

This edition of the newsletter will focus on a recent request made by the European Commission to CEPI.

The European Union must review Article 15 of Directive 2005/36/EC on the recognition of professional qualifications in 2010. In view of this the unit in charge of the dossier within DG Internal Market asked us to **examine the differences between the original draft of Article 15 (concerning common platforms) introduced by the Commission in 2002, and the final version of the document in 2005, and in particular to share with them "if the amendments introduced for Article 15 into the original Commission proposal for Directive 2005/36/EC due to the political compromise between the Community legislators have had an impact on the feasibility of a platform in general."** The results of our analysis were presented to the Commission on 17 December 2009.

This work is important because it is clear that Article 15 in its present form has not worked. This could mean that changes might be made to the current wording to try and make it easier to establish common platforms, or that new proposals could be made to improve the general system for the recognition of professional qualifications.

In our view, it is clear that the additions made to the original 2002 proposal as incorporated in the 2005 version of the Directive made it more difficult to establish a common platform.

With regard to Articles 15.1 and 15.2 our principal remarks were that:

- In the 2002 proposal the initiative lay with professional associations to notify the Commission of common platforms which they wished to establish at European level; the 2005 version extends the right of initiative to other actors and required that professional associations wishing to propose a common platform be representative both at national and European level to take a decision on the common platform;
- The 2002 proposal gave the Commission the power and responsibility to take decisions relating to a common platform, while the 2005 version obliges the Commission to submit proposals for adoption to a committee formed of interested Member States;
- The 2002 proposal defined a common platform as a set of criteria of professional qualifications which attest to a sufficient level of competence; the 2005 version defines a common platform as a "set of criteria of professional qualifications which are suitable for compensating for substantial differences which have been identified between the training requirements existing in the various Member States". Given the lack of harmonization, this leads to a more difficult comparison, whereas the purpose of the Directive is simplification;
- The 2005 version introduces the requirement that these substantial differences be identified by comparison between the duration and contents of the training in at least two thirds of the Member States, including all Member States which regulate the profession. At present the property professions are regulated in roughly half the Member States, so this requirement presents a real difficulty.

In summary we argue that the amendments made to the original wording made it more difficult to establish a common platform in general for the following three reasons:

- Article 15 in the final version of the Directive is only helpful to regulated professions as common platforms are equated with national legal systems. The requirement to compare the duration and contents of training in at least two thirds of Member States presents a major obstacle. The property professions are only regulated in roughly half the EU Member States;

- In the countries where the property professions are regulated, the level of regulation varies greatly. It is very difficult to establish a set of criteria suitable for compensating for substantial differences in different countries, more so than to establish a set of criteria of professional qualifications which attest to a sufficient level of competence for the pursuit of a given profession across borders;
- The Member States limited the power and responsibility of the Commission, no longer allowing it to decide alone on the suitability of proposed common platforms, and obliging it to leave the final decision to a committee formed of interested Member States.

The following conclusions were therefore presented to the Commission:

- The 2005 Directive operates a crucial shift in that it no longer emphasises the initiative of professional associations to work out one set of necessary or sufficient qualification criteria that are submitted for the European Commission's approval, but focuses on the final responsibility and decision of EU Member States to adopt multiple sets of compensation measures to enable professionals to access their respective national markets; we consider that such a responsibility should rest with the European regulator for reasons of effectiveness;
- The possible multiple compensation measures introduced by the 2005 Directive do probably add to transparency, but it is questionable whether it simplifies existing procedures. The complexity of the common platform also raises the question whether it is not too much the result of a legal and administrative exercise instead of the expression of a common will to ease free movement in practice;
- Under the current version of Article 15, the Directive on the Recognition of Professional Qualifications also creates a two-class society detrimental to competition, because a common platform can be created exclusively within the framework of regulated systems. This hinders national and European professional organisations in non-regulated systems from creating high qualification requirements to protect consumers in particular and to provide transparency for services on a voluntary basis without state pressure. Furthermore, the goal regarding the quality of services set out in Article 26 of the Services Directive, which requires Member States to take accompanying measures to encourage service providers to guarantee, on a voluntary basis, the quality of services is therefore not attained in non-regulated systems.

The full CEPI analysis of the amendments is available on request from the Secretariat.

During our meeting, the European Commission stressed the need to inform them as to difficulty experienced by professionals in having their qualifications recognised when they move cross-border. They need to know **how mobility works in practice**.

This is a topic which will be presented to MEPs during the course of Lobby Week and will be developed further in the course of 2010. In the meantime the European Commission has published a "User's Guide" to the Directive which answers questions you might be asking yourself on the recognition of your professional qualifications and competences abroad. This guide is available in different languages at http://ec.europa.eu/internal_market/qualifications/future_en.htm#docs.