of knowledge and skills described in eleven sub-points.

The recognition itself is based on the possession of a diploma testifying to the completion of an academic programme which has been examined by the Commission and the Member States and found to be in conformity with the Directive. If the Member State where the diploma is awarded imposes additional requirements under its national law, such as supervised practical experience, the diploma may have to be accompanied by a certificate indicating that all these requirements have been met.

The minimum training requirements defined in the Directive were agreed in the 1980s and there is a strong body of opinion among stakeholders that they no longer reflect the prevailing standards of architectural education. This does not create any immediate problems with respect to mobility of professionals: Member States can set their national requirements at a higher level whilst relying on the Directive as the basis for automatic recognition of the qualifications of architects who trained elsewhere in the EU. However, in the long run, a gap between the Directive's requirements and the reality could erode confidence in the qualifications of migrant architects and thus stifle mobility.

Another problem is related to the diversity among Member States with respect to the additional requirements for fully qualifying as an architect, notably practical experience. As this aspect is not covered by the Directive, some Member States do not require any practical experience while others make access to the profession contingent upon the completion of up to three years of supervised practical training. These imbalances can have similar negative long-term effects as discrepancies in the duration of academic training. Moreover, they create opportunities for the abuse of EU law by enabling graduates in architecture to evade national requirements by seeking recognition in a Member State with less strict rules. Finally, they can create confusion as to the correct application of the Directive, particularly in instances where the rules between two Member States vary considerably, leading to delays in the automatic recognition process or even preventing mobility altogether.

These problems do not constitute a major obstacle to mobility at the moment, apart from certain specific cases. However, effective policy solutions will have to be developed in order

to prevent the erosion of confidence in automatic recognition which could make mobility by architects difficult in the longer term.

It should be noted that any increase in the duration of training will lead to a significant administrative burden associated with the notification and examination of new diplomas during the transposition period: the diplomas currently listed as complying with the directive have only been examined with respect to the current requirements and would have to be re-examined to ensure conformity with any new requirements. This burden could be partly offset by improvements to the existing procedures for the notification and examination of new diplomas.

2. POLICY OPTIONS

- Option 1: Do nothing

This option has the advantage of not increasing the administrative burden linked to the notification and examination of programmes of training in architecture, as retaining the status quo would mean that the existing list of diplomas entitling to automatic recognition could remain in place. It would be supplemented with any new diplomas, as necessary, which meet the same minimum training requirements as currently defined, notably four years of university-level training.

Where a Member State imposes additional requirements, such s a state exam or supervised practical experience, they would continue to issue certificates indicating that a migrating professional has completed these and is thus fully qualified according to the national law of that Member State. This offers at least a partial solution to the problems linked to the discrepancies in practical experience requirements between Member States.

However, this option carries a significant risk. The cost of doing nothing could be the loss of confidence in automatic recognition as its basis – the minimum training requirements - fails to reflect the prevailing standards. As the day-to-day application of the Directive relies heavily on the conviction that a migrating architect is adequately prepared for the exercise of the profession, mobility could become increasingly more difficult, initially in specific instances; in the long-run the whole system could be put into question.

The evidence from the evaluation of the Directive also suggests that this option would not be acceptable to the principal stakeholders, with the main representatives of the profession at EU level, as well as a significant number of Member States, calling for an increase to the Directive's minimum training requirements.

- Option 2: Increase minimum duration of training from four to five years

Under this option, only diplomas attesting to training of minimum five years would entitle their holders to automatic recognition of their qualifications. All other factors would remain unchanged, including full discretion by Member States regarding additional requirements, such as supervised practical experience (confirmed, where applicable, by a certificate issued by the home Member State, as under the status quo).

As training of five years or more appears to be the norm across the EU already today, there would be no significant immediate effect on mobility, unless a re-examination of the currently listed diplomas revealed that some of the corresponding programmes last a minimum of five

years but do not have architecture as the principal subject throughout the training. Some graduates might thus be adversely affected as schools of architecture are likely to require a period of time to adjust to the new requirements.

In the long-run increasing the minimum duration of training would limit the risk of erosion of confidence in automatic recognition, as the concerns that the requirements of the Directive are out of tune with reality would be alleviated, albeit only with respect to the duration of training, without addressing the question of practical experience at EU level.

As indicated above, this option entails a considerable initial administrative burden, both for the Member States and the Commission, linked to re-notification and re-examination of diplomas. All the currently listed diplomas would need to be re-examined to determine not only that the corresponding training lasts no less than five years, but also that all five years are dedicated primarily to architecture. Any programme which does not meet the new requirements, for example, because its fifth year consists of a specialisation of which architecture is not a principal component, would not be deemed to be in conformity with the Directive in the future. Consequently, all existing titles would need to be covered by an acquired rights regime and a new list of titles created comprising only those which meet the stricter requirements. This option should thus be accompanied by efforts to further streamline the process of notification, examination and publication of new titles.

The option of increasing the minimum duration of training would be consistent with the reforms undertaken in the Member States in relation to the Bologna process. Many universities have introduced programmes based on the 3+2 structure (three-year bachelor, followed by two-year master). However, it would also entail restrictions on the flexibility of Member States and universities, narrowing the scope for alternative offerings, e.g. to provide opportunities for students wishing to pursue combined studies in more than one discipline or to offer a range of specialisations. Thus, this option would have an adverse effect on the diversity in architectural education.

Finally, one Member State has signalled concerns about the impact of an increase of the minimum training conditions on the ability to finance architectural education at a time when many EU countries are facing severe budgetary constraints.

At the moment only 2 Member States have four-year programmes, with others requiring at least 5 years. However, in view of possible future educational reforms, several Member States would prefer to keep the option of only four years of academic training in the future.

- Option 3: Simultaneously increase the minimum duration of training to 5 years and amend its definition to include a supervised practical experience component of 2 years

A number of stakeholders have called for the increase of the minimum duration of training to 5 years and the addition of a supervised practical experience of minimum 2 years.

This would represent a much higher level of harmonisation compared to the current provisions of the Directive and to all the other options considered here. Consequently, it could have a positive impact on mobility in the long-run, once all Member States adopted this model. At the same time, it would limit the flexibility of Member States currently enjoy and restrict the scope for diversity in architectural education. Although it would reflect the

existing training requirements in many Member States, for some it would entail potentially costly reforms.

The objective of enhancing mobility would be further reinforced by clarifying that the necessary practical experience can be completed in any Member State, not necessarily the one where the diploma was awarded. This could encourage mobility of young graduates immediately after the completion of their studies as well as enhance their mobility throughout their careers, as they develop a network of professional contacts in other Member States and boost their professional aptitude with new skills and perspectives.

This option would require a review of the existing list of diplomas benefitting from automatic recognition (as under Option 2) as well as a potential added administrative costs related to the implementation of the common definition of supervised practical experience. This would be offset over time, as a common understanding on practical experience requirements would eliminate certain problems which are currently encountered between some Member States. As under Option 2, the choice of this option should be accompanied by measures to further streamline the process of notification, examination and publication of diplomas.

The introduction of a practical experience requirement at EU level will create an additional administrative burden for those Member States which do not require it at the moment (e.g. Spain) and more importantly those which do not regulate the profession at all and thus may not have fully-fledged competent authority structures in place to verify and certify the practical experience (e.g. Denmark and Sweden).

This option would contribute to the raising of standards in architectural education, in line with the recommendations of international bodies such as UNESCO or the International Union of Architects (UIA). However, it should be noted that, unlike these international recommendations, the primary objective of the Directive is to facilitate the mobility of professionals in the single market. Although the Directive also seeks to ensure high levels of consumer protection, Member States appear to be in a better position to determine the best way of organising architectural education within the context of their educational systems and the needs of their market.

- Option 4: Define training as architect as lasting a minimum of 6 years and consisting of a university training of a minimum 4 years and practical experience of a minimum 1 year

This option would reflect the current situation in the majority of Member States most accurately, in that most of them require supervised professional practice in addition to academic training. In contrast to Option 3, the duration of both the academic and practical components would be flexible in order to accommodate different approaches in the Member States. A possible solution could be to provide for an overall duration of training of minimum six years, consisting of academic training of minimum four years and supervised practical experience of minimum one year. Thus, academic training of four years would have to be supplemented by at least two years of supervised professional experience, whereas the professional experience could be of one year only if the initial academic training was of five years or more. These requirements would still be the minimum, giving Member States the option of prescribing more stringent conditions for access to the profession, e.g. five years of academic training followed by two years of supervised practical experience.

This option would have a similar positive impact on the long-term sustainability of the system of automatic recognition, whilst preserving the flexibility for Member States and universities to pursue a variety of approaches to architectural education.

