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Part I

**COMMISSION STAFF WORKING PAPER**

**IMPACT ASSESSMENT**

*Accompanying document to the*

**Proposal for a**

**DIRECTIVE OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL**

**amending Directive 2005/36/EC on the recognition of professional qualifications and  
Regulation on administrative cooperation through the Internal Market Information  
System**

{COM(2011) 883}  
{SEC(2011) 1559}

*This report commits only the Commission's services involved in its preparation and does not prejudice the final form of any decision to be taken by the Commission.*

## 1. INTRODUCTION

Mobility of professionals is currently low in the European Union: 10% of EU citizens have worked abroad<sup>1</sup>. Between 2007 and 2010, Member States took decisions on approximately 105.000 requests for recognition<sup>2</sup>. However, according to a Eurobarometer survey from 2010<sup>3</sup>, 28% of EU citizens are actually considering working abroad. These figures show a clear potential for greater mobility. Risk of increasing unemployment in some Member States will be a further driver for such mobility between economies in the Member States. From an economic point of view, mobility within regulated professions concerns mainly the health sector (representing 9.5% of the GDP in the European Union), the construction sector (representing 7% of the GDP in the EU), business services, the education sector (notably teachers), trade, transport and tourism. Efficient recognition of qualifications between Member States could bring additional flexibility to the labour markets: enhanced mobility of skilled workforce has the potential to contribute to the alleviation of forthcoming shortages of workforce in Member States. In addition, the recognition system should take into account the recent developments in the field of education and training and qualifications whenever possible.

Facilitating the recognition of professional qualifications is therefore central to the effective functioning of the Single Market. It is built on the "fundamental freedoms" foreseen in the Treaties: free movement of workers, freedom of establishment and freedom to provide cross border services<sup>4</sup>. It also touches upon certain other fundamental freedoms and rights of citizens, such as the freedom to choose an occupation and the right to engage in work or the right to conduct a business<sup>5</sup>. The Professional Qualifications Directive<sup>6</sup> of 2005 (hereafter "the Directive") consolidates a system of mutual recognition which was initially based on 15 Directives in this area. The Single Market Act<sup>7</sup> identifies the need to modernise the acquis in this area as part of the twelve levers aiming to boost growth and strengthen confidence. The need for a modernisation is supported by the outcome of an internal evaluation<sup>8</sup> of the

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<sup>1</sup> Sources: Eurobarometer n° 363

<sup>2</sup> Database of regulated professions, [http://ec.europa.eu/internal\\_market/qualifications/regprof/index.cfm](http://ec.europa.eu/internal_market/qualifications/regprof/index.cfm)  
This number does not cover cases of temporary mobility but only cases where citizens wish to establish themselves on a permanent basis.

<sup>3</sup> Eurobarometer n° 363

<sup>4</sup> Articles 45, 49 and 56 of the Treaty (ex Articles 39, 43 and 49 TEC)

<sup>5</sup> Charter of fundamental rights of the European Union (2010/C 83/02), Article 15(2) ("Every citizen of the Union has the freedom to seek employment, to work, to exercise the right of establishment and to provide services in any Member State) and Article 16 ("The freedom to conduct a business in accordance with Union law and national laws and practices is recognised").

<sup>6</sup> Directive 2005/36/EC of the European Parliament and of the Council of 7 September 2005 on the recognition of professional qualifications (OJ L 255, 30.9.2005, p.22)

<sup>7</sup> Communication from the Commission to the European Parliament, the Council, the European Economic and Social Committee and the Committee of Regions, Single Market Act, Twelve levers to boost growth and strengthen confidence, "Working together to create new growth", COM(2011)206, SEC(2011)467

<sup>8</sup> The evaluation of the Directive was carried out by the European Commission in 2010-2011. The outcome of the evaluation has been published in a working document of the Internal Market and Services Directorate General on 5 July 2011. The document is available at the following address:

Directive which the Commission services conducted and published in July 2011. It has also been highlighted as a priority in the EU Citizenship Report 2010<sup>9</sup> and the New skills for new jobs<sup>10</sup> initiative of the Commission.

The purpose of this impact assessment (IA) is to provide analytical input for further action of the European Commission.

## **2. PREPARATORY STEPS**

### **2.1. Recap of the acquis**

The Directive applies to all professions, except professions for which the recognition of professional qualifications is governed by specific legal provisions at European level (e.g. sailors, statutory auditors, insurance intermediaries, air controllers, some professions in the field of transport and those linked to activities involving toxic products) or left at national prerogatives such as notaries for which the European Court of Justice however decided in May 2011 that nationality requirements are not justified and that Internal Market freedoms apply.

The Directive defines the conditions for the recognition of professional qualifications in cases of permanent establishment in another Member State as well as the conditions for moving to another Member State on a temporary basis.

The establishment regime covers EU citizens seeking a job in another Member State or interested to start a self-employed activity. In these cases, the professional sends a request for recognition of qualifications to the host Member State which checks the qualification. Seven professions (doctors, dentists, general care nurses, midwives, pharmacists, veterinary surgeons and architects) even benefit from "automatic recognition" on the basis of harmonised minimum training requirements. Other professions in the area of craft, commerce and industry benefit from "automatic recognition" on the basis of a minimum number of years of professional experience they should prove. All other professions, not benefiting from automatic recognition, are covered by the general system, which foresees a case-by-case assessment of the training contents supporting the qualification of a professional.

Background statistics on the number of recognition decisions for the different systems are provided in Annex 1.

When EU citizens move on a temporary basis, they no longer need to submit a request for the recognition of their qualifications. Member States may only require that the professionals inform them through a prior declaration on an annual basis of their intention to provide any services. In cases where there are serious risks to public health or security of clients, Member States can however maintain prior checks of qualifications.

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[http://ec.europa.eu/internal\\_market/qualifications/docs/news/20110706-evaluation-directive-200536ec\\_en.pdf](http://ec.europa.eu/internal_market/qualifications/docs/news/20110706-evaluation-directive-200536ec_en.pdf)

<sup>9</sup> EU Citizenship Report 2010 "Dismantling the obstacles to EU citizens' rights", COM(2010)603, 27.10.2010

<sup>10</sup> "New Skills for New Jobs. Anticipating and matching labour market and skills needs", Communication from the Commission, COM(2008) 868, 16.12. 2008

The Professional Qualifications Directive is complementary to the Services Directive (Directive 2006/123/EC): they regulate however different aspects of the free movement of professionals. The Professional Qualifications Directive deals with issues linked to the recognition of professional qualifications, language skills and professional titles while the Services Directive deals with most of the other requirements applicable to the regulated professions (e.g. tariffs, legal form requirements, ownership). The Services Directive applies to a large number of service sectors; however some professions covered by the Professional Qualifications Directive are excluded from the scope of the Services Directive (health professions, private security services, bailiffs as well as job seekers).

A more detailed overview of the legislative framework is provided in Annex 2.

## **2.2. Evaluation of the Directive and consultation of stakeholders**

In March 2010, the European Commission launched an evaluation of the Professional Qualifications Directive from 2005. This was a comprehensive exercise involving around two hundred competent authorities and national coordinators. Many competent authorities from 27 Member States (about 200) described their experience with the implementation of the Directive on the ground in October 2010<sup>11</sup>. The European Commission also organised two meetings with professional organisations to get feedback from those stakeholders<sup>12</sup>.

The evaluation of the Directive provided data on the mobility of professionals as well as information on difficulties in the daily application of the Directive by the competent authorities. This impact assessment, and in particular the problem definition, is based on the findings of the evaluation. An evaluation report has been published on the Commission's website on 5 July 2011<sup>13</sup>. The executive summary is presented in Annex 3.

External stakeholders, including citizens, professionals, professional organisations and competent authorities were also consulted through a public consultation by DG Internal Market and Services in January 2011<sup>14</sup> and a Green Paper issued by the Commission in June 2011<sup>15</sup>. In these consultations, all stakeholders recognised a need to ensure a better access to information on the recognition of qualifications. In addition, most citizens and professional organisations supported the simplification of recognition procedures, noting that the quality of the services needs to be safeguarded. Some governments and competent authorities took the view that further simplification would not always be easy to achieve. A large majority of stakeholders within all the categories expressed positive views on the idea of a professional card. Some competent authorities sought more information about how such a card could be embedded into the Directive. Many professional organisations favoured the revision of the concept of common platforms as a way for offering an avenue for automatic recognition for further professions. A majority of competent authorities and professional organisations representing the sectoral professions agreed on the need to modernise the automatic

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<sup>11</sup> The experience reports of competent authorities are published on the following page:

[http://ec.europa.eu/internal\\_market/qualifications/policy\\_developments/evaluation\\_en.htm](http://ec.europa.eu/internal_market/qualifications/policy_developments/evaluation_en.htm)

<sup>12</sup> A summary report of the discussions is available on the following page:

[http://ec.europa.eu/internal\\_market/qualifications/docs/03082010\\_evaluation\\_directive\\_en.pdf](http://ec.europa.eu/internal_market/qualifications/docs/03082010_evaluation_directive_en.pdf)

<sup>13</sup> Evaluation of the Professional Qualifications Directive – final report available on the following page:

[http://ec.europa.eu/internal\\_market/qualifications/docs/news/20110706-evaluation-directive-200536ec\\_en.pdf](http://ec.europa.eu/internal_market/qualifications/docs/news/20110706-evaluation-directive-200536ec_en.pdf)

<sup>14</sup> See [http://ec.europa.eu/internal\\_market/consultations/2011/professional\\_qualifications\\_en.htm](http://ec.europa.eu/internal_market/consultations/2011/professional_qualifications_en.htm)

<sup>15</sup> Green Paper, Modernising the Professional Qualifications Directive – COM(2011)367 final

recognition system. The executive summary of the replies to the public consultation is presented in Annex 4.

Professional organisations<sup>16</sup> and competent authorities were also involved in a Steering Group discussing the need for and feasibility of a European Professional Card.

On one particular issue, DG Internal Market and Services decided to use external expertise and commissioned a study<sup>17</sup> to evaluate the Directive in the light of the recent educational reforms in Member States.

In June 2011, an Impact Assessment Steering Group was set up to assess the progress on the impact assessment, to provide guidance on drafting and to approve the final document. The minutes of the last meeting have been forwarded to the Impact Assessment Board (IAB).

The impact assessment has been examined by the IAB on 9 November 2011 and an opinion was issued on 11 November 2011. Following the Board's opinion, the following changes were made to this impact assessment:

- the context of the initiative has been clarified and the significance of problems has been highlighted in more detail;
- the impacts of the options on "information and e-government for citizens" have been further analysed, notably in terms of workload for Member States;
- additional data have been provided in the report and the assessment of social impacts has been improved;
- further explanation has been given on the impacts of the different options related to the "transparency and justification of qualifications requirements in regulated professions", notably in terms of administrative costs and interaction with other preferred options.

A more detailed presentation of all the preparatory steps for the impact assessment is given in Annex 5.

### **3. PROBLEM DEFINITION**

#### **3.1. The economic dimension**

National rules governing access to a profession or the use of professional title exist in all sectors of the European economy. Considering the importance of public health, the most commonly regulated professions are in the health sector (e.g. doctors, nurses, physiotherapists, etc.) which employs over 21 million people in Europe<sup>18</sup> and generates 9.5%

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<sup>16</sup> 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.

<sup>17</sup> 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](http://ec.europa.eu/internal_market/qualifications/docs/policy_developments/final_report_en.pdf)

<sup>18</sup> Eurostat, Labour Force Survey (LFS), 2009

of the EU GDP<sup>19</sup>. There are also many regulated professions in the construction sector, which accounts for more than 17 million jobs in the Union (e.g. architects, engineers, electricians, etc) and generating 7% of the EU GDP<sup>20</sup>. There are also a number of regulated professions in the business services sector (notably legal professions and accountants). The added value of this sector represented 12.4% of the non-financial business economy<sup>21</sup>. There exist specific qualifications requirements for many other professions in the education sector (representing almost 16 million jobs in the EU<sup>22</sup>), industry, trade, transport, and tourism.

The most mobile professions under the Professional Qualifications Directive are health professions (accounting for 59% of recognition decisions), teachers and social/cultural professions (17%) as well as craftsmen and technicians (11%). There are however no reliable statistics on which professions use the new rules on temporary mobility.

In the health sector, the greatest mobility traditionally takes place between neighbouring countries. EU enlargements have generated a new impetus for mobility, although it did not generate outflows as large as initially expected: only around 3% of health professionals from the Eastern and Central European Member States express intention to move and the actual migration is even lower.

The mobility of professionals needs to be considered also in the context of the demographic challenges our society is facing: by 2020, the EU could be confronted with a shortage of 1 million health workers which would leave about 15% of the care needs uncovered<sup>23</sup>. Eurostat projections show that the EU working population will decline by approximately 6 million workers by 2020 (as compared to 2006)<sup>24</sup>. This will have important consequences on the labour markets in the Member States. Free movement of professionals can contribute to the answer to the labour shortages. It will help in satisfying the needs of customers and patients as well as providing education for the youth.

### 3.2. Problem areas

The identification of the problem areas derives mainly from the outcome of the evaluation conducted between March 2010 and May 2011. The problems presented below have been selected according to the following main criteria: the number of professionals potentially concerned, the mobility rates of the categories of professionals concerned, the impact on third parties (in particular, consumer and patients) and the effectiveness of the current system.

The problems presented in this section relate, firstly, to the access to information including e-government, the efficiency of recognition procedures and the functioning of the automatic recognition system. The conditions imposed on professionals moving both on permanent basis (establishment) and on temporary basis will then be examined, together with the scope of the Directive (who is covered by the existing system). A particular attention will also be given to the protection of patients. Finally, this section will outline the ongoing discussions on the question whether qualifications requirements as such are a significant and tangible problem.

