

Brussels, September 2011

CEEP answer to the Green Paper from the European Commission on Modernising the Professional Qualifications Directive

Introduction

On 22 June, the European Commission published the Green Paper on Modernising the Professional Qualifications Directive. CEEP agrees with the European Commission that now is a good time to review and update the European legislation on mobility of professionals, some of which dates as far back as the 1960s. Increasing mobility across European borders is an important element of matching labour supply and demand and thereby contributing to meeting the Europe 2020 targets for sustainable and inclusive growth. It is however important to point out that any revision of the Professional Qualifications Directive needs to be fully assessed and take into account the subsidiarity principle.

CEEP representing all public services is particularly concerned by the Professional Qualifications Directive. For instance the Regulated Professions Database shows that for the period 1997-2010 the top-ranked profession for mobility decisions by member states' governments was secondary school teacher and that the top seven professions were all in health or education services, which are predominantly public services represented by CEEP.

Public services face many challenges over the coming years in terms of labour shortages. Health care providers for instance are already facing a gap in supply of skilled professionals that will widen in the future unless appropriate measures are taken to address it. In some Member States (MS) these shortages are severe. The challenges facing European healthcare systems in the 21st century, such as increasing demand owing to the ageing population and technological advances, coupled with an ageing workforce and shortages of healthcare workers, has been highlighted both by the European Commission and the Council. Teachers too, especially in science, technology and mathematics subjects are in short supply in several countries and this shortage is particularly worrying in the context of the EU's need to innovate in order to grow economically.

CEEP therefore agrees that there should not be unnecessary barriers to free movement that would hamper MS in providing high quality public services in accordance with the expectations of the European citizens. However, it is necessary to balance the desire to streamline and simplify free movement with the need to maintain minimum quality and safety standards by checking the competence and suitability of professionals who will be providing services. This is particularly important for healthcare, which by its very nature, carries a high degree of serious risk to the health and safety of patients from professionals who may lack training, clinical expertise, relevant experience or personal integrity.

Answer to the specific questions

Q1. *Do you have any comments on the respective roles of the competent authorities in the Member State of departure and the receiving Member State?*

The suggestions in the Green Paper shift much of the responsibility from the host Member State (MS)'s competent authority (CA) to that of the home MS. Whilst we welcome a potential reduction in workload for the receiving MS, such a transfer depends very much upon a high level of trust in the sending MS's CA and therefore we hope that the European Commission will promote enhanced cooperation between MS's CAs.

A relevant question is whether the Member State of departure is aware of all the respective differing conditions for access to and exercise of each profession in all receiving Member States, and whether a European Professional Card would take these conditions into account.

Q2. *Do you agree that a professional card could have the following effects, depending on the card holder's objectives?*

a) The card holder moves on a temporary basis (temporary mobility):

- Option 1: the card would make any declaration which Member States can currently require under Article 7 of the Directive redundant.

- Option 2: the declaration regime is maintained but the card could be presented in place of any accompanying documents.

b) The card holder seeks automatic recognition of his qualifications: presentation of the card would accelerate the recognition procedure (receiving Member State should take a decision within two weeks instead of three months).

c) The card holder seeks recognition of his qualifications which are not subject to automatic recognition (the general system): presentation of the card would accelerate the recognition procedure (receiving Member State would have to take a decision within one month instead of four months).

Overall CEEP members are not convinced that a professional card would work in practice but the final judgement should await further evidence. From our point of view a specific position on the European professional card will only be possible after the case studies and additional information will have been presented at the Single Market Forum in Cracow, 3-4 October 2011. We consider that no professional card scheme should go ahead unless or until there has been a thorough evaluation of the practicalities (including safeguards against fraud), costs and benefits of such a system.

In relation to the specific questions posed it is not possible to give a definite answer until we have seen further evidence how it might work in practice. Indeed the answer might be different for different professions. For example, one of the big challenges in the area of social care for the elderly in future will be the recruitment of personnel. Thus to simplify

recruitment, the standardisation of minimum requirements with regard to length and content of professional training and the introduction of a European professional card would be welcome. This would save the application for a certificate at the receiving Member State and enhance direct hiring by the employer.

Q3. *Do you agree that there would be important advantages to inserting the principle of partial access and specific criteria for its application into the Directive? (Please provide specific reasons for any derogation from the principle.)*

We accept that the principle of partial access already exists in case law and that there could be advantages from inserting the principle into the directive. However we consider there should be a derogation allowing member states to exclude health care professions from the principle of partial access, given the level of risk to the public's health and safety from inadequately qualified professionals.

Q4. *Do you support lowering the current threshold of two-thirds of the Member States to one-third (i.e. nine out of twenty seven Member States) as a condition for the creation of a common platform? Do you agree on the need for an Internal Market test (based on the proportionality principle) to ensure a common platform does not constitute a barrier for service providers from non-participating Member States? (Please give specific arguments for or against this approach.)*

CEEP agrees that a proportionality test would be a good idea.

