



The Modernisation of the Professional Qualifications Directive

Comments on the proposed amendments to the report by Bernadette Vergnaud MEP for the IMCO Committee of the European Parliament concerning the proposal for a directive amending Directive 2005/36/EC on the recognition of professional qualifications

CEPI, the European Council of Real Estate Professions

Transparency Register Number
1094652600-90

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Reference	CEPI/JKG/November2012
Date	26 November 2012

CEPI, the European Real Estate Council, is a unifying and representative organization at European level, defending the interests of its members towards the EU and promoting best professional practices including professional ethics and quality of education and training. It represents twenty six national professional associations of estate agents and property managers based in seventeen EU and EFTA countries.



The Modernisation of the Professional Qualifications Directive

CEPI welcomes the proposals published by the European Commission on 19 December for the modernisation 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. We follow with interest the discussions in IMCO concerning the report by Bernadette Vergnaud MEP and appreciate the great attention being paid to the detail of the proposal and the efforts being made to reach agreement on this important dossier.

CEPI represents estate agents and property managers, both of which are semi-regulated professions with wide variations in the degree of regulation. This can pose challenges, for professionals from both regulated and unregulated countries wishing to work cross-border. We ask that these particular challenges be recognised in the debate.

With regard to the amendments to the report currently under discussion by IMCO we would like to make the following observations on issues we see as being of fundamental importance to property professionals, and also as concerns for the semi-regulated professions in general. Because we consider that there is great potential benefit in some of the improvements made, we are concerned that innovations introduced by the proposal must be available to as wide a range of professionals as possible. We refer in particular to the European Professional Card and the new common training principles.

1. The European Professional Card

CEPI has a longstanding interest in the development of a European Professional Card as a member of the European Commission Steering Group on the European Professional Card for which we prepared a case study concerning such a card for estate agents. We support a sector by sector approach to the issue of a voluntary card for interested professions which should take account of the particularities of the relevant sector. However, given the structure of the proposal for the modernisation of the Directive and the use of delegated and implementing acts it is important that the wording of the Directive concerning the procedure for the application for a card be as flexible as possible so as not to exclude professions from the very outset.

Amendments 94, 96, 221, 232, 233 and 234

It is in this light that we view with concern some of the amendments put forward and in particular Amendments 94, 96, 221, 231, 232, 233 and 234. We do not think that it is the intention of the proposal that the European Professional Card should be mainly for the professions falling under the automatic recognition procedure. It is our experience that it is the professionals falling under the general system under the Directive who most face uncertainty concerning the recognition of their qualifications and consequently would potentially benefit most from the possibility to apply for a card. Therefore we view with concern suggestions as to the introduction of a minimum threshold in terms of the number of Member States as in amendment 221.

With regard to amendment 233 we do not consider it necessary to stipulate that the profession considered must be regulated in a large majority of the Member States, and fear that it is very difficult to define the degree of potential mobility and growth for a particular profession. These are matters which could be addressed in the consultation procedure for the issue of a card to a particular profession and we ask that no such restrictions be placed on the Commission which could prevent them from being able to consider a request from an interested profession.

We must emphasise that we do not see the potential introduction of a European Professional Card as a form of back door regulation, but as an important tool for mobility which could have a real added value for professionals. In particular for those professionals coming from unregulated countries it could make it easier for them to work cross-border by providing clearer and more authoritative information about their status.

We suggest that the conditions for the issue of a European Professional Card remain as drafted by the Commission in Articles 4a to 4f of the proposal dated 19 December 2011 and that no restrictions be placed in advance on the availability of such a card by reference to levels of national regulation or otherwise as such restrictions would operate only as limitations and would not be in the interests of greater mobility.

2. The Common Training Principles

CEPI welcomes the proposal concerning the establishment of common training principles and again has a longstanding interest in this issue having tried (unsuccessfully) to create a common platform under Article 15 of the current Directive. In respect of this we carried out an analysis of the differences in wording between the original proposal by the Commission in 2002 and the final version of the Directive agreed in 2005. We came to the conclusion that restrictions introduced on the availability of such common platforms in the course of negotiations had the result of making the provisions unworkable for the semi-regulated professions. We must repeat that no common platforms have been created and this is why Article 15 is under review. Therefore we respectfully ask the Committee to recognise this and to leave sufficient flexibility in the proposal for common training principles to be realistically achievable for as many professions as possible.

Amendments 565, 566, 567 and 568

Therefore we view with concern amendments 565, 566 and 567. In contrast we support amendment 568 and the recognition that the level imposed as to the minimum number of Member States required must be realistic. The common training principles offer great potential for the professions falling within the general system allowing them to provide cross-border services more easily, and professional associations and others who are prepared to work hard to realise this potential need flexibility in the system to allow them to realise this potential.

We suggest that any restrictions to the availability of common training principles which go beyond those imposed by the Commission in Chapter IIIA of its proposal dated 19 December 2011 are to be avoided because they go against the objective of the proposal which is to find a workable alternative to common platforms in the interests of greater mobility.

3. Temporary and Occasional Mobility

Temporary and occasional mobility is important for the real estate sector. Given the nature of their activities estate agents in particular are increasingly involved in cross-border transactions which may be limited in number and do not lead to permanent establishment. We have requested clarification on this point in the past, and welcome the interest of the Committee in finding a solution. However we also recognise that it is very difficult to reach agreement on a specific limit which can be applied to all sectors.

Amendment 112

For example, in terms of amendment 112, we find it difficult to define what would be meant by one year of continuous service provision which for estate agents we suppose would have to be based on the number of transactions which would be variable. It is not out of the question that an estate agent might have one transaction in a given year (the time taken for which is variable) with the next such opportunity not then arising until the following year. We assume that this would not constitute continuous provision but foresee difficulties in agreeing a definition on this basis.

Amendment 384

Similarly, whilst we support the thinking behind it, we have concerns about the wording of amendment 384 because we think that it will be difficult to define accurately what is meant by one quarter of the median annual services provided by member of the profession established in the host State. We fear that this would be difficult to substantiate.

Rather than settle on such a limit it would be preferable to leave the general interpretation on a general basis **but develop guidelines for what is meant by temporary and occasional basis on a sector by sector basis**. This should be addressed in the consideration of the development of a professional card or common training framework for a particular profession. This is an important element of the added value of the card and could be an incentive is for the individual professional to apply for a card.

We suggest that an additional amendment be considered to the effect that if an application is made by a particular profession for a professional card then the Commission may issue guidelines as to what is meant by temporary and occasional mobility for that particular profession, upon consultation of course with the appropriate authorities and stakeholders.

4. Conclusion

We thank the Committee for its work on this dossier and the amount of time which it is dedicating to considering the issue and its aim to reach an acceptable compromise. We respectfully remind the Committee of the importance of this dossier to all professionals throughout Europe, not only those who already benefit from automatic recognition and ask for an understanding of the situation of the semi-regulated professions. This debate must take into account the real needs of professionals for a system which is relevant and easy to use, but which also has the flexibility to meet the varying requirements of different professions in as equal a way as possible.