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<sup>19</sup> Eurostat (2009 data)

<sup>20</sup> Eurostat (2009 data)

<sup>21</sup> 2008 Eurostat Statistics in Focus Report on Business Services across EU27 (2006 data)

<sup>22</sup> Eurostat (2009 data)

<sup>23</sup> Source: An Agenda for new skills and jobs: A European contribution towards full employment COM(2010) 682 final

<sup>24</sup> EUROP 2008 population projections

The problems linked to access to information and efficiency of recognition procedures are considered particularly important because they cover all recognition systems and can be encountered by any professional.

### 3.2.1. *Information and e-government for citizens*

- Information

The existing Directive certainly offers different routes by which professionals can get information about what to do and which competent authority to contact in order to obtain recognition of their qualifications.

Despite these efforts, professionals seeking the recognition of their qualifications still experience major difficulties in identifying the right competent authority, the applicable procedure and the documents they need to submit. This is a major issue because it can be encountered by any professional in any Member State and at any point of a professional career or business activity. Difficulties have been reported by national contact points and Your Europe advisors in the context of a survey conducted by the Commission in the summer 2010. 14,5% of enquiries received by Your Europe advisors in 2009 on the recognition of professional qualifications concerned "access to information". The outcome of the public consultation in early 2011 confirms these difficulties. Nearly all respondents consider that there is a need to improve access to information. The identification of the competent authority is particularly complex in Member States where there exist, for the same profession, many regional and local authorities and when the boundaries of activities for a given profession are not easy to identify. For example, there are 87 competent authorities for nurses in Germany, 58 in Greece and 47 in Poland<sup>25</sup>. In these cases, it is particularly difficult for a mobile professional to identify the right competent authority. In addition, there are around 800 categories of different regulated professions which can be broken down to around 4700 national professions across 27 Member States. Notably, professionals from countries where a profession is not regulated will not always find an easy gateway to country where the activity is regulated.

Finally, information concerning the documents a professional is required to submit is crucial, because the deadlines for decision on recognition imposed on the Member States by the Directive apply only from the moment the file submitted by the professional is complete. Some national contact points provide general information on the type of documents that can be requested; but the majority do not provide any information in this regard and each competent authority draws its specific list of documents to be provided<sup>26</sup>. Where the information is provided, it is not exhaustive (through this is required under the Directive). Competent authorities often require additional documents after receiving an application. This is not a minor issue for professionals who often need to contact various authorities in the home Member State and ask for translation or certification of many documents.

Some progress has been made in terms of transparency through the points of single contact foreseen under the Services Directive: the online portals of these structures start already offering information on the documents that need to be provided to competent authorities in charge of the recognition of qualifications. Having said this, information tends to remain

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<sup>25</sup> Sources: number of competent authorities registered with IMI for the recognition of professional qualifications

<sup>26</sup> This list should be based on Article 50.1 and Annex VII of the Directive.

scarce and even where it exists, it may not be available in other than the language of the host country, making it difficult for people coming from another Member State to understand his/her legal position and what to do.

In 2010, the Commission has launched the new Your Europe portal ([europa.eu/youreurope](http://europa.eu/youreurope)). The new portal offers practical information and help to citizens and businesses on their EU rights, including the right to work as a professional in another country. Your Europe also aims to offer access to information and national rules and procedures provided by national contact points. But as said before, such information remains scarce at present (as a pilot project, country-specific information for physiotherapists will be introduced in the first quarter of 2012).

- E-government

Another major issue concerns the limited use of electronic means for completing recognition procedures. According to the experience reports published in 2010, competent authorities generally accept informal e-mail enquiries but not formal applications which must be sent by ordinary post or submitted in person. Some competent authorities, such as in Denmark or Estonia, offer the possibility of online applications. Although this situation is improved through the e-government portals "Points of Single Contact" foreseen by the Services Directive<sup>27</sup>, such portals are only open to service providers (including any seconded staff) covered by the Services Directive. Even for those professionals, it is not fully operational in three Member States (Greece, Slovenia, and Slovakia). Major "users" of the Professional Qualifications Directive (notably health professionals and teachers seeking job) with high mobility rates cannot benefit from these Points of Single Contact because Member States are neither required to make them available nor willing to pursue this on a voluntary basis.

### 3.2.2. *Efficiency of recognition procedures*

One out of three complaints received by the DG Internal Market and Services every year concerns recognition of professional qualifications. Often complainants write to the Commission that they experience excessive delays. 16% of the cases handled by SOLVIT in 2010 were related to this issue. This indicates that recognition procedures are not as smooth as they should be. The majority of problems are linked to the length of the procedures, the lack of justification of decisions and the practical organisation of compensation measures.

These difficulties have negative consequences for individual citizens who seek a new job or wish to offer their services in other Member States. An inefficient and not fully transparent procedure for the recognition of the professional experience goes against the fundamental right of EU citizens to good administration<sup>28</sup>. However, these difficulties should also be seen in a wider context: despite, in some instances, high unemployment and general slow growth as a result of the recession, many Member States experience shortages of labour, notably in health and social sector professions and in the engineering and construction sector<sup>29</sup>. This is largely due to skills mismatches as well as the shrinking of the working population. Some

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<sup>27</sup> For example, the portals of the points of single contact in Cyprus and Sweden offer the possibility of online applications for the recognition of qualifications.

<sup>28</sup> Charter of fundamental rights of the European Union (2010/C 83/02), Article 41 ("Every person has the right to have his/her affairs handled impartially, fairly and within a reasonable time by the institutions (...)").

<sup>29</sup> See European Migration Network 2011 Study "Satisfying Labour Demand through Migration" – [www.emn.europa.eu](http://www.emn.europa.eu)

Member States are already taking measures to attract qualified workers from other Member States and third countries in order to face the shortage of labour in some key sectors of the economy (e.g. engineers from Spain are actively recruited in Germany; and health professionals from EU 12 in the UK). These shortages are likely to increase in the near future. CEDEFOP<sup>30</sup> estimates that the demand for highly qualified personnel will increase by almost 16 million by 2020. In these circumstances the inefficiency of the recognition procedures is particularly damaging for the economy.

- Length of the recognition procedures

The Directive foresees specific deadlines for the processing of recognition requests (Article 51): after the submission of a complete file, competent authorities should take a decision within three months, or within four months for applications examined under the "general system". The Directive also provides that competent authorities should acknowledge receipt of a request for recognition within one month.

These deadlines do not seem to be well adapted to the needs of the labour market: for example, a doctor qualified in Hungary who receives an offer of work in Germany may not be in the position to immediately accept it, since taking up the post will be subject to the recognition of the Hungarian medical qualifications in Germany which can take up to three months under the existing Directive. In the current context of labour shortages in many sectors, professionals should be given the possibility to react more quickly to job opportunities.

The non-respect of deadlines by competent authorities constitutes an additional problem: 40% of the SOLVIT cases dealt with in 2010 on professional qualifications are related to Member States not respecting the deadlines foreseen in the Directive. The Your Europe's report published in 2010<sup>31</sup> also identified the "*excessive delays and failure to acknowledge receipt of applications*" as a major problem for applicants. The professions concerned are mainly the medical professions – in particular medical specialist, doctor, nurse and dentist – and teachers and engineers.

Member States did not even adapt their practice although there has been an opportunity. The increasing use of the Internal Market Information System (IMI) in the recent years has certainly facilitated the exchange of information between competent authorities: in 2010, 42% of requests of information sent through IMI were handled within one week and 15% within two weeks<sup>32</sup>. However, quicker communication between competent authorities on how to deal with recognition applications of citizens does not seem to have accelerated the procedures for citizens.

A survey carried out in the context of the study on education reforms<sup>33</sup> indicated that a vast majority of competent authorities (80% of 129 authorities) for different professions<sup>34</sup> reported

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<sup>30</sup> Cedefop. Skill supply and demand in Europe: medium-term forecast up to 2020; <http://www.cedefop.europa.eu/EN/publications/15540.aspx>

<sup>31</sup> The mobility of professionals in practice: A report by the Citizens Signpost Service on the recognition of professional qualifications" (February 2010): [http://ec.europa.eu/citizensrights/front\\_end/docs/css\\_report\\_on\\_prq\\_220310.pdf](http://ec.europa.eu/citizensrights/front_end/docs/css_report_on_prq_220310.pdf)

<sup>32</sup> IMI: Annual Report for 2010: [http://ec.europa.eu/internal\\_market/imi-net/docs/annual\\_report\\_2010\\_en.pdf](http://ec.europa.eu/internal_market/imi-net/docs/annual_report_2010_en.pdf)

<sup>33</sup> Study evaluating the Professional Qualifications Directive against recent educational reforms in EU Member States (published on 31/10/2011), available on the following page:

that over the last two or three years, the duration of the recognition procedure has been fairly constant and there has been no reduction in the duration of recognition procedures for citizens despite of the changing environment.

The issue of lengthy recognition procedures is seen as a major issue not for all professions but has a major impact for those with high mobility rates in the EU and with a serious shortage of workforce.

- Justification and organisation of compensation measures

According to the Database on Regulated Professions, compensation measures have been used in 17% of applications processed under the general system<sup>35</sup> between 2007 and 2010. Compensation measures are frequently imposed on primary school teachers, followed by secondary school teachers and social workers.

Problems in this area concern the criteria under which compensation measures can be imposed, the lack of justification or lack of proportionality of the decisions taken by the competent authorities and the organisation of the compensation measures. These problems are set out in detail in Annex 6.

- No common platforms

The Directive introduced the concept of common platforms in 2005. It is defined as a set of criteria (additional training, aptitude test, adaptation period) which make it possible to compensate for the widest range of differences which have been identified between the training requirements of at least 18 Member States for a given profession to enable exemptions from national compensatory measure in each participating Member State. A common platform can be initiated by a Member State or by professional organisations.

To date, no common platform has been introduced for two reasons:

- First, the Directive does not offer automatic recognition on the basis of common platforms. It only offers the possibility of harmonising compensation measures. Initially developed for the profession of ski instructor (to set up an aptitude test that would be used as a common compensation measure), the current concept does not respond to the needs of other professions. Other professions (for instance engineers, real estate agents, psychotherapists, physiotherapists, psychologists or laboratory medicine) found it more appropriate to attempt to set up common platforms by defining common standards or competencies allowing for automatic recognition.
- Second, the current threshold of Member States necessary to set up a common platform seems too high (18 Member States).

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[http://ec.europa.eu/internal\\_market/qualifications/docs/policy\\_developments/final\\_report\\_en.pdf](http://ec.europa.eu/internal_market/qualifications/docs/policy_developments/final_report_en.pdf)

<sup>34</sup> The survey of competent authorities, carried out in March/April 2011, covered the following professions: Doctors, Architects, Accountants; Civil engineers; Physiotherapists; Real estate agents; Pharmaceutical technicians; Biomedical/medical laboratory technicians; Social workers; Primary school teachers; Secondary school teachers; Second level nurses; Radiographers; Psychologists; Opticians; Surveyors; Tourist guides.

<sup>35</sup> This number of applications refers to the primary application of the general system (application of the general system for the professions not covered by any regime of automatic recognition).

The majority of reactions to the Green Paper from governments and professional organisations suggest the idea of common platforms should not be given up.

A link needs to be forged to those sectors that are expected to grow significantly in Member States and where currently mobility rates are high: health and social care due to the increase of the elderly population, education due to the need to skilled workers, business services and construction<sup>36</sup>.

### 3.2.3. *Functioning of the system of automatic recognition*

The Directive includes two different systems of automatic recognition<sup>37</sup>: the first one, covering seven sectoral professions, is based on harmonised minimum training requirements. The second system of automatic recognition covers the areas of craft, trade and industry and is based on minimum numbers of years of professional experience specified in the Directive.

- Automatic recognition based on minimum training requirements

Specific problems linked to the functioning of the automatic recognition and to the minimum training requirements were identified during the evaluation. Even if the system works, these problems should not be underestimated, since this system accounts for nearly 50% of all recognition decisions taken between 2007 and 2010<sup>38</sup> (see background statistics reported in Annex 1).

- Notification of new diplomas

Evidence from the evaluation of the Directive demonstrates that the procedure for notifying and examining new diplomas in architecture is not always considered to be effective. Some Member States also notify so late that graduates may not benefit from automatic recognition of their qualifications once they leave universities because they have no guarantee that these diplomas are accepted at European level. Moreover, the minimum training requirements for the six professions in the health sector, mandatory for all Member States, may not always be respected on the ground.

A more detailed outline of the problems is given in Annex 7.

- Adjustments of minimum training requirements

The minimum training requirements defined in the Directive do not necessarily reflect the evolution of the professions, resulting from important scientific and technical progress and the recent educational reforms, especially as far as architects, pharmacists, nurses and midwives are concerned. Differences in national conditions will persist given that the Directive provides for minimum and not maximum harmonisation. However, this should not result in a gap so large as to undermine confidence in the automatic recognition which could ultimately limit employment opportunities for the professionals concerned.

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<sup>36</sup> See section 4 of the study evaluating the Professional Qualifications Directive against recent educational reforms in EU Member States, available on the following page:  
[http://ec.europa.eu/internal\\_market/qualifications/docs/news/20110706-evaluation-directive-200536ec\\_en.pdf](http://ec.europa.eu/internal_market/qualifications/docs/news/20110706-evaluation-directive-200536ec_en.pdf)

<sup>37</sup> For a detailed presentation of the automatic recognition system, please see Annex 1 on the legislative framework.

<sup>38</sup> Source: Regulated Professions Database

In this regard, there are two major problems: the entry level for accessing the education as a nurse or midwife and the duration of training as architect. The Directive currently foresees 10 school years as a condition to nursing or midwifery training whilst in 24 Member States 12 school years are required and a further Member State intends introducing 12 school years. With regards to the requirements for architects, the Directive foresees 4 years of academic training. Many stakeholders argue that this no longer constitutes an appropriate minimum standard. More detailed outlines are given in Annexes 8 (health professionals) and 9 (architects).

