



EUROPEAN PARLIAMENT

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Committee on Employment and Social Affairs

2011/0435(COD)

1.6.2012

DRAFT OPINION

of the Committee on Employment and Social Affairs

for the Committee on the Internal Market and Consumer Protection

on 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 (IMI)
(COM(2011)0883 – C7-0512/2011 – 2011/0435(COD))

Rapporteur: Licia Ronzulli

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SHORT JUSTIFICATION

Directive 2005/36/EC of the European Parliament and of the Council of 7 September 2005 on the recognition of professional qualifications consolidated and standardised the previously fragmented systems for recognising regulated professions.

The entry into force of this legislation had dual benefits, for both workers and companies. On the one hand, the directive promoted and facilitated the mobility of qualified workers in the European jobs market, helping to promote the development of cross-border services. The removal of several barriers to mobility has played a role in the building of the single European market. On the other, it has made it easier for professionals to become integrated into specific sectors in which there has sometimes been a large gap between supply and demand, thereby remedying – in some cases – the lack of skills.

This new situation has contributed to economic growth, boosted competitiveness and created new jobs.

However, the number of professionals who decide to pursue their profession in a Member State other than their own, is still limited and the current economic situation is having a negative effect on future prospects.

Mobility helps to considerably improve mutual knowledge among Member States, which can be enhanced only by taking a common approach with a view to ensuring a high quality of education and training.

The professions market is continually being updated and many traditional occupations are giving way to new qualifications which call for increasingly specific skills and knowledge.

The legal framework for the recognition of professional qualifications thus needs to be updated in order to ensure greater flexibility, genuine recognition of the real skills acquired by individual professionals and a reduction in administrative costs.

The proposal for the revision of Directive 2005/36/EC aims to simplify the rules concerning the mobility of professionals within the European Union; one of its innovative aspects relates to the introduction of a European Professional Card which would not only simplify and speed up the recognition of qualifications but would also lead to reduced administrative costs.

The new text proposes that minimum training requirements be updated for doctors, pharmacists, nurses, midwives, veterinary surgeons and architects, to take account of how those professions and the relevant training for them has evolved.

Member States will also have to furnish a list of the regulated professions, providing justification for the need for such regulation. The ultimate aim is to avoid setting up artificial barriers to the free movement of persons.

One way to encourage mobility, especially for the younger generations, could be to focus on merit and competition in the liberal professions, lowering the barriers to entry and reducing the areas of activity reserved exclusively for those who are on registers or lists.

AMENDMENTS

The Committee on Employment and Social Affairs calls on the Committee on the Internal Market and Consumer Protection, as the committee responsible, to incorporate the following amendments in its report:

Amendment 1 **Proposal for a directive** **Recital 9**

Text proposed by the Commission

(9) Applications for recognition from professionals coming from non-regulating Member States have to be treated in the same way as those of professionals coming from a regulating Member State. Their qualifications have to be compared to the qualifications requested in the host Member State on the basis of the qualification levels in Directive 2005/36/EC. In case of substantial differences the competent authority should be able to impose compensation measures.

Amendment

(9) Applications for recognition from professionals coming from non-regulating Member States have to be treated in the same way as those of professionals coming from a regulating Member State. Their qualifications have to be compared to the qualifications requested in the host Member State on the basis of the qualification levels in Directive 2005/36/EC. In case of substantial differences the competent authority should be able to impose compensation measures. ***Any mechanisms for assessing theoretical and practical skills, which might be required for access to the profession as compensation measures, should guarantee and comply with the principles of transparency and impartiality.***

Or. it

Amendment 2 **Proposal for a directive** **Recital 10**

Text proposed by the Commission

(10) In the absence of harmonisation of the minimum training conditions for access to the professions governed by the general system, ***it should remain possible for*** the host Member State ***to impose*** a compensation measure. This measure should be proportionate and, in particular, take account of the knowledge, skills and competences gained by the applicant in the course of his professional experience or through lifelong learning. The decision imposing a compensatory measure should be ***justified*** in detail in order to enable the applicant to better understand his situation and to seek legal scrutiny before national courts under Directive 2005/36/EC.

Amendment

(10) In the absence of harmonisation of the minimum training conditions for access to the professions governed by the general system, the host Member State ***should be guaranteed the option of establishing*** a compensation measure. This measure should be proportionate and, in particular, take account of the knowledge, skills and competences gained by the applicant in the course of his professional experience or through lifelong learning. The ***reasons for the*** decision imposing a compensatory measure should be ***set out*** in detail in order to enable the applicant to better understand his situation and to seek legal scrutiny before national courts under Directive 2005/36/EC.

Or. it

Amendment 3
Proposal for a directive
Recital 15

Text proposed by the Commission

(15) The nursing and midwifery professions have significantly evolved in the last three decades: community-based healthcare, the use of more complex therapies and constantly developing technology presuppose a capacity for higher responsibilities for nurses and midwives. In order to prepare them to meet such complex healthcare needs, nursing and midwifery students need to have a solid general education background before they ***start*** the training. Therefore, admission to that training should be increased to twelve years of general education or success in an examination of an equivalent level.

