

EUROPEAN ECONOMIC AREA

STANDING COMMITTEE OF THE EFTA STATES

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SUBCOMMITTEE III ON THE FREE MOVEMENT OF PERSONS

EEA EFTA Comment

On the proposal for a Directive amending Directive 2005/36/EC on the recognition of professional qualifications

1. INTRODUCTION

1. The EEA EFTA States welcome the proposal from the European Union to modernise and simplify the Directive on recognition of professional qualifications (PQD). This can make it easier for the professionals to move around within the EU and throughout the entire European Economic Area (EEA). The EEA EFTA States consider it essential that the PQD sets out clear and simple rules which at the same time ensure high quality services and safety for consumers. The EEA EFTA States welcome the stress laid on the importance of lifelong learning and validation of professional experience with regard to assessment of the need for compensation measures.
2. The EEA EFTA States are generally positive in modernising the PQD. In our opinion it is important that the different proposals for a new Directive should not replace national training programmes in the Member States¹.
3. There have been recent educational reforms in the EEA and in our opinion it is important to see that development when introducing changes in the Directive.

2. EUROPEAN PROFESSIONAL CARD AND INTERNAL MARKED INFORMATION SYSTEM

4. The EEA EFTA States are of the opinion that a professional card could be useful for the harmonised professions and possible for regulated professions in the home state.

¹ Member States are to be understood to include EEA EFTA States.

5. Norway, however, is not in favour of introducing a card for professions that are not regulated in the home state. In these situations there is no competent authority to issue a card and it could be difficult for the home state to issue a card, especially if the education is not regulated. Further, the home state cannot verify the education for the professional if he or she has got the education from another state and have pursued the profession in the home state.
6. The EEA EFTA States support the proposal to make the card voluntary for the professionals and as an alternative to the existing recognition procedure provided in the Directive. The European Professional Card should not preclude a holder of professional qualifications to seek recognition under the existing procedure in the Directive.
7. According to the proposal, the Commission shall be empowered to adopt delegated acts concerning the setting of criteria for the calculation and distribution of fees. The EEA EFTA States believe that it is important that the criteria allow the states to set the fee so they can get all their expenses covered, it is important to understand that the different states have different production costs.
8. When introducing a card it is important that the information from the home state is of such quality and availability that the receiving state can see if the education in the home state is sufficient to recognise the applicant's qualifications. We consider that the Internal Market Information system (IMI) has a main role in this procedure. If IMI should be used to send information and especially information regarding disciplinary action or criminal sanctions it is important that IMI satisfy the different data protection regulations. The EEA EFTA States support the proposal to make IMI mandatory for the European Professional Card.
9. According to Article 4c of the proposal, the competent authority of the home state should verify the application, create and validate a European Professional Card within two weeks from the date it receives a complete application. The EEA EFTA States believe that this time is too short, especially during holidays and other times with high workload. We suggest that the time limit for the host state should be at least 1 month.
10. The EEA EFTA States wonder why the verification of the authenticity and validity of the submitted supporting documents in terms of Article 4d (1) of the proposal has not been foreseen in Article 4c (1) of the proposal.
11. The EEA EFTA States also support the proposal that requires the Member States to use the IMI for the exchange of information to recognition of professional qualifications.

3. FREE PROVISION OF SERVICES

12. Norway does not support the proposed amendment in Article 5 Paragraph 1 point (b).
13. Subsidiary, the EEA EFTA States support that the states can demand that the service provider has pursued the profession in the state of establishment for at least two years

during the last ten years if the professions are covered by the list referred to in Article 7 Paragraph 4.

14. The EEA EFTA States generally support the suggestion that the different states should notify professions for which prior check of qualifications is necessary, according to Article 7 Paragraph 4.

