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To:

**European Commission  
DG Internal Market and Services**

**Referring to:**

**Green Paper - Modernizing the Professional Qualifications Directive**

**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?**

No comment.

**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).**

The use of a professional card should imply that its holder no longer has to submit any declaration or follow any bureaucratic procedure in order to have his/hers qualifications recognized. The professional card however, like the initial professional formation, is highly dependant on the country which issues it, its content having a certain degree of subjectivity. Two such examples are the influences of corruption and medical hierarchy. Corruption can lead to statements on the professional card which have no connection to the real qualifications, either to their advantage or to their detriment. The hierarchy within the health system may also have an impact, considering the number of cases when the doctors have more sway than the nurses, they being the ones which establish guilt and culprit (with regard to the practice of blaming a nurse to protect the reputation of a doctor). This is the main reason why we feel the introduction of the professional card should be complemented by the introduction of objective criteria for the evaluation of one's professional activity and the establishment of European-level appeal courts / bodies for the analysis of professional misconduct, which in turn would lead to the creation of European professional associations.

**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.)**

We agree with inserting the principle of partial access into the Directive.

**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.)**

As long as lowering the threshold brings more flexibility to the labour market we agree to its reduction from two-thirds to one third, this reduction being as well connected to the answer to Question 11.

**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.**

We have no knowledge of such cases.

**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).**

We agree that Member States, through the professional training and certification bodies (whose activity and objectivity should be guaranteed by a certain degree of control from the state), should have the obligation to ensure access to information regarding the competent authorities and required documents for the recognition of professional qualifications is available to any Member State, on-line, making it far easier to complete the recognition procedures on-line. This point of view takes into account the answer given to Question 2 regarding the professional card which, in turn, is a form of electronic storage of personal information. We need to state that this measure has to be complemented by securing said information.

**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.)**

We do not agree, considering the legal principle *locus regit actum* (in effect in all national jurisdictions), (in effect in all national jurisdictions), stating it is not the country of origin of the professional and the consumer that matters but the location where the service is rendered. Once an exception is established it carries the risk of being extended in other cases, leading to the breach of the principle regarding the territory in which the national legislation has effect.

**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.)**

We agree that the notion „regulated education and training” should be extended, with respect to the inclusion of certain skills (IT&C, communication, management). The aim of this approach is the recognition of some abilities which are becoming ever important for each profession.

**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).**

As long as the EU has to aim for a higher degree of compatibility regarding qualifications within Member States, thus establishing a common labour market (a necessary step to ensure freedom of practice for professionals) we do not support the deletion of the classification outlined in Article 11, offering instead the suggestion that Member States should adapt their qualifications. Similarly, for those qualifications which were recognized before, the system for the assimilation and completion of the qualifications already recognized needs to be perfected so that they meet the classification – meaning that some conditions have to be changed.

**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.)**

We consider the second step to be justified.

**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.)**

The benefits of the Directive should be extended to graduates from academic training, considering the rulings of the Court of Justice; since the EU law system is based on precedents, then these rulings are mandatory, the Directive may incorporate them (with the exception being if there is a desire to set laws for the contrary)

**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.)**

We prefer Option 2, with respect to the conditions outlined in the answer to Question 2 related to the professional card and considering the need for the protection of employees against abuse.

**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.**

We prefer Option 1 considering that the alternative can more rapidly lead to abuse, language tests becoming covert exclusion opportunities. Moreover, we need to take into account the principle of proportionality, contact with patients varying from one specialization to the next. Employers, while experiencing a shortage of personnel, may find different ways of adapting, compensating low language skills with the reduction of contact with the patients, tutorials etc.

**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?

We support the approach, while maintaining that steps 2 and 3 are mainly applicable in the future, to those who will take part in future training sessions – those that have already underwent training should only follow the rules in effect at that time. In this respect, in order to implement an ECTS system procedures have to be set up for the recognition (transforming a number of study hours into credits) and evaluation of on-the-job training (informal) through an *account of competences*. Failure to do so will result in the exclusion of a high number of professionals who underwent a different system than ECTS and who, at present, follow the rule of evaluating the number of training hours. This leads to the matter of is evaluated, in order to recognize, in the case of interchangeable credits: quantity (time spent to acquire a competence) or quality (credits guaranteeing a certain level of control over a set of competences)? The second step, also recommended, raises the same problems with regard to the way in which the current professionals may further their skills.

**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?**

We consider that the Directive should address in greater detail the system for the continuous professional development, establishing at least a few principles in this direction (these principles also have to address the way the monitoring or training bodies work). This will serve as a base for the accurate evaluation of the professional by the professional associations. In this respect we have to consider the varied instances of professional organizations: in some cases corruption is an issue, in others the monitoring procedures are just a for show (lacking any guarantee of objectivity) and others in which these organizations are not independent, being closely tied to either trade unions or political parties (or both). All these aspects lead to cases where an objective evaluation is impossible, asking professionals to meet criteria which has no connection to professional matters.

**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.)**

Considering the answer to Question 14 it is clear that the system should head for ECTS. For the professionals already practicing we have to address the issue of recognizing the already followed training, considering its current dual expression: years of training and hours of training. Our point of view is that a highly objective (quantitatively speaking) form of evaluation is the hours of training, considering that the actual length for a year of training varies from Member State to Member State (we have to consider the effective length of the school year, weekly repartition, hours per day of training, official holidays etc.). However, in order to not sidestep countries which only have years of training procedures, with no easy way of quantifying hours of training, we suggest a mixt system, with the main procedure being the hours of training evaluation.

**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.)**

The procedure which would ensure compliance for national programs of education and training is the accreditation, the bodies responsible for validating training institutions having to check for the compliance and withheld the validation should it not exist. National reports should in this case contain the reports from the validation bodies; likewise, professional associations, also interested in maintaining compliance and ensuring freedom of movement for its members through the recognition of professional training (initial and continuous) should intervene in the monitoring and compliance seeking process for each profession.

**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.)**

Greater mobility on the labour market implies greater flexibility with regard to professional specialization, especially considering an ever greater presence of technology in the health system requires a more narrow specialization. In this respect we agree with the lowering of the minimum number of Member States where the medical speciality exists from two-fifths to one-third.

**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.)**

Granting partial exemptions if part of the training has been already completed in the context of another specialist programme (or even initial training) is absolutely necessary. Moreover, it must be extended to all professionals in the medical field. In this respect, we bring into discussion Romania, where nurses had had throughout the years several specialist programmes : active nurses (often with years of practical experience) wanting to attend a higher form of education (for example a graduate from a 3 year post-high school wishing to attend college or university) have to start at the beginning, going again through the same process as a new nurse, reviewing information he/she has already gained, with no possibility of them being recognized. The outcome is an inflexible system for initial and continuous training, more of a hindrance to those that wish to advance in their professions and gain new competences.

**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**

We favour Option 2, increasing the requirement of ten years to twelve years of general school education. Our point of view takes into account the answer to Question 14, ECTS being a mark of the university system, which has as a mandatory condition twelve years of general education. We also maintain that, while the nurses become more specialized, a new category of professionals will be needed (known in most countries as *auxiliaries*), reporting to the nurses, which will perform some of their activities which do not require a high level of training

The view expressed above took into account the results of the latest research carried between 2009-2011 by the Centre for Research and Social Development „Solidaritatea” as part of the SOPHRD project *Continuous Professional Training for Medical Staff – Increasing service quality in the health system through training of medical staff, managers and other types of personnel, South-Est region, ID 34/3.2/G/36663.*

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President,

Viorel ROTILĂ