- Automatic recognition based on professional experience

Professionals exercising an activity related to craft, commerce and industry – as listed in Annex IV of the Directive – benefit from automatic recognition on the basis of professional experience. Automatic recognition in this respect concerns major parts of the economy: construction, trade, manufacturing and many services. 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) from 1958. Feedback received from competent authorities shows that this classification does not always allow for an identification of the professions which should benefit from automatic recognition. This creates legal uncertainty for professionals. The application of the general system instead of this regime generates unnecessary administrative burdens both for competent authorities and professionals. The only way forward in the current Directive is to adopt a new classification without the possibility of adjustments to incorporate closely related activities.

A more detailed outline of this problem is set out in Annex 10.

#### *3.2.4. Establishing in another Member State*

Some specific problems have been identified in the assessment of recognition requests under the general system.

- Qualification levels

The Directive sets out five qualifications levels. Professionals can benefit from the Directive if their qualifications acquired in the Member State of origin are at least equivalent to the level immediately below that required in the host Member State (according to the education levels defined in Article 11). If the difference is larger, the Directive does not apply. For example, a professional who would not have followed a specific training but who would have five years of experience (corresponding to level a of the classification) in a particular profession – e.g. a social worker or an IT specialist – would not benefit from the Directive if the qualification required for exercising the profession in the host Member State is at a post-secondary level (levels c, d or e).

The European Court of Justice clarified<sup>39</sup> that in case secondary legislation does not apply to the recognition of professional qualifications, the qualifications should nevertheless be examined in accordance with articles of the TFEU on the internal market freedoms. In these cases, competent authorities should examine the application but the professional cannot

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<sup>39</sup> Case C-340/89; Irène Vlassopoulou vs Ministerium für Justiz, Bundes- und Europaangelegenheiten Baden-Württemberg, 7/05/1991

benefit from the procedural safeguards defined in the Directive. This contributes to legal uncertainty for professionals and adds complexity to the work of the competent authorities. Moreover, according to the study on the impact of educational reforms<sup>40</sup>, the case law is largely not applied in practice.

The relevance of this classification has also been questioned during the evaluation, mainly because of the lack of consistency with the European Qualifications Framework (EQF)<sup>41</sup>. Under this instrument, qualifications are not compared on the basis of the duration of a training course (input-based approach) but according to "learning outcomes" (output-based approach). The number of levels under the EQF also differs from the classification defined in Article 11 of the Directive. In addition, the purpose of the EQF is different: it is meant to be used as a "meta-framework" for comparing qualifications that should be classified in National Qualifications Frameworks (NQF) as from 2012. Finally, the EQF cannot be enforced in Member States. It should also be noted that Member States are at different stages in the development of their NQFs and in referencing of their NQFs to the EQF (linking NQF levels to EQF levels).

- Partial access

Economic activities associated with a particular profession often differ significantly from one Member State to another. An aptitude test or an adaptation period may not always compensate for these differences. As an alternative to complete new training in the host Member State, the European Court of Justice laid down the principle of partial access to a profession<sup>42</sup>. Partial access can be envisaged if:

- full access to the profession cannot be granted already on the basis of a successful completion of a stage or a test (so-called compensation measures); the professional would instead have to undergo a complete new training (e.g. in order to access the profession of ski instructor, a snowboard instructor would have to acquire a ski instructor diploma first)
- the activity can be separated from other activities of the profession, notably because it already exists as such in the home Member State (e.g. teaching snowboarding can be separated from teaching skiing).
- there are no grounds related to the general interest to justify reserving the activity to another profession; (e.g. to reserve snowboard teaching to ski instructors, unlike reserving certain activities to a doctor or a paramedical professional (e.g. case law *Mac Quen*<sup>43</sup>))

Consultations have shown that stakeholders are sometimes reluctant to use this principle but many Member States agreed in their responses to the Green Paper that this principle needs clarification. Representatives from regulated professions consider that the principle of partial access creates confusion for consumers and might lead to a fragmentation of markets. However, the principle of partial access has emerged in a context where the number of regulated professions and the number of economic activities behind such regulated

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<sup>40</sup> Study evaluating the Professional Qualifications Directive against recent educational reforms in EU Member States carried out by GHK Consulting.

<sup>41</sup> Recommendation of the European Parliament and of the Council of 23 April 2008 on the establishment of the European Qualifications Framework for lifelong learning, OJ 2008/C 111/01

<sup>42</sup> Case C-330/03 of 19 January 2006, *European Court reports 2006 Page I-801*

<sup>43</sup> Case C-108/96, *Mac Quen*

professions are often perceived as high. Any discussion on the principle of partial access should therefore be also seen against the background of a need for more transparency, more justification and better evaluation of regulated professions in the EU (see section 3.2.8).

- Mobility from non-regulating to regulating Member States (establishment)

Mobility from non-regulating to regulating Member States is quite frequent among engineers, sport professionals, some health professionals, as well as professionals in the construction and tourist sectors, since only some Member States regulate these professions (for example, the profession of engineer is not regulated in France but regulated in Spain and Poland; the profession of tourist guide is not regulated in Germany and the UK but regulated in Italy and Greece).

Professionals coming from non-regulating countries are currently obliged to demonstrate two years of professional experience in the last ten years or prove that they have completed "regulated education and training" geared to the specific profession. Otherwise they are not covered by the Directive but by the Internal Market freedoms guaranteed by the Treaties (and thus do not benefit from its procedural safeguards).

### 3.2.5. *Moving on temporary basis*

The introduction of a specific regime for the free provision of cross-border services was the major innovation of the Professional Qualifications Directive in 2005. Under this regime, the host Member State renounces a prior check of qualifications but can request that the professional sends a declaration on an annual basis. Only if it considers that the profession has health or safety implications can the host Member State check the qualifications of the professional in advance.

This lighter regime largely responds to the needs of professionals. In a meeting organised in October 2010, the majority of European professional organisations confirmed a strong interest for this regime among their members. For some professions, for example in the construction sector, the cross-border provision of services is an essential part of their economic activities.

In their experience reports published in October 2010, competent authorities reported limited experience, except for the health, construction, tourism and sport sectors.

Specific concerns have been raised by competent authorities and professional organisations:

- Lack of clarity of the terms "temporary and occasional"

Nearly all Member States transposed literally the Directive's provision according to which "*the temporary and occasional nature of the provision of services shall be assessed case by case, in particular in relation to its duration, its frequency, its regularity and its continuity*". . Many competent authorities request more specific guidelines, such as a maximum number of days, weeks or months, notably for seasonal activities of professionals.

- Temporary mobility with prior check of qualifications

Some Member States make extensive use of a derogation under the Directive and thus foresee long lists of professions with health or safety implications. Other Member States leave it even up to individual competent authorities to decide on a case by case basis whether or not a

service could have public health and safety implications. This second situation does not offer any legal certainty for professionals and makes the new regime less attractive and less transparent.

- Requirements imposed on professionals from non-regulating Member States

The regime for temporary mobility foresees conditions for professionals coming from non-regulating Member States similar to those foreseen under the general system for establishment: two years of professional experience or evidence of regulated education and training.

Although these conditions constitute a burden for the professionals, they need to be considered from a different perspective than in the situation where a professional wishes to establish himself in another Member State (see section 3.2.4). The temporary mobility regime does not foresee a prior check of qualifications: in this context, requiring two years of professional experience or a "regulated education" seems to be a necessary guarantee to ensure appropriate consumer protection and to avoid borderless "forum shopping" by some professions.

The burden of proof imposed on the professional through these safeguards does however not always appear to be justified on the grounds of consumer protection in the case of professionals moving together with their clients from the same Member State (e.g. a tourist guide from country A accompanying country A tourists to country B). In these situations, the conditions imposed on professionals by the Directive might go against consumers' choice for no good reason, as the professional does not offer services to consumers from the host Member State.

### 3.2.6. *Scope of the Directive*

The Directive does not cover all professions and all circumstances, especially as far as not fully qualified professionals and notaries are concerned. Holders of third country qualifications are covered by the Directive only to a certain extent.

The Directive applies only to **fully qualified professionals** (Article 1) and does not cover professionals who hold a diploma but have yet to complete a remunerated traineeship or supervised practice which might be required under the law of the Member State where they graduated (for example, for lawyers, architects, teachers). There is a gap between policies fostering the mobility of students and those covering the free movement of professionals. The Morgenbesser judgement<sup>44</sup> clarifies that the Treaty rules on free movement apply to graduates wishing to pursue a remunerated traineeship in another Member State; furthermore, this situation could attain the fundamental right to education too<sup>45</sup>. However there is uncertainty whether Member States should and are willing to examine such requests and under which conditions they could effectively reject them from the outset.

The Directive allows for the recognition of **third country qualifications** only to a limited extent: a third country qualification can be considered under the Directive if it has been

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<sup>44</sup> Court of Justice 13 November 2003, Case C-313/01, Morgenbesser, ECR I-13467. (This judgement was confirmed by the Court's judgement in Case C-345/08, Pešla v. Justizministerium Mecklenburg-Vorpommern.)

<sup>45</sup> Charter of fundamental rights of the European Union (2010/C 83/02), Article 14 ("Everyone has the right to education and to have access to vocational and continuing training".)

recognized by a Member State and if the holder of the qualification has three years' professional experience in the same Member State. This applies to EU citizens and to third country nationals benefiting from equal treatment through other EU rules. The situation of the labour market, especially skills shortages, demographic developments (ageing of the population), increasing "brain waste" (people working in jobs for which they are overqualified) and the need to make the EU attractive to highly skilled migrants<sup>46</sup> may call for a wider use and a possible adjustment of these provisions.

A particular issue concerns **notaries**. It is not clear from the recent judgment of the Court of Justice if the Directive apply to this profession. The Court of Justice declared in May 2011<sup>47</sup> that in view of the particular circumstances of the legislative procedure of adoption of the Directive, it was not possible to conclude that there existed a sufficiently clear obligation for the Member States to transpose the Directive with respect to the profession of notary. However, in the same judgment, the ECJ opened the way to include this profession in the scope of the Directive because notaries can no longer be subjected to a nationality requirement but single market rules do apply

### 3.2.7. *Protection of patients*

Patient safety emerged as a particular concern during the evaluation of the Professional Qualifications Directive.

According to a Eurobarometer survey of 2009<sup>48</sup>, three quarters of the population believe that it does not matter where in the EU a doctor qualified for the profession. This suggests that a wide majority of EU citizens trust that the training, underpinned by the harmonised EU standards, is of satisfactory quality in all EU countries. The last survey conducted in February / March 2011<sup>49</sup> shows a slight decline in the proportion of citizens indicating confidence in foreign-trained doctors (now only two thirds of respondents believe it does not matter where in the EU a doctor obtained the qualification). Meanwhile, when considering the quality of healthcare, the most important criterion for citizens is well-trained medical staff (52% of respondents)<sup>50</sup>.

The Directive allows Member States to put in place various safeguards aimed at guaranteeing that migrating professionals have the relevant competencies to exercise their profession. The first safeguard in the Directive is that only qualifications fulfilling minimum training requirements can benefit from automatic recognition and subsequently automatic access to the profession.

Stakeholders, mainly competent authorities but also professionals raised the following questions:

- A qualification alone might not give the complete picture

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<sup>46</sup> 2009 Competitiveness Report:

[http://ec.europa.eu/enterprise/newsroom/flash/fl\\_263\\_en.pdf](http://ec.europa.eu/enterprise/newsroom/flash/fl_263_en.pdf)

<sup>47</sup> Cases C-47/08, C-50/08, C-51/08, C-52/08, C-53/08, C-54/08 and C-61/08 of 24 May 2011.

<sup>48</sup> Flash Eurobarometer 263: [http://ec.europa.eu/public\\_opinion/flash/fl\\_263\\_en.pdf](http://ec.europa.eu/public_opinion/flash/fl_263_en.pdf)

<sup>49</sup> Special Eurobarometer 363, forthcoming publication

<sup>50</sup> Special Eurobarometer 327 on patient safety and quality of healthcare, April 2010

Continuous professional development has become more important. Some stakeholders, even a few governments, suggested making it mandatory under the Directive for all Member States arguing that health professionals moving in the European Union should always be aware of the most recent developments and should adapt their knowledge, skills and competences on a regular basis. For these stakeholders, health professionals would have to be in a position to prove at the point of recognising their qualification that they also lived up to continuous professional development requirements in their Member State of origin. However, there is no common understanding of the content of continuous professional development under regulation or in daily practice: it can range from attending training courses each year to a more generic obligation to keep up to date according to means a professional might choose himself.

A related problem signalled by some competent authorities concerns health professionals who have been out of practice for many years. Some stakeholders argue in favour of a return-to-practice test before moving to another Member State or the need to prove a few years of recent professional experience in addition to the initially acquired qualification.

Another concern is that there may also be instances where health professionals barred from practising due to disciplinary or penal sanctions in the Member State of origin move and start practising in another Member State. Article 50 in conjunction with Annex VII point 1d already allows a host Member State to require incoming health professionals to clarify their legal status. However, there have been high profile cases in some Member States.

- Language knowledge of EU citizens working in another Member State

According to Article 53 of the Directive, "*persons benefiting from the recognition of professional qualifications shall have knowledge of language necessary for practising the profession in the host Member State*". Thus, the Directive already imposes an unequivocal obligation upon the professionals concerned to be able to communicate with clients, consumers, patients and employers. The Code of Conduct<sup>51</sup> for competent authorities from June 2009 provides further guidance on the application of these provisions.