4. GENERAL SYSTEM

15. The EEA EFTA States support the proposal in Article 11, especially amendments in point (c), point (ii) and deleting annex II. We find the suggested text is clearer than the existing text in the Directive. We also support the proposed amendments in points (d) and (e) and the use of ECTS.
16. According to the proposal, the different qualification levels should be used as a benchmarking tool. We suggest that the Article also could refer to the different levels of learning outcomes in the European Qualification Framework (EQF).
17. We are not in favour of deleting the reference to two or more levels of difference between the professional's training and the requirements in the host state, especially with regard to the health care professions.
18. Further we are not in favour of deleting Article 14 Paragraph 1, point (a), (b) and (c). We agree that the time difference is not important in itself, but rather the learning outcome. However, when the professional education and training are shorter in duration in the state where the qualifications are obtained than in the host state, certain elements will be lacking from the education.
19. Norway agrees with the proposal for the competent authority to better justify the compensation measures, and that the aptitude test should be organized at least twice a year. In Liechtenstein's view, however, a provision like the proposed Article 14 Paragraph 7 stipulating that the aptitude test referred to in Article 14 Paragraph 1 shall be organized at least twice a year is too strict and administratively speaking disproportionate given the generally relatively limited number of applicants in smaller States like Liechtenstein.

5. PARTIAL ACCESS

20. Partial access calls for a clear description of what a successful applicant is allowed to do and what is needed for him or her to become fully recognised. This also calls for considerable monitoring of the applicants. Therefore it is important to have clear and specific criteria in Article 4f, for the application of the principle of partial access. With regard to the possible health risks for patients, partial access without clear and specific criteria is a particular critical issue for many health professions.
21. When introducing a possibility for partial access, the EEA EFTA States would like to emphasize that it is important that the professional activity can objectively be separated from other activities falling under the regulated profession in the host state.

Further, that the professional should use the title from the home state, so the consumer clearly knows that it is a professional with a partial access.

22. Further, it is important that the different states can reject the application if there is a reason of general interest, such as public health or safety. This should be up to the state to decide and done on a case by case basis. We suggest inclusion of public safety in Article 4f (2) as an example where Member States can reject the application.

6. AUTOMATIC RECOGNITION BASED ON PROFESSIONAL EXPERIENCE

23. The EEA EFTA States are in favour of introducing more flexibility for the Commission to adapt the list of activities contained in Annex IV. When launching a study we presume that this also will include the three EEA/EFTA-States.

7. AUTOMATIC RECOGNITION BASED ON MINIMUM TRAINING REQUIREMENTS

24. The EEA EFTA States do not support the proposal that Member States should make notifications of the legislative, regulatory and administrative provisions which it adopts with regard to the issuing of evidence of formal qualifications. Considering that the professionals often seek recognition several years after graduation, and that merges of higher education institutions have been, and are still taking place in many European countries, an obligation for each state to keep easily available updated lists of recognised programmes that also include historical data would most probably serve the end users better.
25. An obligation for Member States to submit a report to the Commission on the compliance of each relevant programme of education and training to the directive, would in our view lead to unnecessary bureaucracy without serving the purpose behind the proposal. All higher education institutions are requested to follow relevant legislation, and that includes the provisions laid down in Directive 2005/36/EC. Breaches should be followed-up by relevant national authorities, whether these are authorisation authorities for the profession in question, or Ministries responsible for higher education or quality assurance agencies. As the authority responsible may vary with the breach or non-compliance with the directive, the National Contact Point could serve as addressee for international organisations that want to report on non-compliance in a given country, and the National Contact Point would then be responsible to send the complaint on to the right addressee.
26. The EEA EFTA States support the introduction of ECTS as potential duration criteria for professions for which the training is to be delivered at a university level. In Norway, the nursing education is at university level and the ECTS could be used for this profession, too.
27. The EEA EFTA States' opinion the minimum requirements for the professions covered by automatic recognition should be expressed in years and ECTS, not in hours.