Q5. *Do you know any regulated professions where EU citizens might effectively face such situations? Please explain the profession, the qualifications and for which reasons these situations would not be justifiable.*

No.

Q6. *Would you support an obligation for Member States to ensure that information on the competent authorities and the required documents for the recognition of professional qualifications is available through a central on line access point in each Member State? Would you support an obligation to enable online completion of recognition procedures for all professionals? (Please give specific arguments for or against this approach).*

CEEP is of the opinion that in principle the idea of a single online portal in each MS is a good one. However whilst we support migrants being able to apply for registration online, we believe that safeguards must be built in against the possibility of fraud impersonation or the misuse of personal data. CAs must have the discretion to ask to verify documentation in cases of justified doubt, and to check the applicant's identity.

Q7. *Do you agree that the requirement of two years' professional experience in the case of a professional coming from a non-regulating Member State should be lifted in case of consumers crossing borders and not choosing a local professional in the host Member State? Should the host Member State still be entitled to require a prior declaration in this case? (Please give specific arguments for or against this approach.)*

Generally, these requirements could be lifted in these circumstances except for health care professionals.

Q8. *Do you agree that the notion of "regulated education and training" could encompass all training recognised by a Member State which is relevant to a profession and not only the training which is explicitly geared towards a specific profession? (Please give specific arguments for or against this approach.)*

Yes, as there are generic skills and competences which are not specific to a single profession and which could be taken into account. However individual professions would also require their own specific competences. An overall conversion to ECTS would subsequently also provide for crediting successfully completed basic as well as specialised education and training. Previously completed training/education should be integrated into this three-phase approach in the context of transitional provisions.

Q9. *Would you support the deletion of the classification outlined in Article 11 (including Annex II)? (Please give specific arguments for or against this approach).*

No, we do not support the deletion of the existing qualification levels in Article 11 of the Directive unless or until they are replaced by an equally robust classification framework. Whilst somewhat crude they do at least provide a benchmark against which CAs can measure, and reduce the burden on CAs by identifying the most obvious shortfalls. It would be extremely burdensome, especially given the lack of transparency about the detail of the curricula composing many training courses, for CAs to have to delve into this level of detail on a case by case basis for each and every application.

CEEP agrees that having parallel systems for classification of training risks creating confusion and that eventually it could make sense to replace the existing five level grid with the eight levels of the European Qualifications Framework (EQF), rendering the classification in Article 11 redundant.

Q10. *If Article 11 of the Directive is deleted, should the four steps outlined above be implemented in a modernised Directive? If you do not support the implementation of all four steps, would any of them be acceptable to you? (Please give specific arguments for or against all or each of the steps.)*

CEEP does not think Article 11 of the Directive should be deleted unless or until the existing qualification levels are replaced by an equally robust classification framework.

Q11. *Would you support extending the benefits of the Directive to graduates from academic training who wish to complete a period of remunerated supervised practical experience in the profession abroad? (Please give specific arguments for or against this approach.)*

There are arguments for and against this proposition. CEEP can see that there may be benefits to MS and to individuals in encouraging postgraduate trainees to experience different job cultures and systems.

Q12. *Which of the two options for the introduction of an alert mechanism for health professionals within the IMI system do you prefer?*

Option 1: Extending the alert mechanism as foreseen under the Services Directive to all professionals, including health professionals? The initiating Member State would decide to which other Member States the alert should be addressed.)

Option 2: Introducing the wider and more rigorous alert obligation for Member States to immediately alert all other Member States if a health professional is no longer allowed to practise due to a disciplinary sanction? The initiating Member State would be obliged to address each alert to all other Member States.)

We favour Option 2. We think CAs should be obliged to inform all other CAs via IMI whenever a sanction on a professional is either imposed or lifted. However, CEEP does not see any need to establish a common European authority with a register for all healthcare professionals within the EU's 27 Member States. To establish a new authority would lead to increased bureaucracy and probably complicate the movement of persons within the EU.

Q13. *Which of the two options outlined above do you prefer?*

Option 1: Clarifying the existing rules in the Code of Conduct;

Option 2: Amending the Directive itself with regard to health professionals having direct contact with patients and benefiting from automatic recognition.

It is of course important for professionals of all types to have good communication skills in order to deal effectively with their clients. This skill includes but is not limited to language competence – it is possible for someone to pass a language test and still be a poor communicator!

Where the professional has an employer, it is clearly the duty of that employer to satisfy themselves that the person has the right skills (including communication skills) to perform the job for which he or she is being recruited. This occurs after professional registration at the point where the migrant applies for a job. However a significant proportion of health care professionals are self-employed and in order to render Article 53 of the Directive effective, we think the Directive should be amended to make it clear that the competent authority can, if they deem it appropriate, require evidence of language skills as part of the recognition procedure.