However, the Directive does not prescribe any particular means by which Member States should enforce the obligation. Instead, Member States are obliged to act in accordance with the Treaty with respect to the principle of proportionality.

In 2010, competent authorities reported that the language regime under the Directive has overall not given rise to any problems. Concerns have been raised only in relation to the health sector.

A recent Eurobarometer survey<sup>52</sup> confirms that citizens attach high importance to the language skills of a doctor coming from another Member State. In the United Kingdom a wide public debate in 2010 and 2011 focussed on language skills for doctors and nurses. Therefore, language skills for health professionals who treat patients, such as a doctor or a nurse have been carefully considered in the context of the evaluation of the Directive.

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<sup>51</sup> The Commission and Member States coordinators for recognition of professional qualifications issues agreed on a set of

guidelines for interpreting the Directive, the so-called Code of Conduct, agreed in June 2009, see [http://ec.europa.eu/internal\\_market/qualifications/docs/future/cocon\\_en.pdf](http://ec.europa.eu/internal_market/qualifications/docs/future/cocon_en.pdf)

<sup>52</sup> Eurobarometer 363 – Internal Market: awareness, perceptions, impacts

### 3.2.8. *Lack of transparency and justification of qualifications requirements in regulated professions*

Across the 27 Member States, the Professional Qualifications Directive applies to about 800 categories of regulated professions. More than 50% of these regulated professions however relate to the health and education sectors<sup>53</sup>. It should also be noted that around 200 categories of professions are only regulated in a single Member State (see the list presented in Annex 12).

The regulation of a profession is usually justified by three main reasons linked to the correction of market failures:

- (1) Asymmetry of information existing between consumers and service providers: by regulating a profession, a State imposes certain requirements relating to qualifications on the professionals willing to provide some specific services, in order to ensure adequate quality of these services.
- (2) Externalities: some service activities have an impact on third parties, beyond the actors involved in the transaction.
- (3) Public goods: certain service activities are linked to the production of public goods. In this case, the regulation of a profession corresponds to the need of ensuring a correct supply of these services based on professional standards and ethics.

Such a regulation usually leads to reserve some activities to the holders of specific professional qualifications. The reserved tasks associated to regulated professions as well as the level and content of the qualification required can vary significantly from one Member State to another. Professional qualifications requirements in Member States may impact on the competition in professional services and on cross border trade of key economic services.

There is an ongoing debate on the number of regulated professions within the EU and the impact of reserved activities on the economy:

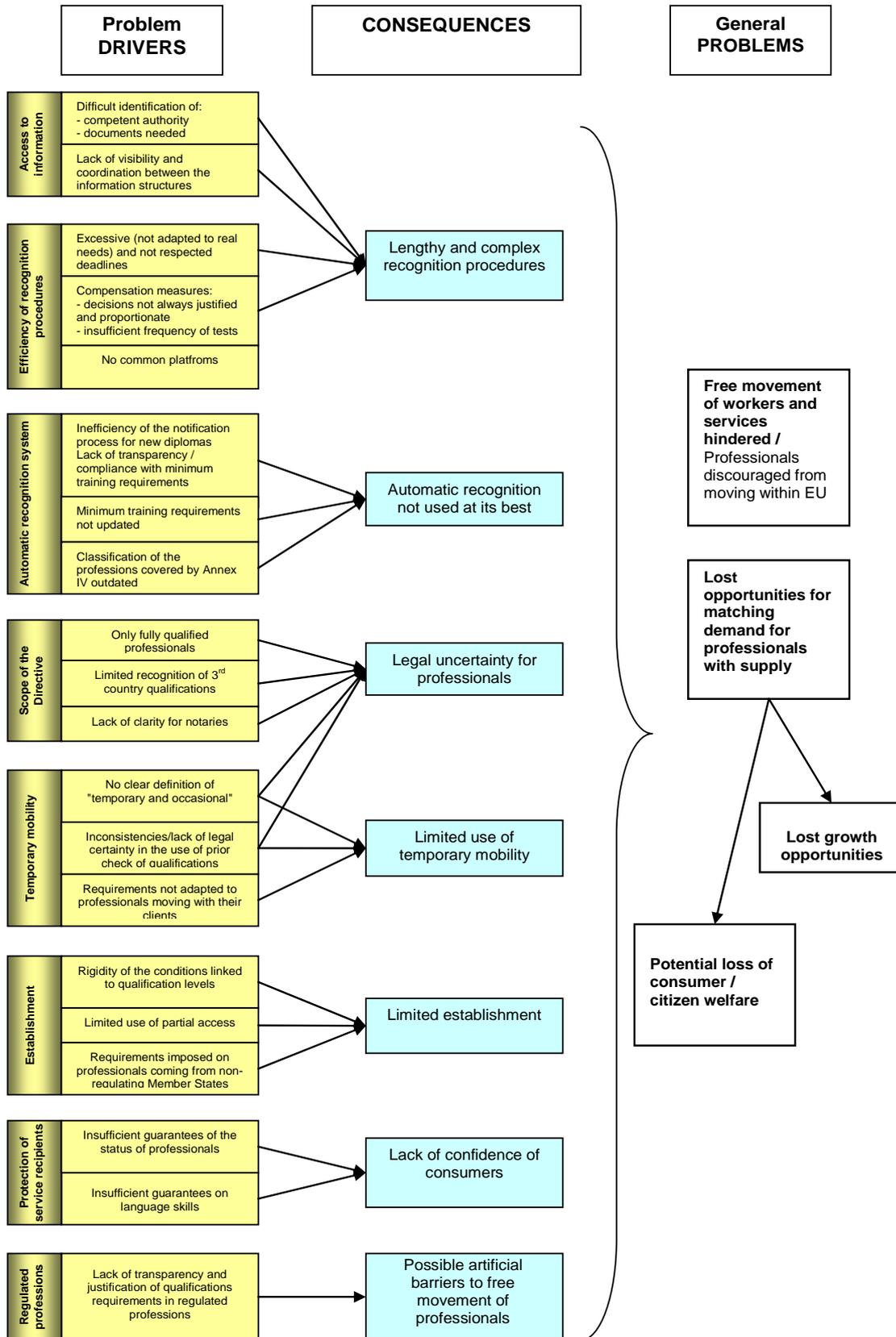
- In the context of the Commission Communication "*Towards a better functioning Single Market for services – building on the results of the mutual evaluation process of the Services Directive*", the Competitiveness Council of 10 March 2011 recognised that disproportionate requirements in terms of reserved activities based on qualifications may constitute major barriers and welcomed the Commission's intention to further assess this issue in this context.
- The European Parliament's report on the implementation of the Professional Qualifications Directive (adopted on 16 November 2011) did not approach reserved activities but criticized the number of regulated professions and called on Member States to "reconsider the justification for the classification of certain professions".
- In bilateral discussions between the Commission and Member States following up on the EU 2020 agenda, the number of regulated professions has been raised as a matter of concern for the overall effectiveness of the economy.

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<sup>53</sup> Source: Regulated Professions Database. Distribution of regulated professions by sector: 43% health professions; 9% teachers and social/cultural professions.

In this context, it is essential to ensure a large transparency and better justification on qualifications requirements and reserved activities associated to regulated professions in each Member State as well as a strong link between qualifications requirements and public policy objectives. The starting point cannot be that there is no need to regulate professions (as noted above, 43% of regulated professions belong to health sector and 9% to education) but much more than each Member State should review which regulated professions exist and for which good reasons. A greater transparency and justification of the regulated professions would allow to avoid situations in which qualifications requirements would lead to artificial barriers to the free movement of EU citizens.

**Problem tree**



## **4. THE BASELINE SCENARIO AND THE EU'S RIGHT TO ACT**

### **4.1. Baseline scenario**

If no action is taken professionals will continue to encounter difficulties in finding information and obtaining the recognition of their qualifications. Recognition procedures will remain too long and too complex, which could have deterrent effects on mobility. Some categories of professionals will remain excluded from the scope of the Directive. The temporary provision of services may continue to develop slowly but its potential for growth in the intra-EU commerce on services will remain unexploited. If no action is taken to modernise the minimum training requirements, there is a risk that the principle of automatic recognition could be put into question.

### **4.2. The EU's right to act and justification**

Article 53 and Article 62 TFEU stipulate that the European Parliament and the Council shall issue directives for the mutual recognition of diplomas, certificates and other evidence of formal qualifications.

The rules governing the recognition of professional qualifications are laid down in Directive 2005/36/EC on the recognition of professional qualifications. Changes to this acquis imply the modification of this Directive but not necessarily a new Directive.

## **5. OBJECTIVES**

The main objective of the initiative is to facilitate the mobility of professionals and the intra-EU trade in services, address the challenge of filling high-skill jobs and offer more possibilities for job seekers.

In particular, this initiative aims at:

- Facilitating access to information on the rules governing the recognition of professional qualifications and putting in place e-government facilities
- Reducing the complexity of recognition procedures with new solutions to support mobility
- Modernising the automatic recognition system
- Simplifying mobility for the purpose of establishment for the professions falling under the general system and enhancing temporary mobility by simplifying the specific requirements in the Directive
- Enlarging the scope of the Directive to new categories of professionals
- Reinforcing the guarantees for patients.
- Offering transparency on which professions are regulated and clarifying their justification amongst Member States.

## 6. ANALYSIS AND COMPARAISON OF THE POLICY OPTIONS

This section examines different policy options that could be chosen. The analysis of policy options and the comparison thereof have been grouped into several problem areas. Where necessary, sub-issues have been addressed by separate policy options. The options are discussed and measured against the following pre-defined criteria:

### (a) Effectiveness

Compared to today, the policy options should lead to increased mobility of professionals without harming consumer and patient safety and contribute to a better match between labour demand and supply. The options should be suitable for achieving all the relevant objectives.

### (b) Efficiency

The analysed policy options should be efficient in terms of the resources used. The following resources have to be considered: time, staff, transposition cost, enforcement costs, administrative costs, and overall compliance costs. The options should not impose complexity and disproportionate burdens on any of the actors in the recognition procedure.

### (c) Consistency

Considering the number of the regulated professions and the diversity of the economic sectors affected by regulation, the Directive can potentially interfere with an important number of other pieces of European legislation as well as non-legislative measures. It is therefore vital that the options are consistent with other existing European Union instruments, like the Services Directive, European Qualifications Framework, EU Directives allowing third country nationals to access labour markets, and projects developed by DG Education and Culture, DG Health and Consumers, DG Home, DG Employment and DG Information Society and Media.

### (d) Impacts on stakeholders

The envisaged policy options will affect professionals, Member States, consumers and patients, and employers. Social impacts and, where relevant, impacts on fundamental rights will also be discussed within this framework.

#### (1) Impact on migrating professionals

The primary beneficiaries are the professionals exercising regulated professions. The policy options should aim to guarantee the respect of the EU fundamental freedom and rights by facilitating the recognition of their qualification, to reduce uncertainty, delays and costs, and thus open the markets of the Member States to professionals wishing to establish themselves or to provide services.

#### (2) Impact on Member States

Member States may regulate a given profession on their territory within the boundaries of the principles of non discrimination and proportionality. However, when a professional wishes to pursue a regulated profession on their territory, they have to recognise the professionals' qualifications pursuant to the rules laid down in the Directive. To this effect, their competent authorities verify the qualifications, inform the professionals, cooperate with the other

Member States, organise compensation measures, issue documents, certificates and take recognition decisions, etc. Each policy option has to consider the burden imposed on the Member States, the cost and benefits resulting from the potential implementation of the given option and the impact on the structure and traditions of the national administrations.

### (3) Impact on consumer and patients

Increased mobility of professionals will have an impact on consumers and patients. On the one hand, consumers will benefit from a larger diversity, quality and price of services and patients from an increased availability and expertise of health professionals in the countries to which they migrate. On the other hand, consumers and patients might face risks deriving from comprehension difficulties linked to the different working methods and training specificities of the foreign professional. The policy options should aim at an optimal balance between the protection of the consumers and patients and the right for the professionals to establish themselves and provide services in a Member State.

### (4) Impact on employers

Employers are not mentioned in the Directive. They could however be concerned by the modernisation of the Directive. Indeed, some of the policy options foresee new rights or obligations for them.

Political acceptability can also become an issue and needs to be analysed each time it is relevant for the discussion. Indeed, experience shows that recognition of qualifications can be particularly sensitive in some Member States. Negotiations of the previous Directives in this field sometimes took more than 20 years of discussions resulting in the sectoral approach being abandoned.

No particular environmental impact has been identified.

## **6.1. Policy options linked to the difficult access to information on recognition procedures and to online procedures**

- Option 1: No action at EU level

With no action taken at EU level, the situation described in section 3.2.1 will remain unchanged: it will be possible to obtain information on EU rules relating to the recognition of qualifications through the Your Europe portal, and information on national rules and procedures implementing these rules through national contact points, and for most professions, through the points of single contact set up under the Services Directive. Furthermore, the points of single contact should allow for the online completion of administrative procedures, including the recognition of qualifications. However, the professionals not covered by the Services Directive (health professionals and job seekers) will not be able to benefit from the facilities offered by the points of single contact.

- Option 2: Strengthen the national contact points

Under this option, the national contact points set up under the Directive should be given more visibility.

National websites that professionals are likely to visit – ministries, professional organisations – should also inform about the role of national contact points. In addition, national contact

points would be encouraged to update or complete their websites with information concerning competent authorities and document requirements. They should also coordinate the efforts put in place at national level to develop online recognition procedures. In addition, national contact points could make all information easily accessible via the Your Europe portal.

This option would ensure a better use of the existing structures without creating additional costs for the Member States.