28. We support the proposal for medical specialist that allows the state to grant partial exemption from some elements of the training if the doctor has already completed those elements during his or her previous medical specialist training programme in that state.
29. We welcome the proposed amendment that requires states to upgrade admission requirement to the training for general care nurse and midwife from 10 to 12 years of general education. The tasks that nurses have to deal with have become increasingly complex, and in order to meet these challenges, they need to have acquired a solid body of theoretical knowledge.
30. With regards to nurses we do not support the proposed amendment that the minimum training is expressed in years and hours. In our opinion the minimum requirements should be expressed in years and ECTS.
31. Norway does not support the suggestion to add the requirement of six months practical training directly after completing an academic training for pharmacists. In our opinion practical training should be integrated in the education and within the time currently set out in the Directive.
32. In contrast to Iceland and Liechtenstein, architect is not a regulated profession in Norway. In Norway, there are three universities that are offering education for architects and the length of the study are between 5 years and 5 ½ years. Norway is not in favour of updating the duration of architect training, especially the introduction of one or two years remunerated traineeship. This, because there could be situation where it could be difficult for the professional to get traineeship, for example during periods with high unemployment rate, and difficulties for architects to get work. Introducing a traineeship in that situation can make it even harder for the students to get work and recognition.

8. COMMON TRAINING PRINCIPLES

33. Common training principles should not replace national training programmes, as states can derogate from the common training programmes, for example due to reason of general interest, such as public health.
34. The EEA EFTA States suggest that for common training tests, there should be an opportunity for the states to request derogation from the tests the state is compelled to introduce as a new regulated profession. We suggest the same Paragraph 5 for common training framework and common training tests.

9. EXTENDING THE SCOPE OF THE DIRECTIVE WHERE NECESSARY

35. In the EEA EFTA States' opinion it is important that the proposed amendments to extend the scope of the Directive to professionals who hold a diploma but have yet to complete a remunerated traineeship, does not change the national training programmes in the Member States. Further, it must be ensured that the learning process in the other

state is documented. The proposal could help newly educated students that have difficulties getting a traineeship in their home state.

36. However, the EEA EFTA States are of the firm opinion that clear rules need to be established for the access of not fully qualified professionals.

10. CLARIFYING GUARENTEES FOR PATIENTS AND CONSUMERS OF PROFESSIONAL SERVICES

37. It is important for health personnel in clinical positions to have sufficient language and communication skills in order to provide safe health services. In our view the employer is the best to assess whether health personnel fulfil the necessary requirements for the given position. The EEA EFTA States suggest that there should be an opening for this in the new directive.

38. In our view it is also important for veterinary surgeons to be able to communicate with animal owners and especially local governments in their local language. Therefore we believe that language requirements should be the same for veterinary surgeons as for the health professionals having direct contact with patients.

39. The EEA EFTA States support the proposed alert mechanism. We would like to underline that introducing an alert mechanism has some challenges that need to be discussed, and we think this is important for the Commission to take into account when adopting implementing acts for alert mechanism. For example, in some states an act can lead to the loss of the right to exercise a profession, whereas in other states the same act have different or no consequences for the person. In our experiences, there are also differences between the Member States in the organisation of the supervisory and authorisation authorities, as well as with respect to the types of information that a competent authority is allowed to provide to other states' competent authorities. An alert mechanism will consequently entail substantial harmonisation between states. Further it is important that IMI completely satisfy the different data protection regulations when introducing an alert mechanism in the system.

11. E-GOVERNANCE: ACCESS TO INFORMAITON AND ELECTRONIC PROCEDURES

40. The EEA EFTA States generally support an online completion of recognition procedures. However, for states with small administrations and comparably few requests for recognition of professional qualifications, the establishment of a system for an online completion for all professionals seems to be disproportionate. There should therefore be an opening to still demand application in other forms as well.

41. The proposal in the Directive is that the points of single contact, created under the Services Directive, becomes the central online access points for all professions covered by the PQD. In our opinion the online access point should be the existing contact point for professional qualifications.

42. In our opinion, Member States should be able to choose if they want to implement the online access point in their national contact points for the Services Directive or, the existing contact point under the PQD.

12. TRANSPARENCY AND MUTUAL EVALUATION

43. The EEA EFTA States support the proposal for notifying a list of existing regulated professions, and also any changes in the list. We are positive to review the number of regulated professions in the EEA EFTA States.
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