



EUROPEAN PARLIAMENT

2009 - 2014

Committee on the Internal Market and Consumer Protection

2011/2024(INI)

27.7.2011

DRAFT REPORT

on the implementation of the Professional Qualifications Directive
(2005/36/EC)
(2011/2024(INI))

Committee on the Internal Market and Consumer Protection

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PE469.992v01-00

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United in diversity

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MOTION FOR A EUROPEAN PARLIAMENT RESOLUTION

on the implementation of the Professional Qualifications Directive (2005/36/EC) (2011/2024(INI))

The European Parliament,

- having regard to Directive 2005/36/EC of the European Parliament and the Council of 7 September 2005 on the recognition of professional qualifications¹,
- having regard to the Commission Communication of 3 March 2010 entitled ‘Europe 2020, A strategy for smart, sustainable and inclusive growth’ (COM(2010)2020),
- having regard to Mario Monti’s report to the Commission of 9 May 2010 entitled ‘A new strategy for the Single Market’,
- having regard to the hearing it held with national parliaments on 26 October 2010 on the transposition and application of Directive 2005/36/EC,
- having regard to the study it commissioned on the recognition of professional qualifications (PE 447.514),
- having regard to the Commission Communication of 27 October 2010 entitled ‘Towards a Single Market Act, For a highly competitive social market economy’ (COM(2010)0608),
- having regard to SOLVIT’s 2010 annual report on the development and performance of the SOLVIT network in 2010,
- having regard to its resolution of 6 April 2011 on a Single Market for Europeans²,
- having regard to the Commission Communication of 13 April 2011 entitled ‘Single Market Act, Twelve levers to boost growth and strengthen confidence’ (COM(2011)0206),
- having regard to the Commission Green Paper of 22 June 2011 on Modernising the Professional Qualifications Directive (COM(2011)0367),
- having regard to the Commission working document of 5 July 2011 on the summary of the responses to the public consultation on the modernisation of the Professional Qualifications Directive³,
- having regard to the Commission working document of 5 July 2011 on the evaluation of the Professional Qualifications Directive⁴,

¹ OJ L 255, 30.9.2005, p. 22.

² Texts adopted, P7_TA(2011)0145.

³ http://ec.europa.eu/internal_market/qualifications/docs/news/20110706-summary-replies-public-consultation-pdq_en.pdf.

⁴ http://ec.europa.eu/internal_market/qualifications/docs/news/20110706-evaluation-directive-200536ec_en.pdf.

- having regard to Rules 48 and 119(2) of its Rules of Procedure,
 - having regard to the report of the Committee on the Internal Market and Consumer Protection and to the opinions of the Committee on Employment and Social Affairs and the Committee on Environment, Public Health and Food Safety (A7-0000/2011),
- A. whereas changing demographics will make the mobility of professionals across the European Union increasingly important,
 - B. whereas changing labour markets call for more flexibility in the rules on the recognition of professional qualifications,
 - C. whereas there is still a gap between citizens' expectations and reality, with more than 16% of SOLVIT cases in 2010 relating to recognition of professional qualifications¹,
 - D. whereas Directive 2005/36/EC was not transposed on time by all the Member States, only being fully implemented three years after the original deadline,
 - E. whereas the right to secure employment or provide services in another Member State is a fundamental right under the Treaties and constitutes a concrete example of how citizens can benefit from the Single Market,
 - F. whereas Directive 2005/36/EC consolidated rules set out in 15 previous directives adopted from the 1960s onwards,
 - G. whereas the Single Market Act highlighted the fact that modernising the system for recognising professional qualifications is key to enhancing economic growth,

I. Simplification for citizens

1. Stresses that the recognition process under the general system and the automatic system based on professional experience is overly cumbersome and time-consuming for both competent authorities and professionals;
2. Calls on Member States, therefore, to use modern communication technologies, including databases and online registration procedures, in order to ensure that the deadlines set under the general recognition system are met and that significant improvements are made in terms of access to information and transparency of decision-making for professionals;
3. Encourages Member States, competent authorities and the Commission to consolidate the various sources of information currently available to professionals - including National Contact Points (NCPs), SOLVIT, and professional bodies - by establishing an accessible online portal, which would provide relevant and up-to-date information on the recognition process, including administrative information on competent authorities and the documents to be submitted by professionals in order to secure recognition of their qualifications;

¹ European Commission, DG MARKT, SOLVIT 2010 Report: Development and performance of the SOLVIT network in 2010, (2011).