- Comparing the policy options

Effectiveness

Any change to the minimum training requirements, as described in Options 2, 3 and 4, might negatively affect the mobility of some architects in the short term, in particular in cases of any delays in bringing training programmes into line with the new requirements of the Directive by universities or in the notification of these new programmes by the Member States.

In the long run, however, any of these options appears to be preferable to the status quo in terms of their potential to sustain or even enhance mobility. Firstly, all of them represent a higher degree of harmonisation. This should facilitate the approval of training programmes by other Member States, as their basic characteristics would become even more uniform across the EU.

Secondly, bringing the Directive's requirements more closely into line with the most commonly accepted standards across the EU and internationally would mitigate the risk of a gradual erosion of confidence in the system of automatic recognition. The evaluation of the Directive has demonstrated the effectiveness of automatic recognition in facilitating the mobility within the professions covered by the system. It is thus important to ensure its continued acceptance. This could be undermined if the minimum training requirements on which it is based are seen as inadequate or even as representing a risk of a lowering of standards with implications for public policy or safety.

The introduction of a supervised practical experience component in particular has the potential of enhancing mobility. In addition to the overall benefits associated with higher degrees of harmonisation outlined above, it could actually lead to greater mobility among young graduates, if it is specified that the practical experience can be carried out in any Member State and mechanisms for a smooth recognition of this experience in the home Member State are put into place.

Efficiency

Options 2, 3, and 4 all entail additional costs. Firstly, any increase to the minimum training requirements would trigger a need to review all the diplomas currently listed as entitling their holders to benefit from automatic recognition, because they have only ever been examined against the current minimum requirements. This would put a high burden on the Commission, notably in terms of staff required to examine the training programmes and coordinate the whole process, including organisation of any additional meetings with Member States which might be required. There would also be additional administrative costs for the Member States who would need to re-notify their own diplomas and examine those notified by the others.

These costs are likely to be significantly lower if Option 4 was selected, because those Member States who require supervised practical experience of at least two years could maintain academic programmes of at least 4 years (including 5-year programmes with specialisations or alternative structures, e.g. offering the possibility of concurrently studying for two different degrees, etc.). For those Member States there would be no need for a re-

examination of the currently listed diplomas. The burden could also be offset to some extent by introducing further measures to streamline the process of notification, examination and publication of new diplomas.

More importantly, there could be significant costs for the Member States if current national requirements would have to be brought into line with new minimum requirements of the Directive or if any necessary reforms in the future were hindered because of the Directive's provisions. Again, Option 4 would be preferable in this context, as it offers more flexibility to the Member States.

In addition, administrative burden would increase for those Member States which do not currently regulate the profession in case Option 3 or 4 is chosen, as they would need to provide means for the certification of supervised practical experience.

Consistency

Increasing the minimum duration of training to 5 years would be consistent with the reforms taking place in Member States further to the Bologna Process. However, it should be stressed that, in as far as the Directive only provides for minimum training requirements, Member States are free to pursue these and other reforms also under the status quo. Meanwhile, it appears that increasing degrees of harmonisation would restrict the diversity in architectural education as well as limiting Member States' ability to determine the best means of providing architectural education given any national specificity of the profession, broader social objectives and budgetary constraints.

Option 4, in addition to offering more flexibility and more openness to architects with 4 years diploma would also be consistent with the efforts to promote youth mobility by providing the facilitating the movement of young graduates (this particular feature could also be foreseen under the more restrictive Option 3).

Distributional effects

Given that most programmes in architecture already last a minimum of 5 years, the impact of Option 2 would be limited. It is difficult to foresee the net effect of Option 3: on the one hand, mobility could be enhanced where national requirements already correspond to those outlined in this option; on the other hand, increases in training requirements could be associated with added costs, including opportunity cost, for professionals. It seems that the flexible Option 4 would benefit professionals, as their practical experience could be more easily recognised – this would however vary from one Member State to another, with professionals from non-regulating Member States possibly being put at a disadvantage.

The impact of Options 2 and 4 on Member States is likely to be limited (with the exception of non-regulating Member States in the case of addition of a practical experience component under Option 4). Option 3 could be associated with varying degrees of burden on Member States as outlined under *Efficiency*.

A more uniformly high standard in architectural education, and in particular a guarantee that every independently practicing architect has had supervised practical experience (as per Options 3 and 4) would benefit consumers. However, any changes entailing higher educational costs for the professionals themselves could have an impact on the price of their services.

It is unclear what impact the changes to minimum training requirements would have on employment. There would probably be little immediate direct impact. A factor that may play a part in the longer term could be the delay in the entry into the workforce by architects in cases where overall duration of training is increased, but the effect is not easily predictable and would likely vary across the EU.

Acceptability

It appears that Option 1 would not be acceptable to a significant majority of key stakeholders and Member States, as it is seen as perpetuating standards which are no longer adequate, even if the Directive only provides for minimum harmonisation. At the same time, Options 2 and 3 could lead to a backlash from Member States as well as educational institutions, as the flexibility in organising architectural education is curtailed. Option 4 could provide an acceptable compromise.

	Effectiveness	Efficiency	Consistency	Distributional effects			
				Profess.	*MS*	*Cons.*	*Empl.*
Option 1	O	O	O	O	O	O	O
Option 2	+	--	-	≈	≈	+	?
Option 3	++	--	-	?	-	+	?
Option 4	++	-	+	+	≈	++	?

Annex 10: Automatic recognition of professional experience

This Annex explains in more detail the problem definition in 3.2.3 and the policy options in section 6.3.

1. PROBLEM DEFINITION

1.1. Introduction

Professional activities related to craft, commerce and industry – as listed in Annex IV of the Directive – benefit from automatic recognition mainly based on the principle of professional experience (and in some instances also on the basis of prior training of two or three years). The details of the required professional experience are set out in Articles 16 to 19 of Directive 2005/36/EC. These rules actually date back to the introduction of a so-called "transitional regime" in a range of directives in the 1960s.

A first simplification was achieved in the former Directive 1999/42/EC which has subsequently been merged into Directive 2005/36/EC. The 1999 Directive merged a whole range of sectoral directives, ranging from craft and industry (Directive 64/229/EEC) to hairdressers (Directive 82/489/EEC); the 1999 Directive also introduced the additional possibility to use the general system for the professionals that do not satisfy the number of years of professional experience qualifying for automatic recognition. The introduction of the general system for these professional activities included the possibility to subject the migrant to compensation measures and left to the host Member State the right to decide between an adaptation period and an aptitude test for professionals (self-employed or manager of an undertaking) envisaging to exercise activities which require the knowledge and the application of the specific national rules. The right of the host Member State to decide on the type of compensation measures has been justified by the need to know local laws and regulations. This stands in contrast to most other professions where the citizen can choose to go for an aptitude test or an adaptation period (see section 5) .The migrant's knowledge of national law could not be tested if the application was examined under the automatic recognition system. The 2005 Directive did not change this framework: automatic recognition remains in place; the general system can be applied in the conditions explained above[27].

Since 2007, about 7400 professionals benefited from this regime, representing notably the professions of mason/bricklayer, painter/decorator, joiner carpenter, plumber and tiler.

1.2. Conditions for automatic recognition

In order to benefit from automatic recognition, a migrant should exercise one of the activities listed in Annex IV of the Directive and satisfy with the requirements set out in Article 16 to 19 of the Directive. These requirements are defined in terms of number of years of professional experience, prior training and status of a professional (self-employed, manager of an undertaking, employed). If professionals do not satisfy the number of years of professional experience qualifying for automatic recognition, they can submit an application under the general system.

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[27] See in particular Articles 10 (a) and Article 14 (3) last subparagraph of the Directive

Feedback from Member States and competent authorities in 2011 has shown that this system of automatic recognition works overall.

However, in some cases, professionals prefer submitting an application under the general system. It seems that they consider the general system as being easier compared to automatic recognition.

This is for example the cases of hairdressers and electricians. Since 2001, only around 21% of hairdressers and 52% of electricians used the "automatic recognition avenue" whilst others preferred the general system. This situation shows that, for a limited number of professions, the added value of the automatic recognition may be limited. The conditions defined in Articles 16 to 19 may not correspond to the situation of mobile professionals (e.g. young professionals, most likely to migrate to another Member State, who may not yet possess the required number of years of experience in a given position within the company).

A second issue, highlighted by some competent authorities, seems to be (the complex implementation of the system. The eligibility criteria defined in Article 16 to 19 are considered particularly difficult to use: when assessing a request of recognition, competent authorities must check whether the professional activity is covered by Annex IV of the Directive (that includes 3 different lists of economic activities linked to different conditions of recognition) and must verify that the conditions for automatic recognition (number of years of professional experience, status of the professional, previous training) are met. This complexity may undermine the efficiency of this system of automatic recognition.