Amendment

(15) The nursing and midwifery professions have significantly evolved in the last three decades: community-based healthcare, the use of more complex therapies and constantly developing technology presuppose a capacity for ***new and*** higher responsibilities for nurses and midwives. In order to prepare them to meet such complex healthcare needs, nursing and midwifery students need to have a solid general education background before they ***have access to*** the training. Therefore, admission to that training should be increased to twelve years of general education or success in an examination of an equivalent level.

Or. it

Amendment 4
Proposal for a directive
Recital 19

Text proposed by the Commission

(19) Directive 2005/36/EC already provides for clear obligations for professionals to have the necessary language skills. The review of that obligation has shown a need to clarify the role of competent authorities and employers notably in the interest of patients' safety. Language controls **should however be reasonable and necessary** for the jobs in question **and** should not constitute grounds for excluding professionals from the labour market in the host Member State.

Amendment

(19) Directive 2005/36/EC already provides for clear obligations for professionals to have the language skills **that are necessary for pursuing their profession in the host Member State**. The review of that obligation has shown a need to clarify the role of competent authorities and employers notably in the interest of patients' safety. Language controls for the jobs in question should not constitute grounds for excluding professionals from the labour market in the host Member State **and should therefore be reasonable and necessary**.

Or. it

Amendment 5
Proposal for a directive
Article 1 – paragraph 1 – point 3 – point a – point i
Directive 2005/36/EC
Article 3 – paragraph 1 – point f

Text proposed by the Commission

(f) 'professional experience': the actual and lawful full-time or equivalent part-time pursuit of the profession concerned in a Member State;"

Amendment

(f) 'professional experience': the actual and lawful full-time or equivalent part-time pursuit of the profession concerned in a Member State, **which facilitates, in relation to a specific profession, the achievement of standards of knowledge, ability and skills;**

Or. it

Amendment 6
Proposal for a directive
Article 1 – paragraph 1 – point 3 – point a – point ii
Directive 2005/36/EC
Article 3 – paragraph 1 – point k

Text proposed by the Commission

(k) 'European Professional Card': an electronic certificate issued to the professional proving the recognition of his qualifications for establishment in a host Member State or that he has met all the necessary conditions to provide services in a host Member State on a temporary and occasional basis;

Amendment

(k) 'European Professional Card': an electronic certificate issued to the professional ***by his home Member State or by an appropriate body***, proving the recognition of his qualifications ***and skills*** for establishment in a host Member State or that he has met all the necessary conditions to provide services in a host Member State on a temporary and occasional basis;

Or. it

Amendment 7
Proposal for a directive
Article 1 – paragraph 1 – point 5
Directive 2005/36/EC
Article 4a – paragraph 1 a (new)

Text proposed by the Commission

Amendment

1a. The Commission shall support Member States in implementing a process to introduce the compulsory adoption of the European Professional Card. This process may be preceded by an impact study.

Or. it

Amendment 8
Proposal for a directive
Article 1 – paragraph 1 – point 5
Directive 2005/36/EC
Article 4a – paragraph 6 a (new)

Text proposed by the Commission

Amendment

6a. Member States may establish criteria under which they can identify professions which should be issued with the European Professional Card as a matter of priority.

Initially, the following criteria shall be indicated as being of priority:

1. the profession should be regulated in more than five Member States;

2. the profession should have a high mobility potential within the European Union;

3. considerable interest should have been expressed by the professionals or professional associations.

Or. it

Amendment 9

Proposal for a directive

Article 1 – paragraph 1 – point 5

Directive 2005/36/EC

Article 4c – paragraph 1

Text proposed by the Commission

Amendment

1. The competent authority of the home Member State shall verify the application, create and validate a European Professional Card within **two** weeks from the date it receives a complete application. It shall inform the applicant and the Member State in which the applicant envisages to provide services, of the validation of the European Professional Card. The transmission of the validation information to the host Member States concerned shall constitute the declaration provided for in Article 7. The host Member State may not require a further declaration under Article 7 for the following two years.

1. The competent authority of the home Member State shall verify the application, create and validate a European Professional Card within **four** weeks from the date it receives a complete application. It shall inform the applicant and the Member State in which the applicant envisages to provide services, of the validation of the European Professional Card. The transmission of the validation information to the host Member States concerned shall constitute the declaration provided for in Article 7. The host Member State may not require a further declaration under Article 7 for the following two years.

Or. it

Amendment 10
Proposal for a directive
Article 1 – paragraph 1 – point 5
Directive 2005/36/EC
Article 4c – paragraph 2

Text proposed by the Commission

2. The decision of the home Member State, or the absence of a decision within the period of **two** weeks referred to in paragraph 1, shall be subject to appeal under national law.

Amendment

2. The decision of the home Member State, or the absence of a decision within the period of **four** weeks referred to in paragraph 1, shall be subject to appeal under national law.

