



The Modernization of the Professional Qualifications Directive

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

CEPI, the European Council of Real Estate Professions

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The mission of CEPI, the European Real Estate Council, is to support European and cross-border transactions by enhancing and strengthening the work and activities of property professionals. We represent 29 national professional associations of estate agents and property managers based in 19 EU and EFTA countries.



The modernization of the Professional Qualifications Directive

CEPI welcomes the proposals published by the European Commission on 19 December for the modernization of Directive 2005/36 on the Recognition of Professional Qualifications and the targeted approach which is taken.

The proposals go a long way towards remedying the administrative weaknesses in the current Directive, and we congratulate the Commission for the work done in this respect. The framework for the professional card, improved access to information, the use of the Internal Market System and time limits for Member States will all help in achieving the aims of clarification and speed of process. There are improvements made which will be of great help to professionals.

Overall it is important to recognise that the approach which should be taken must reflect the needs of the different professional sectors. Therefore we welcome and favour a sector by sector approach in the European Professional Card and the common training principles. It is necessary to acknowledge the voluntary nature of these proposals which will be available to those who express an interest in them and are able to satisfy the requirements for their particular sector.

We also welcome the new regime for automatic recognition on the basis of common training principles. This is likely to be attractive to professionals falling within the general system under the Directive and so promote greater mobility.

Whilst recognising the improvements made in the proposals, we think that this administrative framework needs to be supported by greater clarity as to the terms of the Directive, and also a “common language” which can be readily understood. To be sure that the system will indeed work better as is hoped, we need more evidence about how it will function in a concrete way, and to be sure that these proposals will work as intended. Last, but not least, we need to be confident that the quality of professional services will be maintained.

1. We need clarity as to the terms of the Directive

We believe that it is vital to encourage professionals to work cross-border by making it easier for their qualifications to be recognised. We also want changes to the system of recognition that are of real added value to the market for professional services. Therefore we welcome the measures taken to make the decision process quicker, but there are points which must be addressed in order to ensure that the full added value is obtained. Professionals need a system which is clear and easy to use. Account must also be taken of the needs of those professions, like the property professions, which are semi-regulated with differences in the existing levels of regulation.

Temporary mobility

Therefore clarity as to the terms of the Directive is important. The proposals maintain the distinction between the temporary provision of services, which benefits from a lighter regime, and permanent establishment. The difficulty of defining the distinction between the two has been a problem under the current Directive and this would benefit from clarification. It must be clear to a professional at what point the offering of services means establishment and this should be defined sector by sector in the form of guidance to professionals and national authorities.

The difference between the temporary provision of services and permanent establishment must be more clearly defined than in Article 5.2 of the current Directive.

Because clarity is important, we are concerned about the proposed exception to be made in the case of temporary provision of services that a professional established in an unregulated country does not need to have a



minimum of two years of professional experience when accompanying a consumer from that Member State (Article 5.1(b)).

The choice of professional is always open to any consumer. This exception may well be of use to a limited number of professions, such as tourist guides, but it is not clear that it is in the interests of all, or indeed how it would be interpreted for all professions. If, for example, an estate agent accompanies a client from his home Member State the purpose could be to view a property in another Member State, a viewing which could lead to an eventual transaction, or indeed series of transactions.

We suggest that the proviso to Article 5. 1(b) “that the condition requiring two years’ pursuit shall not apply if the service provider is accompanying the service recipient” should be deleted.

2. We need a common language for all professionals

There must be a “common language” for the application of the rules. This means rules of the game which are fair and applicable to all. This is particularly important in the case of the proposal for the European Professional Card.

The European Professional Card

CEPI strongly supports the initiative for the development of the European Professional Card. CEPI participated in the European Commission Steering Group on this subject and published a case study on the feasibility of such a card for estate agents. Whilst the administrative framework is clear, questions remain about the content of the card and the conditions upon which it will be issued. It is important to be clear as to expectations about the content and purpose of the card, and how these can be met.

Clearly an important function of the card is to make it easier and quicker for qualifications to be recognised. In addition to this, we think that in order for the card to be attractive to professionals it must have a real added value which goes further than this. The professional card will also be an important source of information for consumers. For them it must serve to indicate the quality of services which they may expect. The “common language” we are looking for is important here and therefore we seek the possibility to link the card to a common point of reference, which could take the form of the proposed common training principles. Such a common point of reference could be included in the information in the card.

We suggest that Article 4e paragraph 4 concerning the limitation of the information to be included be amended to read:
“...applicable regime including common training principles established in accordance with Articles 49a and 49b...”

