



Council of the  
European Union

Brussels, 5 October 2015  
(OR. en)

12478/15

ETS 10  
MI 591  
COMPET 429  
EDUC 259

**NOTE**

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From: Luxembourg Presidency  
To: The High Level Working Group on Competitiveness and Growth  
Subject: Regulation of Professional Services

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Delegations will find in Annex a note on Regulation of professional services, in particular the first results of the ongoing mutual evaluation exercise, for the exchange of views at the meeting of the High Level Working Group on Competitiveness and Growth on 13 October 2015.

**NOTE ON THE MUTUAL EVALUATION OF REGULATED PROFESSIONS****Introduction**

Considering that regulated professions affect an important part of the European labour market, approximately the equivalent of 50 million persons, and given the substantial multiplier impact professional services have on the rest of the economy, the possibility for this mutual evaluation exercise to unlock the potential of the internal market so as to better support employment and economic growth cannot be overstated. The reduction of regulatory burden and the alleviation of excessive requirements would make it easier for professionals to access and exercise professional activities, whilst in parallel supporting the development of professional services by simplifying the conditions under which businesses can provide services within the internal market. The challenge for Member States when regulating the access to a profession lies in finding the right balance between supporting a more competitive environment and at the same time ensuring that consumer safety and service quality are not compromised.

**Political background**

In its Conclusions of March 2012, the European Council stressed *'the importance of making progress on enhancing the mutual recognition of professional qualifications, reducing the number of regulated professions and removing unjustified regulatory barriers'*. Furthermore, in its Conclusions of 24/25 October 2013, the European Council called for *'swift progress'* on the mutual evaluation of regulated professions and on Member States to *'identify the remaining barriers to access to professions, assess the cumulative effect of all restrictions imposed on the same profession, and suggest appropriate action'*.

With the adoption of the revised Directive on the Mutual Recognition of Professional Qualifications in November 2013, Member States agreed to take part in an ambitious transparency and mutual evaluation exercise on all their regulated professions. Article 59 of the Directive defines the scope of this exercise. In particular, for each regulated profession, Member States should:

- provide a justification why the regulation is necessary with regard to overriding reasons of general interest;
- analyse the proportionality of national measures and verify whether they do not go beyond what is necessary in order to attain these objectives.

## Process

By 18 January 2016, Member States have to provide the Commission with information on the requirements they intend to maintain and the reasons for considering that those requirements are justified and proportionate. Furthermore, the Commission is expected to submit its final findings to the European Parliament and the Council, accompanied, where appropriate, by proposals for further initiatives by 18 January 2017 at the latest.

The Commission has organised this mutual evaluation exercise on the basis of the work plan it proposed in its Communication of 2 October 2013<sup>1</sup>.

First of all, in May 2014, the Commission published for the first time ever a map of all regulated professions<sup>2</sup> representing more than 5.200 different national regulations of professions notified by the 28 Member States. This map greatly improves transparency for regulated professionals in the EU enabling professionals to be informed in an easy and accessible way on the conditions of access to a given profession.

However, to date, information remains missing for about 1.200 professions. It is essential that Member States address this gap and notify to the Commission a detailed and updated description of all the professions they regulate before the transposition deadline of the Directive in January 2016.

Between June 2014 and June 2015, the Commission organised 6 mutual evaluation meetings in which 12 representative sectoral professions<sup>3</sup> were analysed and discussed. The outcome of these discussions is reflected in reports, which are publicly available on the Commission website<sup>4</sup>.

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<sup>1</sup> COM(2013) 676 final

<sup>2</sup> [http://ec.europa.eu/internal\\_market/qualifications/regprof/index.cfm?action=map&b\\_services=true](http://ec.europa.eu/internal_market/qualifications/regprof/index.cfm?action=map&b_services=true)

<sup>3</sup> Sectors and representative professions were as follows: Business services – architectural professions / Construction sector – Civil engineers / Construction (Craft sector) – electricians / Transport – driving instructors / Real estate – real estate agents / Health & Social services – dental hygienists, psychologists and physiotherapists / Public services & education – sports instructors / Tourism – tourist guide & travel agent / 'other' services – beautician/aesthetician & wigmakers/ Retail - Opticians