Other authorities reported difficulties in verifying that the authorities issuing certificates of professional experience are entitled to do so.

Some authorities pointed to the limits of this system of automatic recognition, taking the position that professional experience is not sufficient to grant automatic recognition or emphasizing the diversity existing in the scope of the professions

Finally, the professional organisations concerned strongly support this system of automatic recognition, which is considered adapted to the needs of the professionals. They do not see a need to change the minimum number of years of experience required or even to arrive at a uniform level of professional experience to Articles 16 to 19.

1.3. Classification of professional activities in Annex IV of the Directive

The classification of activities in Annex IV of the Directive is to a large extent based on the International Standard Industrial Classification of All Economic Activities (ISIC) as of 1958. This classification no longer reflects the current structure of economic activities. This may create difficulties for identifying the professions falling under this system of automatic recognition and result in uncertainties for the professionals themselves.

This problem has been raised by many competent authorities, which explained that the broad definition of economic activities in Annex IV of the Directive and the outdated nature of some activities make the identification of a specific profession quite complex. The high number of activities listed in Annex IV of the Directive, which are not always related to a regulated profession, has also been identified as a possible obstacle to the transparency of the system.

In order to facilitate the identification of the professions covered by the system of automatic recognition, some professional organisations suggested replacing the industrial classification

used in the Directive by an occupational classification (e.g. the International Standard Classification of Occupations – ISCO- nomenclature[28]). Other stakeholders have also proposed to use the EU common procurement vocabulary[29], which is updated on a regular basis. Another possibility would be to take as a basis the same ISIC classification but in its most recently revised form of 2008[30] which now includes a more precisely defined list of activities.

On the other hand, some professional organisations representing the craft professions expressed some reserves on a possible review of Annex IV. They consider that in many sectors the activities listed therein are still important. They also expressed concerns about a possible modification of the lists of activities, explaining that any change in these lists may have consequences on the rights conferred to the professionals by the Directive.

In addition, in the case of a few professions which are not explicitly quoted in the lists of Annex IV but are deemed covered by a wider category, migrants may have not even been given the opportunity to seek recognition under the automatic recognition regime. This is sometimes the case of electricians, who are deemed to be covered by the sub-category 403 "installation work" (see Annex IV, List I, 1, major group 40 "construction"). Indeed, the ISIC classification of 1958[31] quotes, amongst others, electricians as being part of category 40 "construction". Annex IV also lists the activity of "repair, assembly, and specialist installation of electrical equipment" (List I, 1, sub-group 379). However, the Commission has received several complaints by electricians who sought automatic recognition on the basis of professional experience, which is in principle a more favourable regime. But some host State authorities refused to apply this regime, and accepted to recognise their qualifications only on the basis of the general system of recognition, arguing that electricians were not covered by Annex IV. The same reasoning could concern other professions, for example heating installers or chimney sweeps.

To give an element of comparison, the ISIC classification in its most recently updated version of 2008 specifies, under its now renamed Section F "construction", three divisions. Division 43 "specialized construction activities" has four sub-divisions. Sub-division 432 "electrical, plumbing and other construction installation activities" is again subdivided into 4321 "electrical installation", 4322 "plumbing, heat and air-conditioning installation" and 4329 "other construction installation". Each of these sub-divisions is even further explained in a UN detailed and comprehensive document, specifying which activities are included or excluded. Referring in Annex IV to these more precise and updated sub-categories could limit the legal uncertainty for the migrants, and ensure their rights for automatic recognition.

Another related issue is that Annex IV lists activities, sometimes in broad categories, and not professions as such. Neither does it specify the level of expected qualifications or level of

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28 Adopted by the International labour Organisation (ILO) and available at:http://www.ilo.org/public/english/bureau/stat/isco/index.htm

29 See REGULATION (EC) No 2195/2002 OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL of 5 November 2002 on the Common Procurement Vocabulary (CPV), published in OJ nr L 340/1 of 16.12.2002, as most recently modified in 2009. Available at: http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=OJ:L:2002:340:0001:0001:EN:PDF

30 International Standard Industrial Classification of All Economic Activities, Revision 4, 2008: http://unstats.un.org/unsd/publication/SeriesM/seriesm_4rev4e.pdf

31 International Standard Industrial Classification of all Economic Activities, Revision 1, 1958; http://unstats.un.org/unsd/cr/registry/regdnld.asp?Lg=1

responsibilities, in relation with the size of the project or the scope of the tasks. To come back to the earlier example of an electrician, even if this profession should be covered by Annex IV, some Member States raised the issue of the scope of activities and level of responsibility, arguing that automatic recognition should apply to repairers of electrical equipment but not to those electricians responsible for certifying electrical networks in a whole building, for example. Moreover, it is commonly understood that Annex IV should not apply to professions holding qualifications at a high university level, but the Directive is not very explicit on that either. For example, Annex IV lists "electrical engineering" (List I, 1, major group 37) or "civil engineering; building of roads, bridges, railways, etc." (List I, 1, group 401). While it is clear that engineers as such are not covered, it may be less clear in the case of intermediary professions such as skilled technicians, and some Member States may raise the issue of whether the sole general system should apply to them.

Also one finds some inconsistencies related to the scope of activities. One concrete example would be the case of hairdressers, covered by the category "hairdressing establishments (excluding chiropodists' activities and beauticians' training schools)" (List I, 3, ex 855). Although hairdressers working in salons are covered by Annex IV, some Member States very strictly interpret Annex IV and refuse to apply the same recognition regime to hairdressers providing services at home, for example to elderly persons. These second type of hairdressers can then only benefit from the general system of recognition.

Annex IV lists a number of activities which may be covered, partly or totally, by sector-specific EU legislation. In accordance with Recital 42 and Art. 2(3) of the Directive, if it foresees recognition mechanisms, such specific EU legislation takes precedence. Given that the activities in question, if any, are specifically quoted in Annex IV, this could potentially be a source of confusion, for example in the case of some activities related to transport or some intermediary activities in the commerce sector. In order to establish possible overlaps, a comprehensive screening of the activities listed in Annex IV against the existing EU sector-specific legislation may be needed.

Article 20 defines the conditions under which the Commission can adapt the list of activities in Annex IV but does not offer any flexibility. This article allows the Commission to take measures under the comitology procedure "with a view to updating or clarifying the nomenclature", but only if the proposed measures "do not involve any change in the activities related to the individual categories". The room for manoeuvre is so limited that the Commission is not in a position to delete such obviously outdated entries as fortune-tellers (which are still covered by Annex IV).

2. POLICY OPTIONS LINKED TO AUTOMATIC RECOGNITION BASED ON PROFESSIONAL EXPERIENCE

Article 20 defines the conditions under which the Commission can adapt the list of activities in Annex IV but does not offer any flexibility. This article allows the Commission to take measures under the comitology procedure "with a view to updating or clarifying the nomenclature", but only if the proposed measures "do not involve any change in the activities related to the individual categories". The room for manoeuvre is so limited that the Commission is not in a position to delete such obviously outdated entries as fortune-tellers (which are still covered by Annex IV).

- Option 1: No action

Without any action at EU level, certain professionals pursuing activities listed in the current Annex IV to the Directive will continue to face legal uncertainty. In overall terms, automatic recognition works in this area and is well received. However, the rules on automatic recognition may be applied unevenly in the different Member States or more loopholes will come up in the daily application of the automatic recognition regime. Some professionals may then choose to ask for recognition under the general system, without taking advantage of automatic recognition, which would create unnecessary administrative burdens both for competent authorities and professionals.

- Option 2: Immediate replacement of the ISIC classification of 1958 by another classification

Some stakeholders have proposed to replace the current ISIC classification by the EU common procurement vocabulary[33], which is updated on a regular basis, or by the International Standard Classification of Occupations (ISCO) nomenclature[34], as revised in 2008. This would imply a major revision of the lists in Annex IV of the Directive, with the risk of narrowing the scope of activities currently covered. In addition, the ISCO classification is not widely known and used in the European Union but only in the UK and in Ireland. A complete new classification entails the risk of jeopardizing the whole regime on automatic recognition.

- Option 3: Update of the ISIC classification of 1958 with the most recent ISIC classification dated 2008

Under this option, the current ISIC classification, dating back to 1958 would be replaced by the same ISIC classification but in its most recently revised form of 2008 which now includes a more precisely defined list of activities. With rapid technological advances, defining and updating qualifications and corresponding professions is important. This choice would be more realistic given the resources available and the need to keep the regime of automatic recognition in this area.