- Option 3: Member States provide a central online point for access to information and completion of recognition procedures

Under this option, Member States would provide a central online access point for the recognition of qualifications. The European Union would not determine how the Member States should implement this principle but would make such country-specific information better accessible through the Your Europe portal. It would be stipulated that a central online access point in each Member State should give practical, user-friendly and exhaustive information on the competent authorities and the documents that need to be submitted with a request for recognition (and for a declaration of temporary provision of services) in that country. The information should be available in more than one language. This implies coordination with competent authorities to verify which documents are currently required.

The central online access point should cover all regulated professions in the entire territory of each Member State. The structure in charge of this central access point should ensure the coordination with competent authorities and the constant updating of information. This option consists not only in consolidating the existing information (currently provided by different actors at different places) and making sure that it is accessible via a central online point, but also in developing additional information on the documents required to the professionals. This will entail also a cost for Member States.

.Existing websites could be further developed to serve as a central online access point for recognition procedures (including the procedure foreseen for professional cards, explained in option 4 of section 6.2.1). It would be up to each Member State to decide which existing portal – the national contact point, the point of single contact or any other e-government structure - would be best placed take up this task.

As a further step, these central access points could also offer the possibility of completing recognition procedures online. This implies putting in place a single system of online procedures which could be used by several competent authorities.

This option would enable easy access to practical information on the recognition of qualifications and help to avoid delays in recognition procedures related to incomplete files. It implies additional costs for Member States (staff and IT costs for the development of the central access point).

- Option 4: Extend the scope of the points of single contact set up under the Services Directive

This option would go further than option 3 by prescribing how Member States should implement the principle of a central access point. Under this option, the scope of the points of single contact would be extended to the professions not covered by the Services Directive (health professionals and job seekers). Information provided by the single contact points

should be easily accessible via Your Europe, which aims to function as a 'single gateway' to all information and help needed on EU rights. The points of single contact are meant to be fully fledged e-government portals allowing services providers to easily obtain all relevant information relating to their activities (regulations, procedures, deadlines) and to complete electronically all the administrative procedures necessary for the access to and exercise of a service activity, including the procedures for the recognition of qualifications. Points of single contact are in place in 24 Member States and should provide access to information and e-procedures for around 60% of all regulated professions.

This option would reduce the fragmentation of the information, avoiding the duplication of tasks between national contact points and points of single contact. A recent survey carried out among national contact points showed that half of these structures do not yet have regular interaction with the points of single contact. It would also improve the consistency between the Professional Qualifications Directive and the Services Directive and take advantage of synergies offered by combining existing e-government projects. In addition, the transparency achieved through the points of single contact on administrative requirements could benefit to new professions.

By further developing existing structures, this option should not lead to significant cost increases as existing technical solutions (websites, electronic procedures, electronic identification) would be used/adapted to extend the points of single contact to a larger group of professionals. The work involved in extending the point of single contact to new professions varies significantly between Member States (e.g. differing degree of regulated professions, different maturity levels of e-government, different choices made for the functioning of the points of single contact).

For each new profession to be included under the point of single contact, it will be necessary to establish working relationship with competent authorities, collect and provide the required information online, develop electronic application forms and electronic procedures (on the basis of the procedures already put in place for certain professions). Member States will also need to deploy complementary efforts to make user-friendly content available, and liaise with each other and the Commission to ensure that such content is useful for professionals coming from all over Europe (which also implies that translations should be available). Depending on Member State, this is estimated to involve between 2 and 6 working days per new profession. Considering an average of 50 new professions per Member States (mainly health professions), this would imply an additional workload between 100 (2x50) and 300 (6x50) working days. This initial workload must be seen in broader context of long-term efficiency gains and cost savings<sup>54</sup>, both for professionals and for competent authorities handling the applications.

In addition to the use of the Points of Single Contact, the use of IMI should be made mandatory for all competent authorities for professions covered by the Directive. This option would clarify the legal situation, thus removing any confusion resulting from the respective scopes of the Services Directive and the Professional Qualifications Directive. It would provide an effective support for information exchange between competent authorities and

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<sup>54</sup> According to research conducted by the Netherlands, the use of Points of Single Contact could bring savings of some 65 million euros a year in that country. The United Kingdom estimated that the systematic use of Points of Single Contact should allow cost savings between 3.8 and 13.7 euros per transaction, representing potential short-term gains of around 20 million euros in that country. See "Services Directive: explanations and practical examples"; [http://ec.europa.eu/internal\\_market/services/docs/services-dir/implementation/examples\\_en.pdf](http://ec.europa.eu/internal_market/services/docs/services-dir/implementation/examples_en.pdf)

reduce the administrative burden and costs for the professional. Moreover, it would not lead to additional cost for the Member States, as the decision to cover all professions within the Professional Qualifications module of IMI by the end of 2012 has already been taken. At the same time, this option would contribute to strengthening the legal certainty, both for the competent authorities and professionals seeking qualifications recognition.

- Comparing the policy options

In terms of facilitating the access to the relevant information (competent authorities and documents requirements), both options 3 and 4 offer advantages for professionals. Under option 2, the access to the national contact points will be facilitated, but the relevance of the information provided will not be guaranteed. In option 3, professionals may be able to find practical, useful information made available in one place, which could be the national contact point, the point of single contact, or another structure, according to the choice made by each Member State but this would only cover recognition procedures and not all the other procedural steps that professionals may be required to take. In option 4, all information and the possibility of on-line completion of procedures will be made available through the points of single contact, which professionals are more likely to revert to for the completion of other administrative procedures. Information will also be available through Your Europe, which aims to act as a single gateway to all information and help to people, in particular in mobility situations. Therefore, it appears that the most practical solution from the point of view of professionals is option 4.

In terms of efficiency and consistency, option 2 will enable synergies between existing websites at national level. Option 3 does not necessarily imply the development of a new website but one structure must support the coordination and update of information or of links to existing portals. If the central access point is built on the websites of the national contact points, the costs may be rather limited and the national contact points' visibility would be improved at the same time. However, there would still be a duplication of tasks with the points of single contact, generating extra costs in terms of staff and structure as well as possible problems of visibility. Option 4 may have the advantage of not incurring extra costs (staff) to the extension of the scope of the point of single contact since the work already has to be done for all professions covered by the Services Directive. It will make it possible to have a single structure responsible for all administrative procedures linked to establishment or provision of services in a Member State. From the perspective of Member States, option 4 may be more efficient and consistent with ongoing e-government efforts and the existing use of IMI for administrative cooperation.

Option 4 is therefore the preferred option. In order to ensure a consistent implementation in all Member States, it is preferable to introduce a specific provision in the Directive. Web-based information provided at the national level should be developed in consistency with and made accessible through Your Europe. This will greatly enhance access to such information for Europeans and will lead to better synergies with what exists (which can help reduce costs).

	Effectiveness	Efficiency	Consistency	Impact on stakeholders			
				<i>Profess.</i>	<i>MS</i>	<i>Cons.</i>	<i>Empl.</i>
Option 1	O	O	O	O	O	O	O
Option 2	+	+	+	+	+	O	O

Option 3	+	O/+	+	+	+	O	O
Option 4	++	++	++	++	+	O	O

## 6.2. Policy options linked to the efficiency of recognition procedures

This problem area can be separated into the following two sub-issues, with policy options specifically addressing each of them:

### 6.2.1. Length of recognition procedures

- Option 1: No policy change

This option implies that professionals will continue to suffer from excessive delays in the recognition procedures, competent authorities will continue to face the complexity of the system, and consumers and patients will lose opportunities which could otherwise be offered to them. New developments in the educational systems as well as demographic developments are leading to even greater mobility. Competent authorities will have to assess more requests for recognition and these will probably be of an even greater complexity. This increased workload will require additional staffing and could lead to an increase in delays. Existing remedies, like the SOLVIT network, will not be able to ensure timely processing of recognition requests. IMI will continue supporting the exchange of information between competent authorities; however it should be noted that IMI is compulsory only for the regulated professions covered by the Services Directive. For the other professions, in particular health professions, IMI is used on a voluntary basis. This creates confusion. This option does not achieve any of the objectives.

- Option 2: Stronger enforcement by the Commission in individual cases

Stakeholders regularly call for a better enforcement of the Directive.

The Commission could refer more cases to the Court of Justice. The procedure, however, does not guarantee the immediate recognition of the professionals' qualifications. This option would only increase litigation costs for all parties concerned.

- Option 3: Shorten the deadlines in the Directive for all professions

Under this option, the deadlines foreseen in the Directive would be shortened: in the case of the automatic recognition regime, the deadline would be reduced to one month instead of three months and, for the general system, it could be reduced to 2 months. This option should be associated with a mandatory use of IMI<sup>55</sup> for all the professions covered by the Directive. However this option would not provide any means to Member States to act in a swifter manner. Its overall effectiveness is doubtful.

- Option 4: Involve the home Member State and create a European professional mobility card

<sup>55</sup> Member States agreed in December 2010 to use IMI (Professional Qualifications module) for all regulated professions within the EU by the end of 2012.

The idea of a European professional mobility card, issued in the home Member State of the professional, aims at facilitating and accelerating the recognition procedures and to bring more transparency in these (a detailed outline of the possible functioning of the card is presented in Annex 14). In order to achieve this acceleration, the home Member State's competent authority, which is familiar with the structure and content of the professional's training and has easier access to comprehensive information about the professional, should be involved in the procedure to facilitate the treatment of applications in the host Member State. In order to ensure efficient communication between the home and host Member States, this option is based on the mandatory use of IMI<sup>55</sup> by all competent authorities. It would be further developed to include some additional tools (e.g. repository of professionals' files). An additional possibility, contributing to the transparency, would be to set up a public interface in the Member States to allow the professional to request and to obtain a professional mobility card on line from competent authorities.

This option would considerably ease the work of the host competent authority. Specific deadlines would need to be established for the treatment of applications both in the home and the host Member States. The deadlines for the host Member States should be stricter than the current ones, for example one month instead of three months in the case of automatic recognition. The card, issued only to professionals with verified credentials, could also offer the advantage of introducing the principle of a tacit authorisation if the host Member States' authority does not react to a recognition request on time.

This option may have an impact on the workload of the home competent authority. However, the results of a survey carried out among competent authorities for nurses, physiotherapists, civil engineers and mountain guides indicate that the home Member States are already frequently asked by outgoing professionals to issue certificates supporting their demand for recognition in another Member State (e.g. certificates on the status of the professional and the conformity of the qualification, certifications on acquired rights, certificates under Article 13(2) of the Directive, even if the profession is not regulated). These certificates are mostly issued as paper copies and sent by post to the professionals, and in many cases to the host Member States as well. The home Member States are then often asked by the host competent authorities to confirm the authenticity of these certificates. The workload of the home competent authority should be analysed in this context. The role of the home competent authority in the delivery of the professional card may not incur major extra costs, since the use of IMI would rationalise the exchange of information and enhance mutual trust between authorities. Only in case of a profession not regulated in the home Member State, there will be some costs linked to the designation of an authority in charge of issuing cards for outgoing professionals. In this regard, existing structures like the NARIC centres or public chambers of commerce could be used.

The option can be implemented in a cost efficient way by mostly relying on features which are already being developed in IMI. It would also considerably ease the procedure for the professional, who will not need to identify the competent authority in the host Member State (this authority will be contacted by the home Member State). Moreover, once created, the professional file can be kept up to date and can be reused if the professional wants to request recognition in a third Member State. As a safeguard, the alert mechanism described in option 4 of section 6.7.1 would apply to the holders of a European professional card.

The card should be voluntary for the professionals who wish to apply for recognition. The participation of the competent authorities in the delivery of the card for those professions should be however compulsory.

Two sub-options can be identified for the practical implementation of the European professional card: under the first sub-option (option 4a), the card would be made available for all professions; under the second sub-option (option 4b), it would be made available for the interested professions.

- Comparing the policy options

In terms of ensuring respect of the deadlines laid down in the Directive, option 2 is more effective compared to option 1. However, the infringement procedures are too costly, resource and time demanding and might in some cases prove ineffective as the final decision lies with the host Member State.

Option 3, based on shorter deadlines, does not directly address the problem of non respect of the deadlines. Option 4 addresses the problem upstream and creates favourable conditions for accelerating the recognition procedure. It is both based on stricter deadlines and offers instruments to help in meeting these deadlines.

Option 4 requires investments from the Commission (IT developments on IMI<sup>56</sup>). Although it could require additional efforts by some Member States, generally it would lead to a reduction of the time needed for a decision, with positive impact on the recognition costs in all Member States. This would be the case especially if this option would first be voluntary and concern only the most mobile among the interested professions, and extended progressively to other interested professions only once it has proven to be effective.

Therefore, Option 4 is the preferred option. Among the two sub-options, option 4b is preferable. Making the card available for all professions would contribute to the simplification of the recognition system as only one procedure would apply across the board. However, developing the professional card progressively for the interested professions would be more efficient. The costs would be more limited and would target the most mobile professions. Some professions have already expressed a strong interest in using the professional card (e.g. nurses, engineers, doctors, mountain guides and real estate agents). For these reasons option 4b should be preferred. This requires an amendment of the Directive. The Directive should set the framework, such as the involvement of the home Member State, the link of the card to IMI, whilst details of the implementation could be decided in an implementing or delegated act to be adopted by the Commission. Before the actual implementation of the professional card, a cost benefit analysis will be carried out for different implementing measures in consultation with the Member States and based on the exact features and functioning of the card.

	Effectiveness	Efficiency	Consistency	Impact on stakeholders			
				<i>Profess.</i>	<i>MS</i>	<i>Cons.</i>	<i>Empl.</i>
Option 1	0	0	0	0	0	0	0
Option 2	0/+	0/+	0	+	-	0	0

<sup>56</sup> The development costs for IMI are estimated as follows: 150.000 euros for linking up the public interface with the repository and for the new workflow in IMI; 50.000 euros for the development of the professional card with security features.

