

Green Paper – Modernising the Professional Qualifications Directive Norwegian comment, September 2011

As a general remark, Norway welcomes the work that the Commission has done with the evaluation and the Green Paper of Directive 2005/36/EC on Recognition of Professional Qualifications (PQD) and would like to thank the Commission for this possibility to give feedback in the process.

The Norwegian Ministry of Education and Research is the Coordinator for PQD in Norway. In our work with this response, we have sent information about the Green Paper for consultation to the other Ministries and to other relevant stakeholders in Norway. This response is largely based on the different comments we received.

Norway wants to underline that we support the simplification of the framework and the regulations for the recognition of professional qualifications. The PQD is consolidating 15 directives some of these are over 30 years old and for many users the directive appears difficult to understand and interpret. As the Commission underlines in the Green Paper it is essential that the PQD sets out clear and simple rules for the recognition of professional qualifications. At the same time, the rules must ensure high quality of services and safety for the consumers. It is important that simplifications and amendments of the Directive are done in compliance with the States' need to ensure safe, professional practice. In addition, recent development in education and training policies in Europe should be taken into account, in particular the European Qualifications Framework for lifelong Learning (EQF) and the referenced national qualifications framework.

Question 1: *Do you have any comments on the respective roles of the competent authorities in the Member State of departure and the receiving Member State?*

Comment:

As a general remark, Norway is positive to the introduction of a European professional card.

In our opinion, a professional card could be useful especially for the harmonized professions. We are sceptical to introducing a card for professions that are not regulated in the home state or the State of departure. In this situation there is not a competent authority that can issue a card. For example in Norway, engineering is not a regulated profession and there are many types of engineers. We do not have competent authorities for all the different types of engineers. There could be a possibility for the higher educational institutions to issue a card confirming the migrant's education, but they can not confirm professional experience. Therefore in our view there should not be an obligation for the states to issue a professional card for professions that are not regulated in the host state.

When introducing a card it is important that the information in the card is of such a quality and availability that the receiving state can see if the education in the home state is sufficient in order to recognize the applicant's qualifications. If there is a doubt

whether the information in the card is sufficient to consider the qualifications there must be a possibility to use the IMI-system to verify the information.

From an industrial point of view, our overall assessment of the proposals in the Green Paper – such as the introduction of a new European Professional Card – is positive.

However, this is provided that the proposals meet the desired purpose, and promote the mobility and availability of skilled manpower for industry. For industry, it is that important proper measures are taken to ensure that any new quality requirements or procedures are not in fact hampering mobility.

Question 2: *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).*

Comment:

a) In our view, a professional card will not make the declaration under Article 7 of the Directive redundant. For the health and veterinary professions it is important that the migrant gives a declaration to the Competent Authority. This is important due to supervision of the veterinaries and the health professionals in Norway.

b) and c) In our opinion, it is not possible to accelerate the recognition procedure to two weeks or one month. We agree that a professional card could in some situations have an effect on the recognition procedure. However, a card issued in another state will not give the migrant the right to an automatic recognition. A card will explain the education and training and in some form give a guarantee for the migrant's qualification, which in turn can have a positive effect on duration of the recognition procedure.

Question 3: *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.)*

Comment:

No comments.

Question 4: *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.) Professional qualifications in regulated professions.

Comment:

We support lowering the current threshold of two-thirds of the Member States to one-third as a condition for the creation of a common platform. We agree that Article 15 of the Directive and the current concept of common platforms represent a failure. A new approach to common platforms could make the recognition process easier and faster. It is important that all the states do not need to participate and that non-participating States could join a common platform at a later stage.

***Question 5:** 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.*

Comment:

Examples of professions are aqua medicine biologists and veterinary nurses. These are non-harmonized professions that are regulated in one or more states and for which the required education and training between states.

***Question 6:** 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).*

Comment:

Enabling people to work and provide services in another Member State is important for a better functioning of the Single Market. Thus, we support the proposal of introducing an obligation for all Member States to have a central on line access point. We believe that an on line access point will be an important tool in order to make it easier for qualified professionals to provide their skills in another Member State.

We also support an obligation to enable online completion of recognition procedures for all professionals. However, we would like to emphasize that the online access point under the Services Directive has been facing challenges in relation to finalising all functionalities for the online completion procedures. This process has been time consuming, and these challenges should be considered when determining the timelines for implementation of this obligation.