However, the exact impact of an immediate overhaul of the Annex is difficult to measure given the wide range of activities in the areas of craft, trade, and industry. It would also leave open whether all activities should be updated though perhaps not all of them fall under a regulated a profession in a Member State.

- Option 4: Introduce more flexibility in order to allow a modernisation of the classification in the future

This option foresees that the revision of the classification of the activities could be carried out in a second stage, drawing on the results of an in-depth external study to be commissioned by the Commission. This study could be launched in 2012 to present in concrete terms the possibilities for a revised list end of 2012/early 2013, after consultation with the Member States and the stakeholders concerned and assessment of the pros and cons.

The Commission should have the possibility to add activities if this is considered useful in a fast changing economy. In addition, this would have the effect of widening the scope of automatic recognition on the basis of experience and consequently facilitating free movement of professionals.

- Comparing the options

Options 1, 2 and 3 have a major problem in common: uncertainty about which activities would benefit from automatic recognition based on professional experience in future. Such uncertainty concerns Member States, the professions and consumers. Option 2 would bring about an immediate change but the exact consequences for many activities in the area of craft, trade and industry would not be known; some activities might all of a sudden be excluded from automatic recognition in the future. Option 3 entails some risks since the impact of the introduction of an updated classification for the professions covered are unknown.

Option 4 is thus the preferred option. In order to allow a modernisation of the classification in the future, it would be necessary to amend Article 20, allowing for a further modification of the list of activities through delegated acts or implementing acts.

	Effectiveness	Efficiency	Consistency	Impacts on stakeholders			
				Profess.	*MS*	*Cons.*	*Empl.*
Option 1	0	0	0	0	0	0	0
Option 2	0/+	-	0/+	0/-	-	0	0
Option 3	+	+	+	0/+	+	0	0
Option 4	+	0/+	++	+	+	+	0

Annex 11: Scope of the Directive

This Annex explains the policy options related to the problem explained in section 3.2.6.

1. POLICY OPTIONS FOR NOT FULLY QUALIFIED PROFESSIONALS

- Option 1: No action

With this option, graduates who have finished their academic training but need to complete a supervised practice (remunerated) in order to obtain their qualification would not benefit from the procedural safeguards of the Directive if they want to go in another Member State during this period of supervised practice. The case-law of the Court of Justice would continue to apply (Morgenbesser case). However, the case-law applies only to the possibility to complete a supervised practice in the host Member State and does not define the conditions in the home Member State (how to become a fully qualified professional if the supervised practice took place in another Member State).

- Option 2: Enlarge the scope of the Directive and consider applications of not yet fully qualified professionals under the general system

Under this option, the scope of the Directive would be extended to cover the category of "not yet fully qualified" professionals. The general system would apply in these cases for the recognition of the qualifications in the host Member State (where the supervised practice should take place).

That means that if a graduate wants to complete the period of supervised practice abroad (in a Member State where this possibility exists for the nationals), he would benefit from the procedural safeguards of the Directive. Competent authorities of the host Member State would have to consider this application under the general system, comparing the qualifications of the applicant with the qualifications required in their country to access a remunerated traineeship. In case of substantial differences, competent authorities in the host Member State could impose an aptitude test (imposing an adaptation period would not make sense for a person asking the recognition of his/her qualifications to complete a supervised practice).

- Option 3: Option 2 + clarify the situation in the home Member State

In addition to the solution proposed in option 2, the conditions applying in case of return in the home Member State after the traineeship should be clarified. The Directive should state that the country of origin cannot refuse, as a matter of principle, to recognise a traineeship on the sole grounds that it was conducted abroad. The conditions for the recognition of this experience abroad should be specified in national laws.

This option would ensure that the traineeship in another Member State could be considered for obtaining the full access to the profession in the home Member State.

- Comparing the options

Option 1 would not resolve the problems faced by graduates willing to complete a remunerated traineeship abroad. Options 2 and 3 include practical solutions allowing to consider this kind of applications under the Directive. However, option 2 is incomplete, since

it does not clarify the situation in the home Member State. Option 3, which foresees an additional obligation for the home Member State, seems to be a more efficient solution.

	Effectiveness	Efficiency	Consistency	Distributional effects			
				Profess.	*MS*	*Cons.*	*Empl.*
Option 1	O	O	O	O	O	O	O
Option 2	+	-	+	+	O	O	O
Option 3	+	+	+	++	O	+	O

2. POLICY OPTIONS LINKED TO THIRD COUNTRY QUALIFICATIONS

- Option 1: No action

Under this option, the treatment of third country qualifications under the Directive will not be modified. A professional holding a qualification obtained outside the EU would still need to obtain a first recognition in one Member State and to exercise the profession during three years before asking for recognition in another Member State. This option has no impact on the difficulties professionals with qualifications obtained in third countries face when trying to have their qualifications recognised and/or trying to exercise mobility. These difficulties lead to the wide spread phenomenon of over qualification, with people working in jobs well below their levels of skills.

- Option 2: Reduce the requirement from 3 to 2 years of professional experience

This option would facilitate mobility within the EU for professionals holding a third country qualification. They would need to demonstrate only two years of professional experience when asking for the recognition of their qualification in another Member State. This option would introduce more flexibility; however it may entail some risks. Competent authorities reported concerns about possible abuse of the system by forum shopping. Lowering the requirement from three to two years of professional experience might encourage this phenomenon. In addition, a large majority of Member States responding to the consultation on the Green Paper considered unnecessary to adapt the current conditions.

- Option 3: Enlarge the scope of the Directive to cover the recognition of third country qualifications (for the first recognition)

Under this option, the scope of the Directive would be extended to cover not only EU qualifications but also qualifications obtained in third countries. This would imply that Member States agree to not apply national rules for the first recognition of qualifications and that an EU wide recognition scheme applied.

Such an option would facilitate the mobility of professionals holding third country qualifications. However, this would imply a radical adaption of the current Directive, in particular as regards the minimum training conditions defined for sectoral professions, assessing qualifications obtained in a third country, deadlines etc.

- Comparing the options

Options 2 and 3 would allow more professionals to benefit from the Directive, thereby helping to reduce labour shortages and to make the EU an attractive destination for talent. They would also help solve the problem of "brain waste". However, option 2 is not supported by Member States in their replies to the Green Paper and option 3 is over ambitious for the current exercise. For these reasons option 1 should be preferred. The problem of recognition of qualifications obtained outside the EU, whether by third country nationals or EU citizens is a serious one, in the context of demographic change, shrinking working population and labour shortages. The fact that this cannot be tackled in the current exercise does not mean that the Commission will not come back to this topic in the future.

	Effectiveness	Efficiency	Consistency	Impact on stakeholders			
				Profess.	*MS*	*Cons.*	*Empl.*
Option 1	O	O	O	O	O	O	O
Option 2	+	-	O	+	O	-	+
Option 3	+	-	+	+	-	+	+

3. POLICY OPTIONS LINKED TO NOTARIES

- Option 1: No action

If no action is taken, the legal uncertainty resulting from the recent judgment of the Court of Justice would remain.

- Option 2: Excluding the notaries from the Directive

Under this option, notaries would be excluded from the scope of the Directive. They will be able to establish and to provide services abroad under the Internal Market Freedoms. However, they will not benefit from the procedural guarantees laid down in the Directive.

- Option 3: Extending the Directive to cases where a notary seeks establishment in another Member State

Under this option, recognition of the professional qualifications of notaries in view of their establishment in another Member State would be organised by the Directive. When determining compensation measures, the host Member would be able to take into account the specific activities of this profession on its territory, in particular as regards the domestic law to be applied. Accordingly, a notary would not have the choice between a stage or a test but it would be up to the competent authority in the host Member State to choose which of the two types of measures is appropriate.

- Option 4: Establishment with limited scope of provision of services

Under this option, notaries could establish themselves in another Member State as foreseen in Option 3. In addition, they would be allowed to provide services, under the home professional title, on the law of their Member State of establishment or European or international law, with exclusion of the authentic deeds (for which a prior check of qualifications and a proper check during a recruitment process would remain necessary).

- Option 5: The Directive fully applies to notaries

Under this option, notaries would be considered in the scope of the Directive. The general system would apply for establishment and they could also fully benefit from a temporary mobility regime without any limitations. However, this option would not take into consideration the specific responsibilities and recruitment prerequisites for notaries and would lead probably to a difficult application of it on the ground.