Or. it

Amendment 11
Proposal for a directive
Article 1 – paragraph 1 – point 5
Directive 2005/36/EC
Article 4d – paragraph 1

Text proposed by the Commission

1. Upon receipt of a complete application for a European Professional Card, the competent authority of the home Member State shall, within **two** weeks, verify and confirm the authenticity and validity of the submitted supporting documents, create the European Professional Card, transmit it for validation to the competent authority of the host Member State and inform that authority on the corresponding IMI file. The applicant shall be informed by the home Member State of the state of the procedure.

Amendment

1. Upon receipt of a complete application for a European Professional Card, the competent authority of the home Member State shall, within **four** weeks, verify and confirm the authenticity and validity of the submitted supporting documents, create the European Professional Card, transmit it for validation to the competent authority of the host Member State and inform that authority on the corresponding IMI file. The applicant shall be informed by the home Member State of the state of the procedure.

Or. it

Amendment 12
Proposal for a directive
Article 1 – paragraph 1 – point 5
Directive 2005/36/EC
Article 4e – paragraph 1

Text proposed by the Commission

1. The competent authorities of the home and the host Member States shall update in a timely manner the corresponding IMI file with information regarding disciplinary action or criminal sanctions taken or any other serious specific circumstances which are likely to have consequences for the pursuit of activities of the holder of the European Professional Card under this Directive. Such updates include the deletion of information which is no longer required. The holder of the European Professional Card and the competent authorities involved in the corresponding IMI file shall be informed of any updates by the competent authorities concerned.

Amendment

1. The competent authorities of the home and the host Member States shall update in a timely manner the corresponding IMI file with information **also** regarding disciplinary action or criminal **or administrative** sanctions taken, or any other serious specific circumstances which are likely to have consequences for the pursuit of activities of the holder of the European Professional Card under this Directive. Such updates **shall** include the deletion of information which is no longer required. The holder of the European Professional Card and the competent authorities involved in the corresponding IMI file shall be informed **without delay** of any updates by the competent authorities concerned.

Or. it

Amendment 13
Proposal for a directive
Article 1 – paragraph 1 – point 5
Directive 2005/36/EC
Article 4e – paragraph 5

Text proposed by the Commission

5. Member States shall ensure that the holder of a European Professional Card has the right at any time to request the rectification, deletion and blocking of his file within the IMI system upon request and that he is informed of this right at the time of issuing the European Professional Card, and reminded of it every two years after the issuance of his European

Amendment

5. Member States shall ensure that the holder of a European Professional Card has the right at any time **and at no cost** to request the rectification, deletion and blocking of his file within the IMI system upon request and that he is informed of this right at the time of issuing the European Professional Card, and reminded of it every two years after the issuance of his

Amendment 14

Proposal for a directive

Article 1 – paragraph 1 – point 5

Directive 2005/36/EC

Article 4f – paragraph 1 – point a

Text proposed by the Commission

(a) differences between the professional activity legally exercised in the home Member State and the regulated profession in the host Member State as such are so large that ***in reality*** the application of compensatory measures would amount to requiring the applicant to complete the full programme of education and training required in the host Member State to ***have*** access to the *full* regulated profession in the host Member State;

Amendment

(a) ***the*** differences ***that subsist*** between the professional activity legally exercised in the home Member State and the regulated profession in the host Member State as such are ***objectively*** so large that the ***necessary*** application of compensatory measures would amount to requiring the applicant to complete the full programme of education and training required in the host Member State to ***be able to benefit from full*** access to the regulated profession in the host Member State;

Amendment 15

Proposal for a directive

Article 1 – paragraph 1 – point 5

Directive 2005/36/EC

Article 4f – paragraph 2

Text proposed by the Commission

2. Partial access may be rejected if such rejection is justified by an overriding reason of general interest, ***such as public health***, it would secure the attainment of the objective pursued and it would not go beyond what is strictly necessary.

Amendment

2. Partial access may be rejected if such rejection is justified by an overriding reason of general interest, it would secure the attainment of the objective pursued and it would not go beyond what is strictly necessary.

Amendment 16
Proposal for a directive
Article 1 – paragraph 1 – point 7 – point c
Directive 2005/36/EC
Article 7 – paragraph 4 – subparagraph 5

Text proposed by the Commission

Amendment

In the absence of a reaction of the competent authority within the deadlines set in the third and fourth subparagraphs, the service may be provided.

deleted

Or. it

Amendment 17
Proposal for a directive
Article 1 – paragraph 1 – point 30 – point a
Directive 2005/36/EC
Article 44 – paragraph 2 – point b

Text proposed by the Commission

Amendment

(b) at the end of the theoretical and practical training, a six-month traineeship in a pharmacy which is open to the public or in a hospital under the supervision of that hospital's pharmaceutical department.

(b) *during* or at the end of the theoretical and practical training, a six-month traineeship in a pharmacy which is open to the public or in a hospital under the supervision of that hospital's pharmaceutical department.

Or. it