Option 3	-	0	0	+	-	0/+	0/+
Option 4a	++	-	+	++	-	+	+
Option 4b	+	+	+	++	-	+	+

### 6.2.2. *Justification and organisation of compensation measures*

Policy options linked to the justification and organisation of compensation measures are presented in Annex 6. They range from taking no action, issuing further guidelines, to the concrete need for optimising the use of compensation measures, including more regular organisation if such measures.

### 6.2.3. *Common platforms*

- Option 1: No action

No common platform has been adopted so far. Without any action, this situation will persist and the measure will have no impact at all on the free movement of professionals.

- Option 2: Deleting the concept of common platforms

Deleting the concept of the common platforms would be tantamount to accepting that no further professions can benefit from automatic or at least easier recognition procedures than those foreseen by the general system. This option would not be consistent with the stakeholders' views.

- Option 3: Revising the concept of common platform

This option would introduce changes to the existing concept of common platforms. Firstly, the threshold of Member States needed in order to start a common platform could be reduced from 18 to 9 Member States. This idea, presented in the Green Paper, received a lot of support from many stakeholders.

Secondly, the existing concept of common platform, meaning a set of criteria linked to professional qualifications which are suitable for compensating for substantial differences, could also be reviewed in order to allow for a quasi automatic recognition (i.e. recognition without compensation measures). For this purpose, a common platform could be established on the basis of a common set of competencies or a common training framework. It could also be a common test included in different training programmes. These common platforms would have to be proposed by professional organisations and supported by several Member States. The main difference as compared to the current automatic recognition regime based on harmonised minimum training requirements is that the training designed in the context of the common platform would not replace national training programmes and would thus entail fewer costs associated with changing education systems.

- Option 4: Harmonise minimum training requirements for new professions

This option would go beyond the revision of the concept of common platform. Minimum training requirements would be defined for professions currently covered by the general

system, which are regulated in a large number of Member States and for which there exist particular needs in terms of mobility. Thanks to the use of qualified majority vote in the Council, agreeing on minimum training requirements may be easier than in the past when unanimity was necessary.

In comparison to option 3, the costs for Member States would be much higher because all professionals would be covered and all national education systems would need to be changed regardless of how many professionals actually wish to move within the European Union. In addition, this option might lead Member States to introduce new regulation of professions in cases where a profession is currently unregulated.

- Comparing policy options

In terms of effectiveness, Options 1 and 2 will leave the situation unchanged or – in the case of Option 2- possibly have a negative impact by removing the possibility of ever achieving a common platforms. Option 3 and 4 could create an opportunity for professionals to obtain the recognition of their qualifications without compensation measures.

Compared to option 1, the cost of setting up a common platform under option 3 could be limited, since it could be done for only 9 Member States, instead of 18. In addition, these costs would be offset by the reduction in the number of compensation measures. The cost of option 4 may be higher since the definition of minimum training requirements is a long process and may generate important implementation costs for the Member States.

Option 4 would have an impact on all the professionals in a given profession (since the minimum training requirements would apply in all cases) while the benefits of option 3 would be reserved to the professionals who meet the standards of the common platform.

Option 3 is therefore the preferred option.

	Effectiveness	Efficiency	Consistency	Impact on stakeholders			
				<i>Profess.</i>	<i>MS</i>	<i>Cons.</i>	<i>Empl.</i>
Option 1	-	-	0	-	-	0	0
Option 2	--	--	0	-	-	0	0
Option 3	++	+	0	++	++	0	+
Option 4	++	-	0	++	--	+	+

### 6.3. Policy options linked to automatic recognition

The policy options linked to the notification of diplomas and to the modernisation of minimum training requirements for specific professions are presented in Annexes 7, 8 (health professions) and 9 (architects). Policy options linked to the craft, trade and industry are presented in Annex 10.

### 6.4. Policy options linked to establishment in another Member State

As explained in section 3.2.4, some provisions of the Directive make the conditions for recognition particularly complex, notably the classification of education levels and the

requirements imposed on professionals coming from non-regulating Member States. The limited use of partial access creates an additional rigidity.

For greater clarity, a set of options will be developed for each issue.

#### 6.4.1. *Qualifications levels*

- Option 1: No action at EU level

Without any action at EU level, the professionals currently excluded from the Directive will not benefit from its procedural safeguards.

- Option 2: Refocus and simplify the classification of education levels

Under this option, the classification would no longer be used to assess the eligibility of an application, but to compare qualifications and to examine if there are any substantial differences between the qualification of the professional and the qualification requested in the host Member State. For example, a professional holding a qualification corresponding to level b of the classification (secondary course) and applying for recognition in a country where the required qualification is at level d of the classification (post-secondary education of at most 4 years) would benefit from the Directive (under the current rules, his application could have been rejected). The only exception might be cases where a professional, on the basis of mere professional experience but without any formal qualification, seeks access to a profession requiring university diplomas.

However, a difference in the education levels would not be sufficient to justify a compensation measure; it would only act as one indicator. Competent authorities would also need to examine differences in training contents.

According to the experience reports prepared by competent authorities during the evaluation, this change would correspond to the current practice of the majority of competent authorities. This option would also be in line with the results of the study on the impacts of educational reforms: the majority of the competent authorities involved in this study consider article 11 as a useful benchmarking tool, which plays a wider role in structuring the assessment of a recognition request.

- Option 3: Remove the classification of education levels

This option foresees the deletion of the classification presented in article 11. It would simplify the current legal framework.

However, deleting the classification implies that competent authorities would lose a reference point and would have complete decisional discretion. The likely result would be more compensation measures imposed on professionals. This is a major fear expressed by many stakeholders reacting to the Green Paper. The study on educational reforms also concluded that such a solution would lead to a very unstable situation and legal uncertainty for all stakeholders.

- Comparing the options

Compared to Option 1, Options 2 and 3 would allow for the introduction of greater flexibility in the use of the general system: applications would no longer be refused on the grounds that

the difference between the professional's qualification and the qualification required in the host Member State is too great. Both options would offer advantages to the professionals and reduce the current legal uncertainty related to applications examined under the free movement provisions of the Treaty. However, these options also imply that competent authorities may need to impose compensation measures more frequently.

Under option 2, competent authorities would still be able to use the classification of qualifications levels presented in Article 11 to compare qualifications. This classification would constitute an objective reference point when assessing the need for compensation measures. With option 3, competent authorities would be free to compare qualifications using any reference. This option would also result in a wider use of compensation measures. In the interest of consistency in the comparison of qualifications, option 2 is preferred. Information provided by the Bologna levels and ECTS, as well as the EQF and the learning outcomes, might also assist in the assessment of foreign qualifications. In fact, the study on educational reforms points out that the consensus, to the extent that it exists, is that a combination of input- and outcome-related measures offers the most appropriate basis for recognition.

This option implies amending some provisions of the Directive (articles 11 and 13) in order to specify the new purpose of the classification. An additional possibility would be to foresee that applicants with a qualification two (or more) levels below the qualification required in the host Member State would not have the possibility to choose between an aptitude test and an adaptation period. For these applicants, the type of compensation measure would be stipulated by competent authorities.

	Effectiveness	Efficiency	Consistency	Impact on stakeholders			
				<i>Profess.</i>	<i>MS</i>	<i>Cons.</i>	<i>Empl.</i>
Option 1	O	O	O	O	O	O	O
Option 2	+	+	+	++	+	O	+
Option 3	+	+	-	O	+	O	O

#### 6.4.2. Mobility from non-regulating to regulating Member States (establishment)

- Option 1: No action at EU level

If no action is taken at EU level, professionals qualified in a Member State where the profession is not regulated will continue to encounter difficulties when seeking establishment in a Member States where the profession is regulated. The notion of "regulated education and training" would remain limited and professionals would in most cases have to demonstrate two years of professional experience.

- Option 2: Broaden the concept of "regulated education and training"

This option foresees that the current definition of "regulated education" provided in Article 3 (1) point e of the Directive ("*specifically geared to the pursuit of a given profession*") would be enlarged to encompass any education and training recognised in a Member State and relevant to a profession. In this case there would be no need for maintaining Annex III which provides a list of regulated education and training for the purpose of Article 13 paragraph 2.

With this larger definition, more professionals could demonstrate that they have followed a regulated education and could thus be exempted from the requirement of two years of professional experience. The responses to the Green Paper demonstrate that this is a controversial issue.

- Option 3: Remove all specific requirements

Under this option, the specific requirements imposed on professionals coming from non-regulating Member States – two years of professional experience or regulated education – would be taken out.

Applications for recognition from professionals coming from non-regulating Member States would be treated in the same way as those of professionals coming from a regulating Member State. Their qualifications would be compared to the qualifications requested in the host Member State and the competent authority would use compensation measures in case of substantial differences.

This option would simplify the administrative requirements for professionals coming from non-regulating Member States and would facilitate the mobility of young professionals (young graduates who do not have two years of professional experience). It would also allow competent authorities to examine all applications (under the general system) in the same manner.

- Comparing the options

Both options 2 and 3 would increase the number of recognition requests that can be dealt with under the Directive (instead of being examined under the Treaty). Option 3 addresses the requirement imposed on professionals coming from non-regulating Member States while option 2 only broadens the scope for exemptions from this requirement. Option 3 offers the most effective solution for professionals coming from non-regulating Member States. This option implies amending the conditions defined in Article 13 of the Directive.

	Effectiveness	Efficiency	Consistency	Impact on stakeholders			
				<i>Profess.</i>	<i>MS</i>	<i>Cons.</i>	<i>Empl.</i>
Option 1	O	O	O	O	O	O	O
Option 2	+	-	-	+	-	O	O
Option 3	++	+	+	+	-	O	O

#### 6.4.3. *Partial access*

- Option 1: No action at EU level

Under this option, partial access could be used according to the criteria defined by the Court of Justice. However, competent authorities may still be reluctant to apply the principle. This option would have no effect on mobility or the existing market barriers.

- Option 2: Introduce the possibility of partial access in the Directive for all professions

Under this option, the principle and criteria defined by the Court of Justice would be incorporated into the Directive.

Introducing partial access to the Directive would offer more guarantees to professionals. This option could lead to a wider use of the principle of partial access, which has the potential to facilitate access to the market of the host Member State for professionals. Granting partial access to a profession would mean authorising the mobile professional to exercise a specific economic activity within a regulated profession. The use of partial access could offer new employment opportunities for mobile professionals. However, in order to avoid any possible confusion for consumers, the professional benefiting from partial access would not be authorised to use the professional title of the host Member State.

- Option 3: Introduce the possibility of partial access in the Directive but exclude professions with public health implications

As in option 3, the principle and criteria would be introduced to the Directive but a specific derogation would be foreseen for health professions, to which the principle of partial access could not be applied. Applying partial access to health professions could put into question the consistency of national healthcare systems and the integrity of the professions in the health sector. Granting partial access to health professionals could also create confusion for the patients, for instance with respect to which activities are reserved to doctors and which could be carried out by paramedical professionals. There might be other professions, like notaries, where partial access would not fit.

- Comparing the options

Options 2 and 3 would create more legal certainty and could encourage competent authorities to systematically examine the possibility of recourse to partial access. These two options seem to be more effective.

When considering the need to ensure consumer protection and patients' safety, option 3 is preferable. Partial access needs to be considered in particular for economic activities in trade, industry, construction and business services where the scope of the regulated professions can differ significantly between Member States. Applying partial access to health professionals would prevent their full integration into the healthcare system of the host Member State. For this reasons option 3 is the preferred option.

	Effectiveness	Efficiency	Consistency	Distributional effects			
				<i>Profess.</i>	<i>MS</i>	<i>Cons.</i>	<i>Empl.</i>
Option 1	O	O	O	O	O	O	O
Option 2	++	+	O	++	O	O	O
Option 3	++	+	+	++	O	+	+

## 6.5. Policy options linked to temporary mobility

As explained in section 3.2.5, three issues need to be considered in relation to temporary mobility: the lack of clarity in the definition of "temporary and occasional" provision of services; professions with health and safety implications covered by Article 7(4) and the

possibility to adapt the regime for professionals accompanying consumers. A set of policy options will be developed for each topic.

#### 6.5.1. Lack of clarity on the scope of the regime

- Option 1: No action

If no action is taken at EU level, a case-by-case assessment of the duration, frequency, regularity and continuity of an activity may not guarantee a consistent approach across all Member States.

- Option 2: Provide a guidance document for competent authorities

This option foresees the consolidation and further explanation of the existing case-law of the Court of Justice. These explanations could be integrated into the Code of Conduct.

- Option 3: Specify a maximum duration / frequency for the "temporary and occasional provision of services"

Under this option, the Commission would have to propose a specific definition, in terms of duration and frequency, of "temporary and occasional provision of services". Providing a "one size fits fit all" definition would be a challenging exercise and entails the risk of not taking into account the specificities and particular needs of some professions.

Under the Commission's 2002 proposal for a Directive on the recognition of professional qualifications<sup>57</sup> the pursuit of a professional activity for a period of maximum 16 weeks per year was presumed to constitute a temporary provision of services. This presumption did not exclude the possibility of carrying out an assessment on a case-by-case basis. However, it was impossible to reach an agreement with Member States on this point; and this definition was removed from the final text of the Directive in 2005.

- Comparing the options

Option 3 would respond to the need for a consistent approach to defining the scope of temporary mobility; however setting a maximum duration is not in line with the Court case law. In addition, the negotiations carried out after the 2002 Commission's proposal illustrate the difficulty in reaching an agreement on this topic. For these reasons, option 2 is preferable.