- Comparing the options

Options 2, 3, 4 and 5 would allow clarifying the situation of notaries in case of mobility in another Member State. Option 2 would however not facilitate the mobility of notaries since the Directive would not apply. Instead, the internal market freedoms would need to be implemented on a case by case basis leading to a major uncertainty on how to handle probably a few requests which however might lead to further litigation and risks for the clients concerned. Option 3 does not offer a fully satisfactory solution, since it does not cover temporary mobility and cases of establishment of notaries in another Member States may be quite rare. With Option 5, the Directive would apply but the specificities of the profession would be largely ignored. Option 4 offers a more adapted solution.

	Effectiveness	Efficiency	Consistency	Impact on stakeholders			
				Profess.	*MS*	*Cons.*	*Empl.*
Option 1	O	O	O	O	O	O	O
Option 2	-	-	O	-	O	-	O
Option 3	+	+	-	+	+	-	O
Option 4	++	+	+	++	+	+	O
Option 5	-	-	-	++	-	-	O

Annex 12: List of professions regulated only in a single Member State[32]

Nb	Profession	Country regulating this profession
1	Tourist industry assistant	ES
2	Production and management engineer	EL
3	Automat technician	EL
4	Wine processing technician	ES
5	Raising of livestock/poultry/,rabbits/fur-bearing animals	DK
6	Horse-riding instructor	FR
7	Nuclear plant manager	PL
8	Animal trainer	FR
9	Graphic artist	EL
10	Sociologist	SI
11	Works supervisor	SI
12	Minerals surveyor	UK
13	Building site coordinator	DK
14	Weapons engineer	ES
15	Ship's mecanic	BE
16	Corset maker	AT
17	Geneticist	FI
18	Research assistant	BE
19	Associate lecturer	AT
20	Teacher of engineering	LU
21	Wine waiter	PT
22	Textile technologist	UK
23	Barman/Barwoman	PT
24	Forest sapper	PT
25	Golf teacher	FR
26	Manufacture of ladies' and men's clothing and linen	AT
27	Plastics processing	AT
28	Wooden boatbuilding	DE
29	Health therapist	SK
30	Farm tourism	SI
31	Farmer of genetically modified crops	DK

[32] List established on the basis of the information available in the Regulated Professions Database (see http://ec.europa.eu/internal_market/qualifications/regprof/index.cfm?fuseaction=home.home)

32	Coordinator of procurement and transplantation of cells, tissues and organs	PL
33	Geographer	UK
34	National park guide	EL
35	Pesticide sprayer/Crop protection contractor	NL
36	Engineer fishing fleet	ES
37	Mountain sport instructor	AT
38	Affiliate (engineering)	IE
39	Forest surveyor	PT
40	Nuclear technician	ES
41	Manufacturer-installer of advertising lighting	BE
42	Garageman	BE
43	Commissioner for oaths	MT
44	Boilermaking	PL
45	Production and processing of fermented spirits	CZ
46	Fruit and vegetable processing	SI
47	Road transport drivers not classified elsewhere	SI
48	Teacher in Further Education	UK
49	Nuclear Inspector	PL
50	Radio protection officer (non-medical)	PL
51	Treatment of alcoholic substances	CZ
52	Payroll Accountant	AT
53	Mechanic, merchant marine	ES
54	Forest protection specialist	EL
55	Specialist in sanitary chemistry (health sector)	SI
56	Mining project inspector	SI
57	Social security officer	SI
58	Engineer class IV, fishing fleet	NL
59	Engineer, class II, merchant marine	MT
60	Occupational therapist assistant	AT
61	Offshore medic	DK
62	Physical therapist	FI
63	Post mortem supervisor (animals)	NL
64	Trainee notary	NL
65	Trainee bailiff	NL
66	Teacher of architecture	LU
67	Chartered secretary	UK
68	Average adjuster	DK

69	Marketing manager	UK
70	Lifeboat mechanic	PT
71	Telecommunications infrastructure planner	PT
72	Wig maker	PT
73	Marble Contractor	BE
74	Enamelling	SK
75	Communications electronics	AT
76	Forestry technician	PL
77	Manufacture of medico-surgical instruments and equipment and orthopaedic appliances (except orthopaedic footwear)	DE
78	Intermediary for purchase/sale/hire of vessels	IT
79	Metal design/Surface engineering	AT
80	Chemical technician (health sector)	SI
81	Wine-taster	SI
82	Radiation protection officer (medical)	PL
83	Meteorologist	UK
84	Technician working with styrene	DK
85	Anthropologist	EL
86	Senior civil servant	AT
87	Health Supervisor	DE
88	Naval architect	UK
89	Ship's Deck officer (inshore shipping)	NL
90	Deck officer and engineer class V, fishing fleet	NL
91	Marine Electro Automation Officer	PL
92	Public pension officer	ES
93	Community social worker	AT
94	Polyester technician	DK
95	Security firm manager	SK
96	Taxi firm manager/director/administrator/Self-employed taxi owner	PT
97	Building demolition contractor	BE
98	Second-hand car dealer	BE
99	Manufacture of metal structures	PL
100	Shipbuilding	DE
101	Chartered Scientist	UK
102	Feldsher	PL
103	Refrigeration technician	PL
104	Fertiliser sample expert	DK

105	Corporate lawyer	BE
106	Team Leader in a Day Care Centre for School-Age Children	SE
107	Commercial agent	CY
108	Reviser (Head)	SI
109	Mining electrical engineer	UK
110	Mining mechanical engineer	UK
111	Naval weapons engineer	ES
112	Assistant engine operator	PT
113	Kennel manager	NL
114	Public prosecutor	NL
115	Informal education teacher	FI
116	Housekeeper	PT
117	Fish producer and wholesaler	FR
118	Hearse driver	MT
119	Apron controller (airport)	MT
120	Manufacturer of steel tubes	PL
121	Jewellery making and cutting of precious stones	IT
122	Manufacture of cosmetic products	AT
123	Nature protection worker	SI
124	Manager of protected area	SI
125	Property Manager	PL
126	Building appraiser	CZ
127	Commissoned book-keeper	PL
128	Theatre promoter and developer	EL
129	Journalist	IT
130	Agricultural biotechnologist	IT
131	Travel agency Manager	CY
132	Electronic engineer	CY
133	Chemical engineer (Health sector)	SI
134	Marine engineering technician	ES
135	Fire officer (deputy)	DK
136	Deep-sea fishing vessel skipper	ES
137	Boatswain / Petty officer (merchant marine)	CZ
138	Boatman (skilled) / Waterman	MT
139	Stevedore for dangerous goods	ES
140	Dermatologist	NL
141	Cardiopneumographic technician	PT

142	Legal administrator	FI
143	Research fellow/ Research associate	IT
144	Tourist receptionist	PT
145	Laundry maid	PT
146	Housing practitioner	UK
147	Road/Street Works Supervisor	UK
148	Ship's electrician foreman	CZ
149	Deck officer class IV fishing fleet	NL
150	Judge	NL
151	Commercial buyer (hotel)	PT
152	Property management agent	AT
153	Administrative manager	ES
154	Textile expert	UK
155	Metal engineer	PT
156	Vine growing specialist	ES
157	Restorer (of buildings)	CZ
158	Cleaning of monuments, facades and buildings	AT
159	Civil aircraft cabin crew	ES
160	Defectologist in the health sector	SI
161	Organiser of adult education	SI
162	Grape processing	SI
163	Structural engineer	UK
164	Agricultural sprayer	NL
165	Chambermaid	PT
166	Labour law expert	NL
167	Industrial hygienist	NL
168	Management consultant	AT
169	Graduate professional engineer	IE
170	Colourist	UK
171	Oenologist	ES
172	Installer of low-voltage photovoltaic systems	ES
173	Public estimator and weighmaster	IT
174	Wholesale intermediary	IT
175	Itinerant trader / Purchase and sale of goods on an itinerant basis	IT
176	Manufacture of plant equipment (mines,iron & steel foundries, construction industry) and mechanical handling equipment	PL
177	Environmental auditor	EE

178	Assistant remedial teacher/Assistant pedagogue	SI
179	Train guard-conductor	SI
180	Sign language interpreter	RO
181	Tram Driver	PL
182	Boat-handling instructor (sea and inland)	FR
183	Assistant forester	AT
184	Engineer, 1st class, fishing fleet	ES
185	Land Appraiser	CY
186	Works manager	SI
187	Researcher	SI
188	Electronic engineering and Computer systems technician	EL
189	Draughtsman	AT
190	Manpower supply agent	AT
191	Loader	DK
192	Deck officer and engineer class VI, fishing fleet	NL
193	Deck officer class III fishing vessel	UK
194	Manager of boat-handling school (sea and inland)	FR
195	Neurophysiology technician	PT
196	Medico-technical specialist	AT

Source: Regulated Professions Database

Annex 13: Policy options linked to the lack of transparency and justification of qualifications requirements in regulated professions

1. ANALYSIS OF THE ADMINISTRATIVE COSTS LINKED TO OPTION 2 ("ENSURE GREATER TRANSPARENCY ON THE REGULATION OF THE PROFESSIONS")

The following table provides a tentative approximation of the possible administrative costs for Member States linked to the transparency clause on regulated professions (one-off costs applying to the initial "screening" of regulated professions). The transparency clause also implies a regular update of the list of regulated professions (in case of new regulation or deregulation), however these recurring costs, which are difficult to estimate, are not considered in this analysis.