Developing the functionality of the point of single contact is still in progress, in Norway and in other Member States. As this work is still in progress, it could potentially complicate and delay the process to include other functions into the point of single

contact. At the moment these challenges will make it difficult to include another contact point into this portal. From a Norwegian perspective the best solution for a future contact point and for the functioning of the Single Market would be to implement the on line access point into the already existing contact point for professional qualifications. The existing contact point already provides a lot of information and it seems natural that these sites continue to exist. This contact point should be managed by the relevant authority responsible for the professional qualification directive.

We believe that the development of the Internal Market is better served by letting Member States choose if they want to implement the on line access point into its national contact point for service providers, or the existing contact point under the professional qualification directive.

Question 7: *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.)*

Comment:

In our opinion, there is not enough information for lifting the requirement of two years of professional experience. There can be situations where the requirement could appear as unnecessary. Safety for users should be more important than mobility of professionals. E.g. safety for users and builders of electrical installations is more important than the mobility for the worker. There are differences in the use of electrical installations and how the different States regulate electrical installations. In our opinion it could be difficult to acquire the knowledge and competences the migrants need in order to practice the professions in a safe way in Norway with just two years of experience.

If the requirement of two years' professional experience in the case of a professional coming from a non-regulating state are lifted the host state should still be entitled to a prior declaration, especially in cases concerning public health or safety implications.

Question 8: *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.)*

Comment:

No comments.

Question 9: *Would you support the deletion of the classification outlined in Article 11 (including Annex II)? (Please give specific arguments for or against this approach).*

Comment:

In our view, Article 11 of the Directive is relatively complex, it can be difficult to use. Hence a system that is simpler than that laid down in Article 11 could lead to faster

recognition procedures. The question is what Article 11 should be replaced by. One solution could be to replace article 11 with the levels of learning outcome in the European Qualification Framework (EQF). Replacement of Article 11 with EQF should not be done before EQF has been implemented and before we have gained some experience with the system. In our opinion EQF could be a part of the directive after seeing the use and practice of EQF in the different States.

Question 10: *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.)*

Comment:

a) In our opinion, Article 14(1) of the Directive is still relevant. We agree that the time difference is not important in itself. It must be the learning outcome that is important. However, when the professional education and training is shorter in the country where the qualifications was obtained than that of the host country, elements in the education will be lacking. Therefore Article 14(1) b and c should be kept.

b) In addition, Article 13(2) of the Directive, by which the professional is required to have at least two years of professional experience if their profession is not regulated in their home Member State, should not be deleted. See also our response to question 7. For some professions it could be difficult to acquire the knowledge and competences the migrants need in order to practice the professions in a safe way in Norway with just two years of experience.

c) We agree that the competent authority in the host Member State should explicitly justify its decision with regards to substantial differences and why these differences prevent the migrant from exercising the profession in the host Member State.

d) In our opinion the Code of Conduct should not be mandatory. Mandatory regulations should be included in the Directive itself.

Question 11: *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.)*

Comment:

We support this suggestion, provided that such practical experience has similar objectives and that the learning process in the other State is documented.

Question 12: *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.)*

Comment:

We support option 2, and in our view this is the best way to ensure safety for patients. We also want to underline that introducing an alert mechanism has some challenges that need to be discussed. In some circumstances an act can lead to a loss of the right to exercise a profession, whereas in other states the same act have different or none consequences for the person. In our experience, there are also differences between the member states in the organisation of the supervision and authorisation authorities and in regards to the types of information the competent authority is authorised to provide to other states' competent authorities. Implementation of an alert mechanism will as such entail substantial harmonisation between states.

***Question 13:** Which of the two options outlines 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.*

Comment:

We support option 1, clarifying the existing rules in the Code of Conduct.

Health personnel in clinical positions must have sufficient language and communication skills in order to provide safe health services. In our view the employer is in the best position to assess if health personnel fulfil the needed requirements for the given position. Our interpretation of alternative 2 is that it is restricted to health personnel in the regulated professions with direct patient contact, and as such excludes large groups of health personnel from the Directive's language requirements.

In our view, it is important for veterinary surgeons to be able to communicate with animal owners, and local governments in the local language. An important part of diagnosing possible ill animals is to learn about changes in the behaviour of the animal during its normal conditions or over a sufficient amount of time. Therefore we believe that it should be the same language requirements for veterinary surgeons as for health professional having direct contact with patients.

***Question 14:** 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?

Comment:

We support a three-phase approach to modernizing the Directive. The third phase should also address correspondence to EQF and the national qualifications frameworks.

In regards to the health professions, we would like to emphasise the need to consider the changes and development that has taken place in the last decades in regards to the kinds and types of treatment in the health services.

***Question 15:** 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?*

Comment:

In our opinion, it should be the same principle for professionals who seek establishment as for persons who just seek temporary access. It is important that the persons demonstrate that he or she has the right to exercise their profession in the home State.