3. We need to be sure that the proposals will work in practice

There are a number of very positive suggestions in the proposals, but it must be clear how the different initiatives will be implemented in a concrete way. We need a “business plan” for professional services to establish the practical means of making the proposals work.

All these ideas will need to be tested, and we suggest that concrete working models be developed before the legislative proposals are agreed to demonstrate clearly how they can be applied. The Commission has already done this to a large extent with great success concerning the professional card. In order to avoid problems similar to those encountered with Article 15 of the current Directive it is vital that the same is done now with the proposed common training principles so that challenges can be properly identified and dealt with. It is probable that the Commission also needs to verify whether the points of contact and assistance centres all use a language that can be understood in the same way by all users and stakeholders.

We need concrete working models for the new ideas such as the common training principles



Common training principles

Property professionals fall within the general system under the current Directive and do not benefit from automatic recognition. We regret the fact that it has not proved possible to establish common platforms under the current Directive because Article 15 does not work. We see resolving this problem as one of the most important issues to be addressed in the revision of the Directive.

Therefore we welcome the efforts made by the Commission to revisit common platforms and appreciate the new approach which the Commission has taken to this issue in the development of common training principles. Whether or not these common training principles can be made to work in practice will be an important test for the success of the revision of the Directive.

We particularly welcome the suggestion that automatic recognition should be extended to new professions which meet the requirements of the common training principles, and believe that this will serve the interests of professionals and the market. There is great potential benefit for the semi-regulated professions in this idea. However we have reservations about some of the conditions attached to the establishment of common training principles which we fear may limit the number of professions which are able to make use of this opportunity.

In particular with regard to the proposed wording of Articles 49a and 49b:

- 2. (a) imposes a condition to the creation of such a common training framework that it enables more professionals to move across Member States in comparison to the general system for recognition under the Directive.

We support the objective of greater mobility, but what burden of proof will apply as to whether or not the common training principles enable more professionals to move? We ask for clarification as to both how this can be calculated and within what kind of timescale. For the avoidance of doubt, we think it should be made clear that this is an objective and not a prerequisite which would be hard to satisfy.

We suggest that the wording in Articles 49a and 49b 2.(a) should be:
“the common training framework/common training test is intended to enable more professionals to move across Member States in comparison to the general system for recognition of evidence of training provided for in Chapter I of Title III”.

In Articles 49a and 49b condition 2. (b). requires that the profession concerned is already regulated in at least one third of all Member States.

We welcome the reduction in the percentage of Member States (from the two thirds required in the current Directive), but this wording may have the result of excluding some professions which may wish to benefit from such arrangements. Sometimes professionals from unregulated countries can face particular problems under the system established under the current Directive when wishing to offer services in regulated Member States. It is important that they have the possibility to be included.

We suggest that the wording in Articles 49a and 49b 2. (b) should be:
“the common training framework/common training test requires the participation of at least one third of Member States to include a representative number of those which regulate the profession”.

The suggested wording would provide greater flexibility and further opportunity for a transparent due process including stakeholders from Member States where the profession is not regulated.

4. We need to make sure that the quality of professional services is maintained

We understand that the potential benefits of common rules of the game, the harmonization of national regulations or even deregulation must be measured against their contribution to a more efficient and effective Internal Market.

In this context, we welcome clarity about professional regulation and recognise the need for it, but feel strongly that there must be a balance struck between the need to safeguard standards and ensure quality of professional services, and the need for greater mobility of professionals. Therefore we regret the lack of mention of the importance of maintaining the quality of services. The mutual evaluation exercise should recognise that there are important elements of consumer protection which must be taken into account.

Professional regulation remains a matter of Member State competence and the principles of subsidiarity must be respected. Whilst we welcome transparency concerning professional regulation the purpose of this exercise must be made fully clear. It cannot be a full assessment of the intrinsic functioning of professional regulation in the national markets. The focus should be on identifying measures which hinder foreign nationals from being able to access and work in the different national markets, so that the rules on the recognition of professional qualifications can work better. This reflects the principle of proportionality.

The Services Directive contains provisions about the quality of services. Whilst this is a different, although related, directive it is important to acknowledge in the modernization of the Professional Qualifications Directive that consumers are entitled to expect quality professional services. There has to be a timely reminder that there are important elements of consumer protection which must be taken into account wherever those services are offered, whether within national markets or cross-border. The differences between professional sectors should be taken into account and those sectors should be looked at on a case by case basis.

<p>We suggest adding to Article 59.2 (b) which provides that requirements must be justified by an overriding reason relating to a public interest “to include quality of services and consumer protection”.</p>