It is assumed that the gathering and preparation of the additional information (compared to the information already available in the Database) as well as the registration in the Regulated Professions Database may take about 2 working days by profession for a civil servant in a national administration. On this basis, each Member State would face a total cost ranging from 3.700 euros in Latvia to 115.000 euros in the UK.

Transparency and justification exercise in each Member State				
	Number of regulated professions	Working days: 2 days * nb reg.prof.	Gross wage €/h	Assessment cost - nb working days * 7,5 working hours * gross wage
Country				
AT	211	422	30,61	**96.880,65**
BE	138	276		
BG	101	202	3,77	**5.711,55**
CY	89	178	15,46	**20.639,10**
CZ	333	666	9,92	**49.550,40**
DK	151	302	43,96	**99.569,40**
EE	47	94	7,95	**5.604,75**
FI	119	238	31,42	**56.084,70**
FR	150	300	31,13	**70.042,50**
DE	152	304	30,8	**70.224,00**
EL	167	334		
HU	118	236	7,84	**13.876,80**
IE	122	244		
IT	147	294		
LV	50	100	4,94	**3.705,00**
LT	67	134	6,14	**6.170,70**
LU	105	210	24,99	**39.359,25**
MT	136	272	7,16	**14.606,40**
NL	134	268		
PL	374	748	12,25	**68.722,50**
PT	171	342	8,42	**21.597,30**
RO	85	170	6,82	**8.695,50**
SI	254	508	17,19	**65.493,90**
SK	179	358	6,78	**18.204,30**

ES	174	348	20,59	**53.739,90**
SE	92	184	35,96	**49.624,80**
UK	219	438	35	**114.975,00**

Source: Gross wage – Eurostat; Number of regulated professions – Regulated Professions Database

2. ANALYSIS OF THE ADMINISTRATIVE COSTS LINKED TO OPTION 3 ("OPTION 2 + LAUNCH A MUTUAL EVALUATION EXERCISE")

The table below provides a tentative approximation of the possible administrative costs for Member States of a mutual evaluation exercise (one-off costs). Since the mutual evaluation exercise is based on the transparency foreseen under option 2, this approximation of costs builds on the costs presented for option 2. The mutual evaluation exercise entails some additional costs: it is assumed that the preparation of reports may take 1 working day for 10 regulated professions and the participation in 4 to 6 experts meeting may represent a total of 6 working days.

Mutual evaluation exercise						
	Number of regulated professions	**Additional working days needed for reports**	**Additional working days for expert meetings**	**Total additional working days**	**Assessment additional cost: additional working days * 7,5 working hours * gross wage**	**Assessment total costs (including transparency exercise)**
Country						
AT	211	21	6	27	6.221,48	**103.102,13**
BE	138	14	6	20		
BG	101	10	6	16	455,23	**6.166,78**
CY	89	9	6	15	1.727,66	**22.366,76**
CZ	333	33	6	39	2.923,92	**52.474,32**
DK	151	15	6	21	6.956,67	**106.526,07**
EE	47	5	6	11	637,99	**6.242,74**
FI	119	12	6	18	4.218,14	**60.302,84**
FR	150	15	6	21	4.902,98	**74.945,48**
DE	152	15	6	21	4.897,20	**75.121,20**
EL	167	17	6	23		
HU	118	12	6	18	1.046,64	**14.923,44**
IE	122	12	6	18		
IT	147	15	6	21		
LV	50	5	6	11	407,55	**4.112,55**
LT	67	7	6	13	584,84	**6.755,54**
LU	105	11	6	17	3.092,51	**42.451,76**
MT	136	14	6	20	1.052,52	**15.658,92**
NL	134	13	6	19		
PL	374	37	6	43	3.987,38	**72.709,88**
PT	171	17	6	23	1.458,77	**23.056,07**
RO	85	9	6	15	741,68	**9.437,18**
SI	254	25	6	31	4.048,25	**69.542,15**
SK	179	18	6	24	1.215,32	**19.419,62**
ES	174	17	6	23	3.613,55	**57.353,45**
SE	92	9	6	15	4.099,44	**53.724,24**
UK	219	22	6	28	7.323,75	**122.298,75**

Source: Gross wage – Eurostat; Number of regulated professions – Regulated Professions Database

Annex 14: Possible functioning of the European professional card

The professional would contact the home Member State competent authority, either in person or on line via the national public interface, and submits the required documents. He will indicate if he applies for establishment or temporary mobility and will designate the host Member State(s).

In case of establishment (cases 1 and 2 illustrated below)

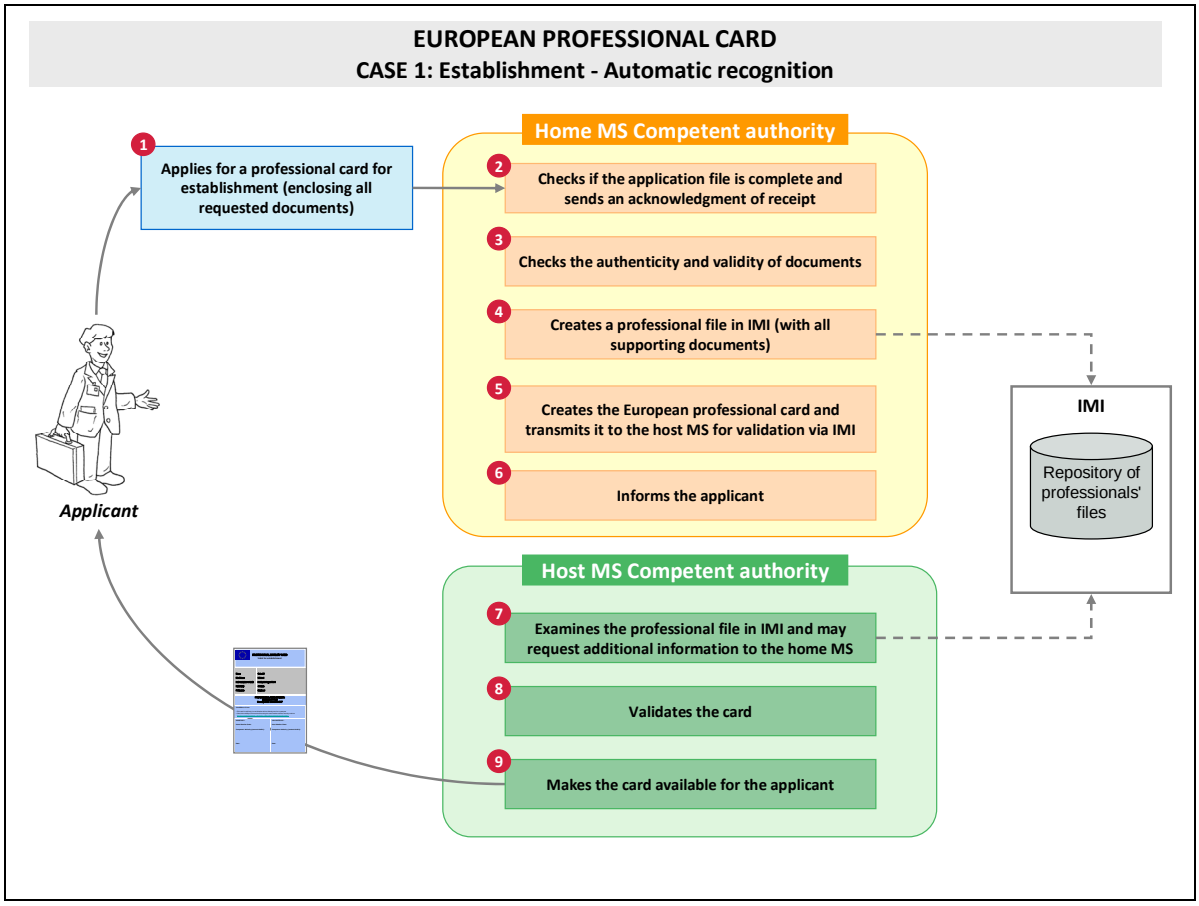
The competent authorities of the home Member State will check the validity of the documents submitted and ensure that the file is complete. This verification could be carried out quickly since the competent authority in the home Member State is familiar with the educational system and the documents proving the professional experience. Moreover, it will not have to face a language barrier. Once the file is ready, the competent authority transfers it via IMI to the host Member State and generates a draft professional mobility card for the migrant professional. At this stage, the card will not be sent to the professional but will trigger a recognition request in the host Member State.