4. Calls for further clarification of the concept of temporary and occasional provision of services; argues that competent authorities face difficulties applying the regime and, therefore, calls on the Commission to evaluate the current provisions set out in Article 7 of the directive, specifically those concerning public health and safety, and to present its conclusions to Parliament;
5. Stresses that compensation measures, which allow competent authorities to impose an aptitude test or an adaptation period of up to three years and play an invaluable role in ensuring consumer and patient safety, can be applied in a disproportionate manner; calls for enhanced transparency of decision-making for professionals and an evaluation of the Code of Conduct to assist competent authorities;
6. Argues that dialogue and cooperation between competent authorities and NCPs must be improved, both at national and intra-Member State level;

II. Updating existing provisions

7. Calls on the Commission to update in line with scientific and technical developments the current classification of economic activities for the automatic recognition systems based on professional experience and minimum training requirements;
8. Stresses that Member States should regulate professions in a more proportionate manner, with a view to reducing the total number of regulated professions in the EU, setting aside the healthcare sector;
9. Highlights the call from stakeholders to place greater emphasis on continuous professional development (CPD); calls for the Commission to clarify the definition of CPD; encourages competent authorities to provide information on CPD during the recognition process and to exchange best practices in this area;

III. Upgrading public health and safety

10. Argues that the protection of consumer and patient safety is a vital objective in the context of the revision of the directive; draws attention to the special status of healthcare professionals;
11. Stresses that there have been serious problems associated with professionals continuing to practice in the EU despite being suspended or struck off;
12. Calls for the establishment, within the framework of the Internal Market Information System (IMI), and for those professions not already covered under the Services Directive, of a proactive alert mechanism, which would make it compulsory to issue an alert to all Member States when a professional has been sanctioned;
13. Points out that the principle of partial access is seen as undesirable by a vast majority of stakeholders and is difficult to monitor in practice; calls for a thorough evaluation of the

principle and for it not to apply to those regulated professions with health and safety implications;

14. Stresses that an extension of the recognition procedure to cover third-country qualifications may give rise to abuses of the system in the form of forum shopping and would be excessively burdensome for competent authorities in the host Member State;
15. Argues that language competence is crucial in facilitating a professional's integration in another country, ensuring the quality of the services provided and protecting consumer and patient safety;
16. Calls on the Commission and Member States to revise the language requirements regime for the healthcare professions by providing competent authorities with the necessary flexibility to ascertain and, if necessary, test the language skills of professionals as part of the recognition process;

IV. Integrating professionals and injecting confidence into the system

17. Supports the extension of the IMI to professions not yet covered by the Services Directive;
18. Calls for the mandatory introduction of the IMI for competent authorities in order to facilitate proactive administrative cooperation and simplify recognition procedures;
19. Calls on the Commission to ensure that any revised directive is properly transposed by the deadline set; urges Member States to give the directive due priority;
20. Calls for the enhanced mobility of graduates and compliance with the judgment in the *Morgenbesser* case¹; argues that Member States should not, as a matter of principle, prevent graduates from pursuing remunerated supervised practice if they offer such a possibility to their own nationals;
21. Highlights that the concept of common platforms, as outlined in Article 15 of the directive, has not been successful in that no such platforms currently exist; calls on the Commission to clarify the concept in a revised article and to evaluate the proposal to lower the threshold for Member State participation;
22. Argues that the introduction of any common platform should be made contingent on an internal market test and subject to parliamentary oversight;
23. Awaits the results of an external study ordered by the Commission to assess the impact of recent educational reforms on recognition procedures, particularly the applicability of the European Qualifications Framework to Articles 11 and 13 of the directive and the Bologna Process;
24. Considers that the concept of a voluntary Professional Card, which must be linked to an

¹ Court of Justice judgment of 13 November 2003, Case C-313/01, *Morgenbesser*, ECR I-13467.

electronic database such as the IMI, could be a useful tool to aid mobility for some professions; stresses that any card introduced must meet specific conditions and that the necessary safeguards must be established;

25. Calls on the Commission, prior to the introduction of any card, to provide evidence, through a thorough impact assessment, of the possible added value for the recognition process, beyond that provided by an enhanced IMI, of a voluntary card for certain professionals and competent authorities; argues that the impact assessment must address the concerns raised in the consultation and by numerous other stakeholders, assess the merits of an 'e-card', provide a cost-benefit analysis, specify its potential features and explain exactly how data protection and consumer safety would be ensured;
26. Instructs its President to forward this resolution to the Council and Commission.