	Effectiveness	Efficiency	Consistency	Impact on stakeholders			
				<i>Profess.</i>	<i>MS</i>	<i>Cons.</i>	<i>Empl.</i>
Option 1	O	O	O	O	O	O	O
Option 2	+	O	+	+	O/+	O	O
Option 3	0	-	-	+	+	O	O

<sup>57</sup> <http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=CELEX:52002PC0119:EN:NOT>

### 6.5.2. Temporary mobility with prior check of qualifications

- Option 1: No action

Without action at EU level, there will be no obligation for Member States to define a list of professions falling under Article 7 paragraph 4. In the Member States where such a list does not exist, competent authorities will continue to determine on a case-by-case basis whether a prior check of qualifications is necessary or not, creating legal uncertainty for mobile professionals.

- Option 2: Member State produce a list of professions with health and safety implications

Under this option, Member States will list professions with health and safety implications for which a prior check of qualifications is necessary. Member States would also be required to provide a detailed justification for such a prior check. This option would increase legal certainty for professionals. It would streamline the whole procedure enabling the professionals concerned to obtain recognition within a clearly foreseeable timeline.

- Option 3: the Commission would define a list of professions with health and safety implications

Under this option, the Commission would list professions considered to have health and safety implications at the European level. For this purpose, the Commission could carry out a screening of the Database of Regulated Professions and identify the professions covered by the provision in the different Member States.

This option would allow for a consistent approach across the EU. However, when establishing this list the Commission may not be in a position to grasp the specificities of all regulated professions and the context in which they are exercised in the different Member States.

- Comparing the options

Options 2 and 3 offer workable solutions which are likely to give more clarity to the current provisions of the Directive (Article 7(4)). Competent authorities, professionals and consumers would benefit from this greater clarity. Option 3 may be more difficult to implement and is less acceptable for Member States. For these reasons, option 2 is the preferred option.

Option 2 should be pursued through a legislative action to give legal certainty to professionals.

	Effectiveness	Efficiency	Consistency	Impact on stakeholders			
				<i>Profess.</i>	<i>MS</i>	<i>Cons.</i>	<i>Empl.</i>
Option 1	O	O	O	O	O	O	O
Option 2	+	+	O	++	O	+	O
Option 3	+	O/-	+	+	-	+	O

### 6.5.3. Requirements imposed on professionals from non-regulating Member States

- Option 1: No action

Without any action at EU level, some professionals coming from Member States that do not regulate a profession will continue to be excluded from the Directive's temporary mobility regime (if they have not followed "regulated education" or have two years of professional experience).

- Option 2: Broaden the concept of "regulated education and training"

As in option 2 under point 6.4.2, this option foresees that the current definition of "regulated education and training" provided in Article 3 (1) point e of the Directive ("*specifically geared to the pursuit of a given profession*") would be enlarged to encompass any education and training recognised in a Member State and relevant to a profession. With this larger definition, more professionals could demonstrate they have followed a regulated education and training and could be exempted from the requirement of two years of professional experience foreseen in Article 5 paragraph 1 (b).

In order to facilitate the practical implementation of this exemption, the professional could be required to present a certificate from a public authority of the home Member State attesting to the completion of a regulated education within the meaning of the Directive.

- Option 3: Exempt professionals accompanying consumers from all specific requirements

Under this option, professionals moving with their clients (e.g. a tourist guide from Czech Republic accompanying Czech tourists to Italy) would be exempted from the requirements of two years of professional experience or "regulated education".

This exemption would be justified on the grounds that these conditions might go against consumers' choice (choice to travel with a tourist guide speaking his mother tongue) and create administrative burden for the professional (proof of two years of professional experience) without any reason related to consumer protection, as the professional would not offer services to the general public in the host Member State.

- Comparing the options

Compared to option 1, options 2 and 3 offer more flexible solutions for professionals from non-regulating Member States moving on a temporary basis. Option 2 addresses all professionals while option 3 addresses only a certain category of professionals. The change proposed in option 2 may have a limited impact on professionals, who would still need to obtain a certificate in their home Member State to prove they have completed "regulated education". Even if limited to professionals moving with their clients, option 3 offers a more effective solution, likely to reduce obstacles to free movement. For this reason option 3 should be retained. However, professional activities which carry a risk for public health or security of clients should remain excluded from option 3.

Since option 3 implies developing a specific regime for certain professionals, the Directive should be amended to reflect this possibility.

	Effectiveness	Efficiency	Consistency	Impact on stakeholders			
				<i>Profess.</i>	<i>MS</i>	<i>Cons.</i>	<i>Empl.</i>
Option 1	O	O	O	O	O	O	O
Option 2	+	O/+	+	+	O	O	O
Option 3	+	+	+	++	-	+	O

## 6.6. Policy options linked to the scope of the Directive

The policy options linked to the case of not fully qualified professionals, notaries as well as regarding the holders of third country qualifications are presented in Annex 11.

## 6.7. Policy options linked to the protection of patients

### 6.7.1. Guarantees on the status of professionals

- Option 1: No action

This option would imply no change to the existing provisions of the Directive. Under Article 22 (b), Member States would remain free to decide whether to make continuous professional development mandatory or leave it to stakeholders to put in place appropriate processes.

In addition, Article 50 (1) in conjunction with Annex VII (point 1d) would allow a host Member State to require, in addition to the diploma, evidence about the legal status of the health professional concerned (evidence that the professional is not suspended or prohibited from the pursuit of the profession for serious professional misconduct or a criminal offence).

- Option 2: Adding new requirements on continuous professional development and recent professional experience

This option would impose additional requirements on health professionals before they can benefit from automatic recognition. In order to meet all the concerns expressed by stakeholders, professionals would need to prove their compliance with continuous professional development requirements in the Member State of origin; at the same time, continuous professional development should become mandatory in all the Member States with the effect that health professionals not complying with such requirements would no longer be authorised to practice. Finally, health professionals would need to be able to demonstrate recent professional experience (e.g. 2 or 3 years of professional experience in the last five years). If one of these conditions were not met, the health professional would not benefit from automatic recognition but would come under the general system thus facing the prospect of compensation measures. The reasons for such measures and the way means of organising them would have to be specifically defined. At present, compensation measures are designed to focus on substantial differences between requirements in the host Member States and the training a professional pursued in the country of origin and not on differences relating to continuous professional development.

- Option 3: Adding new requirements with respect to recent professional experience

Option 3 would be less demanding for the health professional seeking automatic recognition because the requirement relating to continuous professional development would be dropped and the status quo would be maintained in this area given the cost implications for healthcare systems in Member States where continuous professional development is currently not mandatory (as is the case, for instance, for the nursing profession in 1/3 of the Member States).

- Option 4: Introduction of an alert mechanism combined with increased transparency between Member States on continuous professional development

Option 4 would only add one safeguard compared to Option 1: providing stronger guarantees in situations where health professionals are no longer authorised to practice because they were subject to disciplinary or penal sanctions or even a temporary suspension. In such cases, Europe-wide alerts could be triggered (via IMI), within the limits of existing legislation on data protection. A similar alert mechanism already exists for the professions covered by the Services Directive. Its purpose is to allow competent authorities to inform each other, under certain conditions, of any service activities that might cause serious damage to the health or safety of persons or the environment.

Different solutions for the functioning of this alert mechanism can be considered. The first question relates to circumstances under which such an alert should be triggered: only in the case of sanctions (disciplinary or penal) or suspensions of a professional; or already when a professional comes under investigation. The majority of stakeholders who took part to the public consultation organised in early 2011 expressed a preference for an alert triggered only in the cases of proven misconduct. Some competent authorities noted that such alert should also be used in cases of use of fake diplomas.

The second question concerns the scope of these alerts: they could either be sent to selected Member States or to all Member States at the same time. A majority of stakeholders in their reaction to the Green Paper expressed preference for a Europe-wide alert and not only an alert to the Member State in which a health professional is likely to start practicing.

This option can be complemented by a requirement for Member States to provide regular reports on their policies regarding continuous professional development.

- Comparing the policy options

Option 1 would rely on the fact that the current Directive already offers some robust safeguards, such as the possibility for a host Member State to require that professionals clarify their legal status. In contrast, options 2 and 3 introduce new safeguards and additional requirements for health professionals.

Option 2, which foresees the mandatory development of continuous professional development in all Member States, would be too costly for those Member States which currently do not have an obligation of continuous professional development for health professionals. Millions of health professionals would be affected and healthcare systems would face additional costs despite the increasing constraints on national budgets. Option 3 would not entail these costs since it is limited to the requirement of recent professional experience; however it would make automatic recognition more complex by adding an extra condition.

Both options 2 and 3 would have major consequences for the automatic recognition system but also for the general system as more applications might have to be considered under the latter, with the possibility therefore of an increase in the number of compensation measures. The added value of harmonising and modernising minimum training requirements would be considerably diminished. In addition, existing safeguards (employers and professional indemnity insurance which is obligatory for health professionals) may be more appropriate to avoid – the statistically rare – cases where professionals wish to practice after an interruption of many years.

Option 4 would effectively reduce the risk of doctors or other health professionals moving from one Member State to another whilst not longer allowed to practice in the first Member State. Option 4 is therefore the most effective option in terms of meeting the concerns of patients and employers, as it deals with any risk to patients at its roots. It would require a definition of the specific circumstances under which a Europe-wide alert could be triggered in order to respect the rules on data protection.

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

#### 6.7.2. Guarantees on language skills

- Option 1: No action

If there is no action at EU level, the current regime for all professionals will remain the same. However, many respondents to the Green Paper (including some governments) suggested clarifying the legislative framework for health professionals. This option is not satisfactory in terms of consumer/patient protection, since many competent authorities consider that the existing rules are not clear enough to allow them to check the language skills of the professionals.

- Option 2: Introduce systematic checks of language skills of health professionals and harmonise them at European level

The most obvious safeguard to protect patients would be to allow competent authorities, to require all health professionals to sit a language tests, either before recognition of a qualification of a health professional is confirmed or before authorisation to practice is granted which is often

In order to ensure proportionality it would thus be necessary to define (and harmonise) the language level at which Member States should test the professionals, in order to prevent arbitrary language tests from undermining the principle of automatic recognition. Without harmonisation, there is a risk of competent authorities imposing requirements which exceed what is necessary for the performance of the professional qualifications in question.

This option will incur significant costs for Member States for developing and organising language test. Finally, this option puts a disproportionate burden on the professionals themselves, notably as compared to their employers who should also assume responsibility for ensuring adequate language skills.

- Option 3: Clarify the rules on enforcement of language skills obligations for professionals on a case by case basis

Another option would be to clarify in the Directive under which exceptional circumstances competent authorities may check language skills to protect patients. Such exceptional circumstances would include cases where there is clear evidence that there would be no employers (including national social security institutions) available to ensure that a professional possesses the language skills to effectively communicate with patients. This option would be in line with the case law of the Court of Justice on the free movement of workers, according to which any language requirement must be reasonable and necessary for the job in question and cannot constitute grounds for excluding workers from other Member States. In this respect, employers cannot demand that the professional be a native speaker or only accept a specifically defined qualification as the only proof of language knowledge (C-281/98, Angonese).

This option is also more satisfactory in terms of costs, since language tests would be organised by competent authorities only in some specific cases.

- Comparing the policy options

Option 1 would mean maintaining the status quo in the face of heavy criticism by competent authorities (especially those dealing with health care professionals) and patients.

Options 2 and 3 would both tackle the problem. Option 2, which foresees that all health professionals should sit a language test, offers strong safeguards which competent authorities need to deliver in daily practice. However, it would make the mobility of health professionals more complicated and burdensome, while the skills shortages existing in this sector (more than 1 million by 2020) call for more effective recognition procedures. There is a high risk that artificial constraints are created which do not meet employment needs. Option 3, based on a case-by-case assessment, offers a better balance between the need to ensure patient safety and the required effectiveness of recognition procedures. Option 3 is preferable because it addresses the current concerns in the context of patient safety whilst also respecting the principle of proportionality which is not the case under option 2.

In the interest of legal certainty this issue should be clarified in the Directive itself and not in a non-binding legal instrument, such as the Code of Conduct.

	Effectiveness	Efficiency	Consistency	Impact on stakeholders			
				<i>Profess.</i>	<i>MS</i>	<i>Cons.</i>	<i>Empl.</i>
Option 1	O	O	O	O	O	O	O
Option 2	+	-	+	-	-	+	-
Option 3	+	+	+	+	+	+	O

## **6.8. Policy options linked to the lack of transparency and justification of qualifications requirements in regulated professions**

- Option 1: No action at the level of EU legislation

Under this option, no action will be taken at European level. Member States continue to regulate the professions on their territories without providing transparent justifications: this will continue to hinder the movement of professionals, especially of those moving from an unregulated country to a regulating one.

Member States would continue to provide information on the professions they regulate on a voluntary basis for filling in the regulated professions database (database managed by the Commission on the basis of the information provided by Member State). As a result the database may remain incomplete. For example, Portugal has recently deregulated 170 professions (Decreto-Lei n.º 92/2011) but only around 30 out of these 170 professions were actually included in the Database.

However, it should be noted that, in the context of national reform plans (Memorandum of Understanding), certain Member States (GR and PT) are already taking initiatives to introduce more flexibility in the regulatory framework and/or to deregulate some professions. These national initiatives may allow for a simpler access to the markets of these Member States for foreign professionals. However, without any action at EU level, these initiatives will remain isolated and there will be no transparency on how these changes occur in each Member State.

- Option 2: Ensure greater transparency on the regulation of the professions

Building on the existing regulated professions database, a transparency clause introduced in the Directive would foresee the obligation for the Member States to list and describe the professions they regulate and explain why the regulation is necessary (referring to the necessity, proportionality and non-discrimination).

This option would ensure that all regulated professions in Member States are listed in the database and that any changes in the national regulations would be reflected in the database. Updating the list of regulated professions would allow to better reflect the situation of each Member State.

In addition to the information already available in the database (name of the regulated profession and level of qualification required), Member States would have to provide information on the scope of these regulated professions (which activities are reserved to the professionals holding the required qualifications) and on the reasons justifying the regulation.