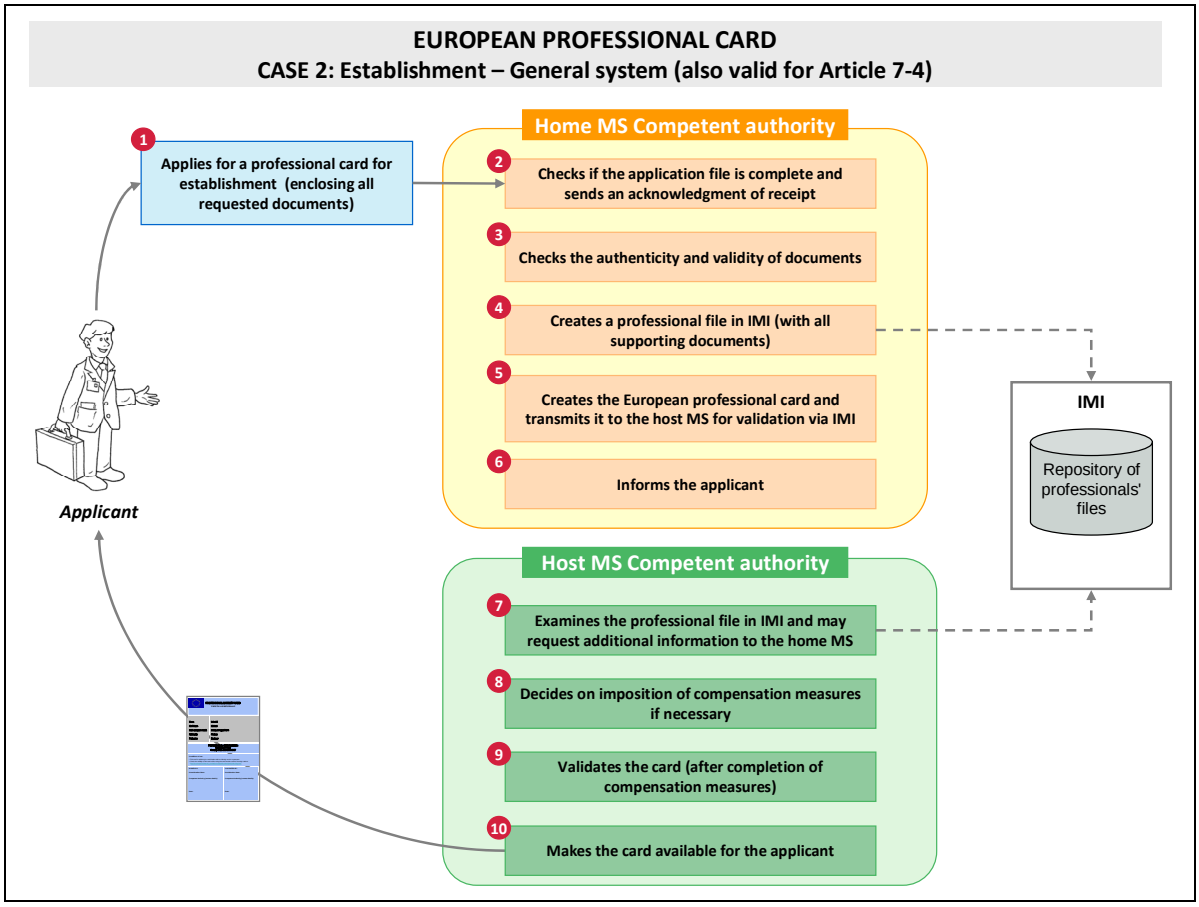
The responsibility for granting the recognition remains with the host Member State. The competent authority in the host Member State would have access to all the documents of the request via the IMI repository. The examination of the application should be much easier since all the documents would have been previously checked in the home Member States. In principle, the file should be completed and there can be no doubt about the genuine character of the document. If the recognition request is approved, the competent authority validates the professional mobility card and makes it available for the professional. Under the general system, the competent authority in the host Member State may decide to impose compensation measures if there are substantial differences between the qualifications of the applicant and the qualification required in the host country. If such measures are imposed, the validation of the card might be suspended until the compensation measures are accomplished.

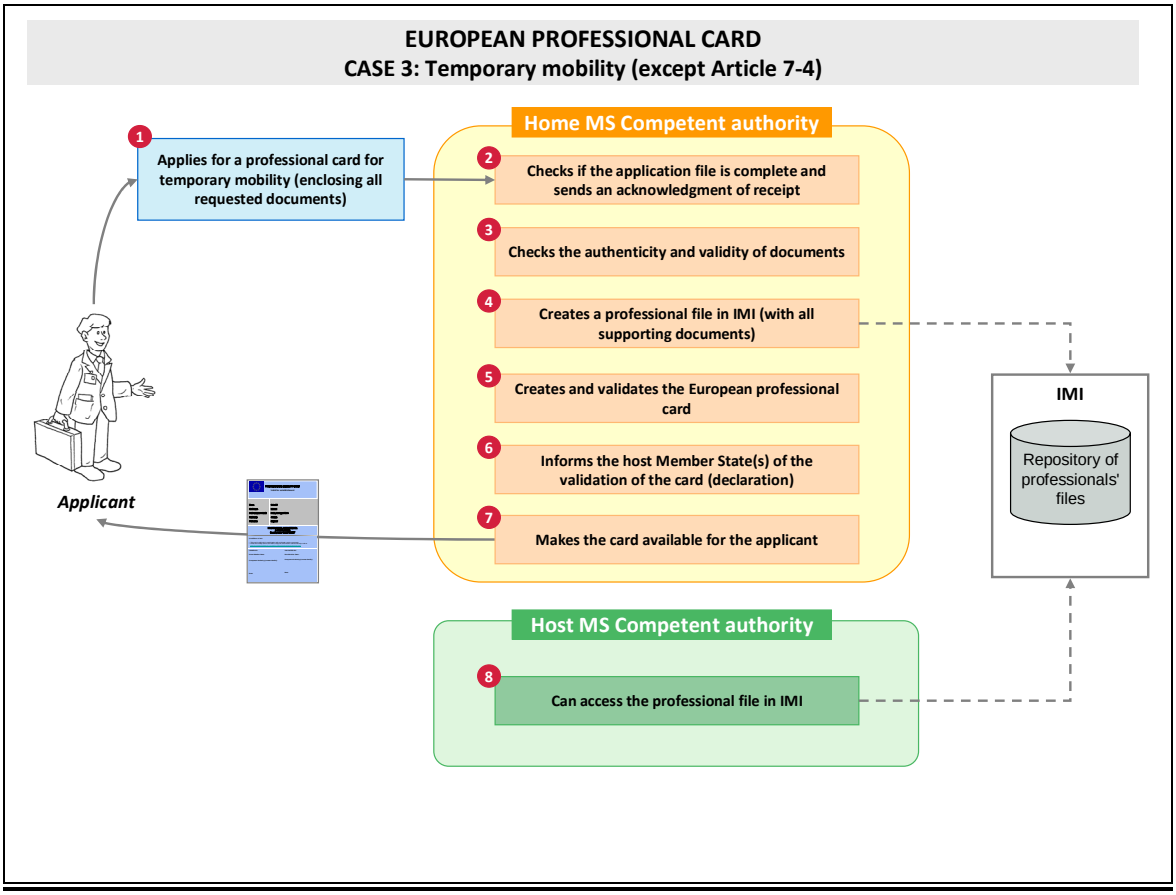
In case of temporary mobility (case 3)

In case of professions implying a prior check of qualifications (article 7-4), the functioning will be similar to the one described above for establishment.

In other cases, the professional contact the home competent authority which will assess the file of the professional. If it is in line with the requirements of the Directive, the competent authority of the home Member State will issue a professional card to the professional and will inform the host Member State(s) about the intention of the professional to provide services on its territory. Depending on the choice of the competent authority, the card can be either a paper print or an electronic file (with digital signature) or a plastic card. The host Member State authorities will have to accept the professional card instead of all the documents required today together with the prior declaration. They will have access to the file of the professional through IMI and will be able to verify that all the conditions for the provision of services are satisfied.