We believe that there is no need for the Directive to address the question of continuing professional development more extensively.

***Question 16:** 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.)*

Comment:

In our opinion the minimum requirements for doctors, nurses and midwives should be in years and not in hours, as that would facilitate the work in phase 3.

***Question 17:** 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.)*

Comment:

Norwegian authorities do not agree that Member States should make notifications of all newly approved programmes of education and training. Considering that professionals often seek recognition several years after graduation, and that mergers of higher

education institutions have been, and are still taking place in many European countries, an obligation for each country to keep easily available updated lists of recognised programmes that also include historical data would most probably serve the end users better.

An obligation for Member States to submit a report to the Commission on the compliance of each relevant programme of education and training to the directive would in our view lead to unnecessary bureaucracy without serving the purpose behind the proposal. All higher education institutions are requested to follow relevant legislation, and that includes the provisions laid down in Directive 2005/36/EC. Breaches should be followed up by relevant national authorities, whether these be authorisation authorities for the profession in question, Ministries responsible for higher education or quality assurance agencies. Because the authority responsible may vary with the breach or non-compliance with the directive, the National Contact Point could serve as addressee for international instances who want to report on non-compliance in a given country, and the NCP would then be responsible to send the complaint on to the right addressee.

Question 18: *Do you agree that the threshold of the minimum number of Member States where the medical speciality exists should be lowered from two-fifths to one-third? (Please give specific arguments for or against this approach.)*

Comment:

We support this suggestion.

Question 19: *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.)*

Comment:

We support the suggestion that a State can grant partial exemptions if part of the training already has been completed in the context of another specialist training programme. In our opinion this could be done if the relevant parts of the training programme are comparable as regards content and duration.

Question 20: *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*

Comment:

We support option 2, increasing the requirement of ten to twelve years of general school education. The tasks that nurses have to deal with have become increasingly complex. In order to meet the challenges, they need to have acquired a solid body of theoretical knowledge.

In the EU/EEA countries nursing programmes are currently offered at different educational levels: universities, post-secondary vocational colleges and secondary schools. In our opinion, nurses trained at different levels are not trained for the same profession. This is due to differences in task distribution between professions, level of responsibility and independent practice and differences between the ways the states have organized their health services. In Norway, nurses are trained at higher education institutions.

Question 21: *Do you agree that the list of pharmacists' activities should be expanded? Do you support the suggestion to add the requirement of six months training, as outlined above? Do you support the deletion of Article 21(4) of the Directive? (Please give specific arguments for or against this approach.)*

Comment:

We support that the list of pharmacists' activities should be expanded.

We do not support the suggestion to add the requirement of six months practical training directly after completing an academic training. In our opinion practical training should be integrated in the education and within the time set in the Directive now.

We support the deletion of Article 21(4) of the Directive.

Question 22: *Which of the two options outlined above do you prefer?*

Option 1: *Maintaining the current requirement of at least four years academic training?*

Option 2: *Complementing the current requirement of a minimum four-year academic training by a requirement of two years of professional practice. As an alternative option, architects would also qualify for automatic recognition after completing a five-year academic programme, complemented by at least one year of professional practice.*

Comment:

Architect is not a regulated profession in Norway. We have no comments to this suggestion. In Norway, three universities offer integrated masters' degree programmes in Architecture that fall under the directive, two have 5 years of academic training and one has 5 ½ years of academic training.

Question 23: *Which of the following options do you prefer?*

Option 1: *Immediate modernisation through replacing the ISIC classification of 1958 by the ISIC classification of 2008?*

Option 2: *Immediate modernisation through replacing Annex IV by the common vocabulary used in the area of public procurement?*

Option 3: *Immediate modernisation through replacing Annex IV by the ISCO nomenclature as last revised by 2008?*

Option 4: *Modernisation in two phases: confirming in a modernised Directive that automatic recognition continues to apply for activities related to crafts, trade and industry activities. The related activities continue to be as set out in Annex IV*

until 2014, date by which a new list of activities should be established by a delegated act. The list of activities should be based on one of the classifications presented under options 1, 2 or 3.

Comment:

In our opinion, the modernisation should be done in two phases and we support option 4. Further the list of activities should then be based on the classifications presented under option 1.

Question 24: *Do you consider it necessary to make adjustments to the treatment of EU citizens holding third country qualifications under the Directive, for example by reducing the three years rule in Article 3 (3)? Would you welcome such adjustment also for third country nationals, including those falling under the European Neighbourhood Policy, who benefit from an equal treatment clause under relevant European legislation? (Please give specific arguments for or against this approach.)*

Comment:

No comments.