Whether or not such evidence is required by the CA, employers must retain the ability to assess candidates' suitability for a particular job, and language competence may form part of that assessment. We would not want to see anything in the Directive which emasculates employers' crucial responsibility to recruit people who are "fit for purpose". We think there is an important distinction to be made between the role of the CA, which is to recognise the migrants' qualification and establish that they are fit to practise the profession, and that of the employer which is to ensure that the person they are recruiting is suitable for the job for which they have applied.

We are concerned therefore about the Commission's suggestion that there should be a "one-off" control of language skills, if this means that employers would be unable to test because the CA had already done so. Any amendment to the Directive would need to make it clear that CAs *may* test but need not do so. It would be for each MS to decide how this would work in practice for each profession and at what level such an assessment should take place, depending on the local licensing arrangements.

We favour Option 2 but are strongly of the opinion that any such permissive clause in the Directive should be applicable to *all* regulated healthcare professionals, whether or not they are likely to have direct contact with patients and whether or not they benefit from automatic recognition. It is important for healthcare professionals to be able to communicate with colleagues, peers and with other service providers as well as with patients in order to avoid potentially dangerous misunderstandings.

Q14. *Would you support a three-phase approach to modernisation of the minimum training requirements under the Directive consisting of the following phases:*

- the first phase to review the foundations, notably the minimum training periods, and preparing the institutional framework for further adaptations, as part of the modernisation of the Directive in 2011-2012;*
- the second phase (2013-2014) to build on the reviewed foundations, including, where necessary, the revision of training subjects and initial work on adding competences using the new institutional framework; and*
- the third phase (post-2014) to address the issue of ECTS credits using the new institutional framework?*

We are broadly in favour of the 3-phase approach and of a gradual move towards outcome (competence) based training. However we feel the proposals in the Green Paper are vague and that the timescales are unrealistically short, given that designing an outcome/competence based approach which harmonises assessment processes and standards across many different Member State systems will be challenging. Indeed based on national experiences such a process would take many years to complete. An overall conversion to ECTS would subsequently also provide for crediting successfully completed basic as well as specialised education and training. Previously completed training/education should be integrated into this three-phase approach in the context of transitional provisions.

Use of the ECTS system would be beneficial in the long term. Caution would need to be exercised in framing revisions to the directive to ensure a balance between the provisions of the directive and the details delegated for determination by the comitology system. In order for the three-phased approach to be able to work efficiently, adjustments would be required to the comitology system, where experts from member states agree on the details for the implementation of a directive. The comitology system has the disadvantage that its transparency is very limited to the public. Therefore it will not be advisable to delegate too many decisions to the comitology system.

Q15. *Once professionals seek establishment in a Member State other than that in which they acquired their qualifications, they should demonstrate to the host Member State that they have the right to exercise their profession in the home Member State. This principle applies in the case of temporary mobility. Should it be extended to cases where a professional wishes to establish himself? (Please give specific arguments for or against this approach.) Is there a need for the Directive to address the question of continuing professional development more extensively?*

We welcome the Green Paper's proposal that professionals who have failed to undertake sufficient continuing professional development in order to remain on the register in their home MS should be prohibited from practising in other MS.

Q16. *Would you support clarifying the minimum training requirements for doctors, nurses and midwives to state that the conditions relating to the minimum years of training and the minimum hours of training apply cumulatively? (Please give specific arguments for or against this approach.)*

CEEP is of the opinion that the length of the education is not the most important, the learning outcomes are more important.

At the same time we would support clarifying the minimum training requirements for each profession with reference to a minimum number of years and/or hours. This would need to be done in collaboration with each profession.

It is important to retain some minimum threshold for the duration of training as education is not just about acquiring academic or theoretical knowledge – it is also about the acquisition of judgment and of experience, all of which require time. Too short a minimum number of years would lead to rushed or “crammed” programmes which would not allow time for the acquisition of these important competences.

Q17. *Do you agree that Member States should make notifications as soon as a new program of education and training is approved? Would you support an obligation for Member States to submit a report to the Commission on the compliance of each programme of education and training leading to the acquisition of a title notified to the Commission with the Directive? Should Member States designate a national compliance function for this purpose? (Please give specific arguments for or against this approach.)*

CEEP is in favour of greater transparency on the contents of training courses listed in the annexes to the Directive.

Q19. *Do you agree that the modernisation of the Directive could be an opportunity for Member States for granting partial exemptions if part of the training has been already completed in the context of another specialist training programme? If yes, are there any conditions that should be fulfilled in order to benefit from a partial exemption? (Please give specific arguments for or against this approach.)*

Yes, there are good arguments for accrediting prior experience and learning, for example where a specialist has already covered parts of the curriculum in previous less specialised training, or where a member of one profession re-trains in another discipline.

Q20. *Which of the options outlined above do you prefer?*

Option 1: Maintaining the requirement of ten years of general school education

Option 2: Increasing the requirement of ten years to twelve years of general school education

While we are aware that in a number of member states there is already a requirement for 12 years of general school education, CEEP does not think that there is enough consensus for this to become a minimum European requirement.