EUROPEAN PROFESSIONAL CARD
CASE 1: Establishment - Automatic recognition
Home MS Competent authority
1
Applies for a professional card for establishment (enclosing all requested documents)
2
Checks if the application file is complete and sends an acknowledgment of receipt
3
Checks the authenticity and validity of documents
4
Creates a professional file in IMI (with all supporting documents)
5
Creates the European professional card and transmits it to the host MS for validation via IMI
6
Informs the applicant
IMI
Repository of professionals' files
Applicant
Host MS Competent authority
7
Examines the professional file in IMI and may request additional information to the home MS
8
Validates the card
9
Makes the card available for the applicant


EUROPEAN PROFESSIONAL CARD
CASE 2: Establishment – General system (also valid for Article 7-4)
Home MS Competent authority
1
Applies for a professional card for establishment (enclosing all requested documents)
2
Checks if the application file is complete and sends an acknowledgment of receipt
3
Checks the authenticity and validity of documents
4
Creates a professional file in IMI (with all supporting documents)
5
Creates the European professional card and transmits it to the host MS for validation via IMI
6
Informs the applicant
IMI
Repository of professionals' files
Applicant
Host MS Competent authority
7
Examines the professional file in IMI and may request additional information to the home MS
8
Decides on imposition of compensation measures if necessary
9
Validates the card (after completion of compensation measures)
10
Makes the card available for the applicant


EUROPEAN PROFESSIONAL CARD
CASE 3: Temporary mobility (except Article 7-4)
Home MS Competent authority
1
Applies for a professional card for temporary mobility (enclosing all requested documents)
2
Checks if the application file is complete and sends an acknowledgment of receipt
3
Checks the authenticity and validity of documents
4
Creates a professional file in IMI (with all supporting documents)
5
Creates and validates the European professional card
6
Informs the host Member State(s) of the validation of the card (declaration)
7
Makes the card available for the applicant
IMI
Repository of professionals' files
Applicant
Host MS Competent authority
8
Can access the professional file in IMI

Annex 15: Monitoring and evaluation

General objectives	Indicators
Reinforcing the mobility of professionals	Total number of positive recognition decisions and declarations
Reinforcing the intra-EU trade in services	Volume of intra-EU trade in services
Specific objectives	**Indicators**
Facilitating the access to information	Number of points of single contact offering information on recognition of qualifications for all types of professionals Number of requests of recognition introduced through the points of single contact Availability of online recognition procedures
Reducing the time and complexity of the recognition procedures	Numbers of European professional cards issued Average duration of the recognition procedures under the card scheme Variation in the number of compensation measures imposed (% of the recognition decisions) Variation in the number of SOLVIT cases related to deadlines and compensation measures Availability of aptitude tests / adaptation periods Number of common platforms Number of professionals benefiting from recognition under common platforms
Modernising the automatic recognition system	Number of decisions taken under automatic recognition Number of notifications Average time for the examination of a new diploma
Simplifying mobility for the purpose of establishment	Number of decisions taken under the general system Number of decisions of partial access
Enhancing temporary mobility	Number of declarations Availability of list of professions falling under article

	7(4) Number of decisions taken under article 7(4) Number of professionals benefiting from the specific regime (professionals moving with their consumers)
Enlarging the scope of the Directive	Number of decisions taken for not yet fully qualified professionals Number of decisions taken for recognition of third county qualifications Number of recognition decisions concerning notaries
Reinforcing the guarantees for consumers and patients	Number of alerts exchanged under IMI; pertinence and effectiveness of these alerts Number of cases in which language skills have been checked (for health professionals treating patients)
Ensuring that the regulation of the professions at national level responds to the need to protect consumers and ensure a high quality of services	Variations in the number of regulated professions in each Member State

Annex 16: Calculation of cost saving for competent authorities

The following table provides a tentative approximation of the potential cost savings for competent authorities if the measures foreseen as preferred options in this impact assessment are adopted.

It is assumed that an assessment of a recognition request may take under the general system 8 working hours for an employee in a competent authority. For the automatic recognition based on minimum training requirements, a very prudent estimate is to consider 4 working hours. Such difference is already highlighted in the assessment period foreseen in the Directive which refers to months taking account of the workload of the competent authorities, the need for contacts with other authorities sometimes even abroad. Overall, it is assumed cost savings are possible at a level of 10% in the medium term.

Three examples:

Regarding the European Professional Card, cost savings come from a rationalisation of the procedure through the use of the IMI system and from the initial involvement of the home Member State. On one hand, compared to the current situation in which home competent authorities are frequently asked to issue certificates for outgoing professionals, the system foreseen under the professional card will not significantly increase the workload for these authorities. On the other hand, the initial checks carried out by the host Member State will allow to reduce significantly the workload of the host Member State, in particular in case of recognition on the basis of automatic recognition. Further savings will come from the fact that need for translation is lower and need for contacting the home Member State to crosscheck the file will become obsolete.

As to the costs for setting up a central online access point, using the existing system of points of single contact under the Services Directive avoids already start-up costs. In addition, centrally available information about which is the competent authority and which documents need to be presented will reduce costs for dealing with information requests from citizens in the administrations. Overall potential savings from the Points of Single Contacts for businesses and citizens are also important[33].

Going for more common platforms will have initial costs for the administrations to negotiate and set it up. However, organising automatic recognition via common platforms would reduce the workload for authorities in the host Member States.

	Average nr of automatic recognition	Average nr of GS+ craft	Automatic recognition * 4h/file	GS+craft *8h/file	Gross wage €/h	Assessment cost - Aut. Rec. * 4 working hours	Assessment cost GS 8 * working hours
Country	2007-2009	2007-2009					
AT	**807,33**	**1326,33**	3229,33	10610,67	30,61	98849,89	324792,51
BE	**962,67**	**1580,67**	3850,67	12645,33			

[33] According to research conducted by the Netherlands, the use of Points of Single Contact could bring savings of some 60 millions of EUR; the United Kingdom estimates the cost savings between 3.8 and and 13.7 euros per transaction.

BG	**13,00**	**0,00**	52,00	0,00	3,77	196,04	0,00
CY	**0,00**	**0,00**	0,00	0,00	15,46	0,00	0,00
CZ	**281,33**	**216,33**	1125,33	1730,67	9,92	11163,31	17168,21
DK	**640,33**	**578,00**	2561,33	4624,00	43,96	112596,21	203271,04
EE	**6,00**	**3,00**	24,00	24,00	7,95	190,80	190,80
FI	**211,00**	**166,00**	844,00	1328,00	31,42	26518,48	41725,76
FR	**413,33**	**427,67**	1653,33	3421,33	31,13	51468,27	106506,11
DE	**1751,67**	**1731,67**	7006,67	13853,33	30,8	215805,33	426682,67
EL	**243,67**	**180,67**	974,67	1445,33			
HU	**125,00**	**36,00**	500,00	288,00	7,84	3920,00	2257,92
IE	**466,00**	**737,00**	1864,00	5896,00		0,00	0,00
IT	**279,00**	**1429,67**	1116,00	11437,33		0,00	0,00
LV	**7,33**	**86,33**	29,33	690,67	4,94	144,91	3411,89
LT	**1,00**	**9,00**	4,00	72,00	6,14	24,56	442,08
LU	**111,33**	**809,33**	445,33	6474,67	24,99	11128,88	161801,92
MT	**30,67**	**18,67**	122,67	149,33	7,16	878,29	1069,23
NL	**572,00**	**233,33**	2288,00	1866,67		0,00	0,00
PL	**134,67**	**221,33**	538,67	1770,67	12,25	6598,67	21690,67
PT	**134,67**	**221,33**	538,67	1770,67	8,42	4535,57	14909,01
RO	**0,00**	**66,00**	0,00	528,00	6,82	0,00	3600,96
SI	**31,00**	**57,33**	124,00	458,67	17,19	2131,56	7884,48
SK	**90,67**	**76,67**	362,67	613,33	6,78	2458,88	4158,40
ES	**71,67**	**0,00**	286,67	0,00	20,59	5902,47	0,00
SE	**87,33**	**412,67**	349,33	3301,33	35,96	12562,03	118715,95
UK	**4467,00**	**4569,33**	17868,00	36554,67	35	625380,00	1279413,33
					Total €	**1192454,15**	**2739692,93**
					Cost saving 10%	**119245,41**	**273969,29**

Source: Gross wage – Eurostat; Average recognition figures – Regulated Professions Database

Although difficult to calculate, the potential savings for citizens and businesses are real: among other examples, the disappearance - as a consequence of the European Professional Card - of the certificates of conformity requested today would actually save up to 80 euros per professional. Moreover, the decrease of the translation costs will also be important and will benefit citizens.