Inserting this additional information in the database might entail some administrative costs for Member States. It could be estimated that the gathering, preparation and provision of this information requires an average of 2 working days per regulated profession in each Member State. A detailed analysis of the possible costs of this exercise is presented in Annex 13: according to this analysis, this transparency effort could represent a cost between 3.700 and 115.000 euros, depending on the Member State.

- Option 3: Option 2 + launch a mutual evaluation exercise

This option builds on the transparency clause foreseen in option 2. In addition, the Commission would have the possibility to launch a mutual evaluation of the national legislations regulating the professions. Under this exercise, Member States would be required to present and assess their legislation on the regulation of the access to regulated professions. They would be invited to examine whether the qualifications requirements imposed on the professions they regulate are compatible with the principles of necessity (public interest), proportionality and non-discrimination. The results of their assessment should be presented in a report. This report would be sent to the other Member States which would have six months to submit observations. Several expert meetings could be organised to facilitate the exchange of views between Member States. Each of these meetings could focus on a particular sector of interest (e.g. construction; business services; craft). The Commission would then prepare a summary report presenting the outcome of this evaluation exercise.

This mutual evaluation would mainly constitute the basis for a domestic "housecleaning exercise" (national legislation related to regulated professions might be often antiquated and some regulated professions may no longer be exercised). The mutual evaluation would in addition bring a better understanding of the reasons justifying the regulation of the professions. It would allow to compare the regulatory approaches adopted by Member States, to share best practices on possible alternative to regulations and to launch a peer review process that may act as an incentive for simplification. However, a European-wide deregulation of certain professions is not considered under this option; it would require a further thorough impact assessment for the professions concerned.

This mutual evaluation exercise would also facilitate mobility. A greater transparency on the activities covered by a regulated profession may facilitate the work of competent authorities when comparing qualifications, deciding on possible compensation measures and examining the possibility of partial access. This option, which promotes transparency on the regulated professions in each Member State, complements option 4 under point 6.1 (access to information), which foresees more transparency on the competent authorities and documents required for recognition procedures.

This option entails some additional costs for national administrations. In addition to the costs foreseen in option 2, it could be estimated that the preparation of reports for the mutual evaluation exercise takes between 5 and 37 additional working days (depending on the number of regulated professions, with an estimate of 1 day for 10 professions). On the top of that, Member States would be required to participate in several expert meetings during the mutual evaluation process (estimate of 6 working days per Member State; travel costs are not included). According to the analysis provided in Annex 13, this represents an additional cost of 400 - 7.000 euros depending on the Member State. The total costs of option 3, including the costs presented under option 2, can be estimated to range between 4.000 and 122.000 euros (without travel costs).

- Option 4: Option 2 + introduce a specific regime for professions regulated in only one Member States

In addition to option 2 presented above, a specific mechanism could be introduced in the Directive to facilitate the recognition of qualifications for the professions regulated in one Member State. These professions are of particular interest because the necessity of regulating this profession is not shared with other Member States but they still account for about 25% of all regulated professions. The regulation of a profession in a single Member State may

generate unnecessary administrative costs linked to the recognition procedures, both for professionals and competent authorities.

The Regulated Professions Database, whose completeness would be guaranteed by the transparency clause foreseen in option 2, would be used to indicate which professions are regulated in only one Member State (see list in Annex 12). Professionals from other Member States willing to access this profession would no more be submitted to a prior check of qualifications: the regime existing currently for temporary mobility could be used also in this context. That would imply that professionals need to demonstrate a regulated education or two years of professional experience in the profession.

This option would facilitate the free movement of professionals and make some recognition procedures redundant. Competent authorities in the host Member State – regulating the profession – would even no more be able to impose compensation measures for accessing this profession. The requirement of regulated education or two years of professional experience would be considered a sufficient guarantee for consumers. However, this situation may result in discrimination against the nationals of the Member State regulating the profession, who would still need to comply with strict qualifications requirements. In addition, such a regime would cease to apply once a second Member State would regulate the same profession, making the regime unstable and difficult to enforce.

- Comparing the policy options

In terms of reducing obstacles to market access, options 2, 3, and 4 are the options offering practical solutions while the outcome of option 1 is more uncertain, since it depends entirely on the choice made by Member States. The transparency achieved in option 2 will bring more clarity on the scope of regulated professions; however it may result in an administrative process (filling in a database) rather than in a thorough assessment of the national legislation. The mutual evaluation exercise foreseen in option 3 would create stronger incentives for Member States to carry out a cleaning exercise on the legislations regulating the access to some professions.

In option 4, professionals would benefit from a specific regime for accessing a profession regulated in only one Member State. However, this option may not only be unacceptable for the professionals of the Member State in question but add complexity to the current regulatory framework (creation of a new regime). In addition, this option creates an instable regime which would generate legal uncertainties for the professionals: the rights given to professionals willing to establish in the only Member State regulating a given profession may be modified if a second Member State decides to regulate the same profession. Finally, it should be noted that, since most of the professions regulated in only one Member State have a limited economic importance (e.g. chambermaid, horse riding instructor, corset maker, wine waiter, graphic artist) and their mobility rate within the EU is rather low, such recognition regime would have no real impact on growth in the economies of the EU.

Option 3 is more resources-intensive for Member States (assessment of national legislations regulating the professions and participation in experts meetings) but it encourages Member States to assess and compare their national regulations and allows the Commission to monitor the progress made on the evaluation of national regulations on the professions. In this regard, it is more efficient than option 2 and entails very limited additional costs compared to the costs of option 2. Therefore option 3 is the preferred option. In any event, this option should be combined with the possibility to issue specific country recommendations in the context of

the European Semester and national reforms plans. In particular, the mutual evaluation exercise would allow to have a better knowledge of the situation of each Member State and could be complemented, where necessary, by country specific recommendations

	Effectiveness	Efficiency	Consistency	Distributional effects			
				<i>Profess.</i>	<i>MS</i>	<i>Cons.</i>	<i>Empl.</i>
Option 1	O	O	O	O	O	O	O
Option 2	O/+	+	+	+	-	+	O
Option 3	+	-	+	+	-	+	O
Option 4	++	-	-	+	-	-	O

## 7. OVERALL IMPACTS OF THE PACKAGE

### 7.1. Overview of the preferred options

The following table sets out the preferred options. Each option was reviewed in the light of the other chosen options and changed if necessary in order to obtain a coherent initiative. For example, choosing the involvement of the home Member State in the recognition procedure and the creation of a European professional card is more coherent with an alert mechanism based on the IMI than making continuous professional development mandatory in all Member States or imposing prior professional experience on professionals before they can enjoy automatic recognition. In the same way, revising the concept of common platforms fits better with the simplification of the education levels, than with their removal which would lead to more compensation measures, which is the opposite of what the common platforms aim to achieve. Removing all the specific requirements in case of establishment for professionals coming from non-regulating countries is also more in line with the removal of the specific requirements for professionals accompanying consumers than merely broadening the concept of regulated education and training. The chosen policy options complement each other and build on their respective effects to achieve the overall aim of the instrument. In a few areas the "no action" option is preferred, for example with respect to third country qualifications which should be left to other initiatives of the Commission.

Issue	Preferred option
<i>Information and e-government for citizens</i>	
Access to information and e-government	Extend the scope of the points of single contact
<i>Efficiency of recognition procedures</i>	
Length of recognition procedures	Create a European professional mobility card
Use of compensation measures	Optimise the use of compensation measures and ensure their regular organisation

Common platforms	Revise the concept of common platform
<b><i>Functioning of the automatic recognition system</i></b>	
Notifications of new diplomas	National compliance function and earlier notifications (see Annex 7)
Minimum conditions	Modernise training requirements (Annexes 8 and 9) Modernisation of the classification for trade, industry and commerce (Annex 10)
<b><i>Establishing in another Member State</i></b>	
Qualifications levels	Refocus and simplify the classification of education levels
Mobility from non-regulating to regulating Member States	Remove all specific requirements applying to professionals coming from non-regulating Member States
Partial access	Introduce the possibility of partial access in the Directive but exclude professions with public health implications
<b><i>Moving on a temporary basis</i></b>	
Lack of clarity in the scope of the temporary mobility regime	Provide a guidance document for competent authorities
Temporary mobility with prior check of qualifications	Oblige Member States to produce a list of professions with health and safety implications; no discretion for individual competent authorities
Requirements imposed on professionals from non-regulating Member States	Broaden the concept of "regulated education and training" and take out specific requirements for professionals accompanying consumers (except for instances of health and security risks to third parties)
<b><i>Scope of the Directive</i></b>	
Not fully qualified professionals	Consider applications from not fully qualified professionals under the general system and clarify their situation on return to the home Member State
Third country qualifications	No action under the current Directive
Notaries	Apply the Directive to notaries with specific conditions for establishment and temporary mobility
<b><i>Protection of patients</i></b>	
Guarantees on the status of professionals	Introduce Europe-wide alert mechanism
Guarantees on language	Clarify how to enforce language skills obligations for professionals on

skills	a case by case basis
<i>Qualifications requirements in regulated professions</i>	
7.1.1. Lack of transparency and justification of qualifications requirements in regulated professions	Ensure greater transparency on the regulation of the professions and launch a mutual evaluation exercise

## 7.2. Impact of the preferred options on stakeholders

The selected options will improve the efficiency of the different recognition systems and facilitate the free movement of professionals within the EU. Professionals will benefit from easier access to information on recognition procedures and from the possibility to introduce online recognition requests, which may speed up the process. The progressive introduction of a professional card will also contribute to the acceleration of the recognition procedures. The options envisaged with regard to the use of compensation measures and common platforms are likely to reduce the total number of compensation measures, thus shortening the length of procedures. The solutions envisaged to facilitate establishment and to enlarge the scope of the Directive will have a direct impact on the number of professionals who are likely to benefit from the Directive. In addition, professionals coming from non-regulating countries will benefit from easier conditions for the recognition of their qualifications.

Some options could be combined and implemented in priority for the professions for which mobility could have a significant economic impact. The study conducted on the impact of education reform identified the sectors of health, education and construction where action to support easier or even automatic recognition links most closely to likely future labour demand. For professions in these sectors, different options could be combined in order to maximize the overall impacts: for example, the use of the European professional card could be combined with the development of common platforms for the professions currently covered by the general system. There is much more potential for reducing the deadlines of recognition procedures through a professional card if there is an agreement on common training standards. The work of competent authorities will be facilitated: even if they receive more applications, the number of incomplete files may decrease thanks to better information and to the involvement of the home Member State in the recognition procedures (for professions with a professional card). In particular, taking full advantage of the possibilities offered by the IMI with respect to more effective information exchange, the introduction of a professional card and the alert system, has the potential of reducing the administrative burden on competent authorities and making the administrative cooperation which underpins professional mobility more efficient.

Consumers and patients will benefit from stronger guarantees on the status of professionals and their language skills. Greater mobility of professionals will also offer them a broader choice of services and reduce skills mismatch in national labour markets.

### 7.3. Impact of the preferred options in terms of administrative burden

Some of the selected options will generate **information obligations** for competent authorities. They will have to list the required documents, inform the citizens about the creation/validation of the professional card (for those professions where a card will be used), provide a list of professions with health and safety implications and send alerts about professionals. The transparency clause and mutual evaluation exercise foreseen to improve the transparency and justification of regulated professions will also create information obligations for Member States.

However, these information obligations are balanced by the gains in terms of effectiveness and speed. If more information is available, fewer resources will be spent on managing incomplete files and answering individual information requests. Moreover, some of the other options are likely to reduce the information obligations for citizens further, e.g. the removal of specific requirements for professionals coming from non-regulating countries under establishment and of professionals moving with clients under the temporary mobility regime. For professionals benefitting from a professional card, the declaration required for the free provision of services is automatic.

Some options entail **compliance/implementation costs** for both professionals and authorities: enlarging the scope of the Directive to not fully qualified professionals and notaries will create extra workload for competent authorities; the national compliance body foreseen for optimising the notification of new diplomas under automatic recognition will also require additional resources. The setting up of the professional card could also require spending on the registration and training of the authorities and analysing the files of the professionals (especially in those countries where similar functions are not performed today).

However, some of the other options will reduce the compliance costs: the use of the Points of Single Contact<sup>58</sup> and the online procedures, the reduction of the number of compensation measures by the reform of Article 11 and the introduction of a new concept of common platforms; the removal of additional requirements for professionals moving from non-regulating countries etc. Taking into consideration the combined effect of the whole package of the preferred options, one could tentatively consider that the modernisation of the Directive could reduce the costs linked to the assessment of the requests by 10%. A tentative example for cost saving calculation is in Annex 16.

## 8. MONITORING AND EVALUATION

The Commission will ensure that the actions selected in the course of this impact assessment contribute to the achievement of the specific objectives. The table in Annex 15 presents the main indicators that will be used to monitor progress towards meeting the specific objectives pursued in the modernisation of the Directive.

Once the revised Directive is transposed, Member States should send a report to the Commission every two years on the application of the different systems for establishment and temporary mobility (including data on the number of decisions taken and the number of

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<sup>58</sup> 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 13.7 euros per transaction.

declarations received). In addition, the Commission should produce an overall evaluation of the functioning of the different recognition systems. In particular, the impacts of mobility will be carefully monitored in order to avoid negative effects (e.g. weakening of the health system in countries which risk losing too many health professionals).

The functioning of the professional card will deserve particular attention as well. An evaluation of the results will be carried out after 3 years of implementation in order to assess the possibility of making the card mandatory for the professions for which it is put in place. In addition, for health professions, the use of eID and eAuthentication should be considered in the future.

The Commission will also monitor the use of the principle of partial access and of the common platforms. An evaluation of these concepts will be carried out 3 years after the transposition.