<sup>4</sup> [http://ec.europa.eu/growth/single-market/services/free-movement-professionals/transparency-mutual-recognition/index\\_en.htm](http://ec.europa.eu/growth/single-market/services/free-movement-professionals/transparency-mutual-recognition/index_en.htm)

## First results

The first outcomes of this exercise reveal that the regulation of similar professions varies substantially between Member States as do the reserves of activities and accompanying regulation of issues such as restrictions on corporate form/voting rights, mandatory membership into professional associations, insurance requirements and/or territorial restrictions. Justification and proportionality considerations differ for one and the same activity with some Member States stating clearly the ability to rely on the functioning of the market and general legislation such as on consumer protection whereas others argue for stringent professional regulation. For instance one Member State came to the conclusion that the mere regulation of the real estate agent profession was not the most effective way of protecting the consumer against poor advice from real estate agents. As a consequence, the profession of real estate agent has been deregulated.

Recently, another Member State decided to open up the market for tourist guides. Regulation was however maintained for mountain guides because it is considered that the professional has a key role in ensuring the health and security of service recipients.

The justifications for introducing regulation do not always seem to reflect a thorough prior analysis: for instance a Member State explained its intention to introduce new regulation on civil engineering professions for security reasons without assessing if security issues can be addressed by other means. . In certain cases Member States explained that regulation was being introduced because of pressure from the professional organisations looking for more visibility and recognition. In the light of these varying experiences and on the basis of their own analysis, national authorities should now be in a position to more rigorously assess the adequacy of their regulatory frameworks and to reflect this in the forthcoming national action plans which have to be submitted by January 2016.

In line with the Commission's Communication of 2 October 2013, 15 Member States<sup>5</sup> submitted initial 'action plans' on professions in priority sectors<sup>6</sup>, setting out their intentions and next steps to improve and modernise professional access. On this occasion, several Member States announced concrete changes, at times accompanied with clear implementation timetables agreed at Ministerial level. Others indicated that further assessment and consultation was on-going, sometimes at a large scale covering many professions.

This exercise has generated wider effects. Many Member States have set up cross-governmental working groups to rigorously assess the necessity and effect of regulation. As a very tangible

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<sup>5</sup> Belgium, Bulgaria, Czech Republic, Denmark, France, Spain (partial), Italy, Lithuania, Latvia, Hungary, Netherlands, Poland, Portugal, Sweden and the UK.

<sup>6</sup> business services, construction, manufacturing, real estate, transport, wholesale and retail.

example of this it could be mentioned that a number of Member States<sup>7</sup> have worked together to draft a paper highlighting the benefits of a modernised regulatory landscape for professionals and setting out best practices for assessing the necessity of regulation and, if supported by general interest objectives, implementing it in the least burdensome way possible.

On the other hand, in a number of instances the actions proposed in national action plans cover only a limited number of professions or the changes announced are limited in detail and/or ambition. In many cases, proposed actions are not supported by evidence and it is difficult to assess the impact of these revisions.

### What's next?

By 18 January 2016, Member States have to submit their final action plans/reports covering all economic activities. Member States are encouraged to propose meaningful and concrete proposals and seize the opportunity and momentum brought by this exercise to make their legislation fit for purpose.

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Member States are invited to express their views on the following questions:

- This procedure presents a unique opportunity for national administrations to review the appropriateness of regulation of professions.  
How will you ensure that national action plans and regular reviews are ambitious and meaningful/substantial?
- What were the major difficulties you encountered in carrying out/coordinating at national level this transparency and mutual evaluation exercise? Were there any success stories?
- What impact does this exercise have on new regulation and how can the assessment of appropriateness of new regulation be further facilitated and enhanced?

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<sup>7</sup> UK, Netherlands, Denmark, Lithuania, Portugal, Sweden, Norway, Estonia.

### Mutual evaluation 2014-2015 in figures

<b>50.000.000</b>	EU citizens work in regulated professions
<b>6.000</b>	entries in the EU Regulated Professions Database
<b>31</b>	EEA countries involved
<b>12</b>	professions discussed = 12 reports prepared
<b>15</b>	national action plans received
<b>6</b>	meetings in Brussels
<b>4</b>	economic studies on the effects of reforms commissioned and delivered
<b>2</b>	Single Market Forum workshops in Warsaw and Berlin (232 participants)
<b>1</b>	EU-wide survey to measure prevalence of occupational regulation (26.640 EU citizens surveyed)