

Response of:

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**Consultation on the Green Paper on  
« Modernising the Professional Qualifications  
Directive »  
European Commission  
DG Internal Market**



European Trade Union Confederation (ETUC)  
Confédération européenne des syndicats (CES)



## **GREEN PAPER: Modernising the Professional Qualifications Directive**

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### **Response from the European Trade Union Confederation and Eurocadres**

#### **Introduction**

The European Trade Union Confederation (ETUC) and Eurocadres welcome the opportunity to participate in the consultation of the modernisation of the Professional Qualifications Directive.

The ETUC speaks on behalf of 83 national trade union organisations from 36 European countries, as well as 12 European trade union federations, making a total of 60 million members, plus observer organisations in Macedonia, Serbia, and Bosnia and Herzegovina ([www.etuc.org](http://www.etuc.org)).

With more than 15% of employees holding professional or managerial position, Eurocadres represents almost 6 million employees in all sectors of business, in industry as well as in the civil and public services ([www.eurocadres.org/](http://www.eurocadres.org/))

In order to prepare its response to the Green Paper, the ETUC and Eurocadres have consulted its member organisations, and they in turn have consulted their own members.

We consider that working people in Europe have the right to choose their place of employment, as well as the opportunity to have their qualifications, based on knowledge, skills and competences, recognized throughout the European Union. As a result, we recognise the importance of improving a common, user-friendly and reliable system for describing and recognizing professional qualifications.

The Profession Qualifications Directive provides a significant means for ensuring that professional qualifications are recognised throughout the European Union, and we are in favour of the modernization of the Directive (2005/36/EC), so as to ensure that it corresponds to the needs of working people. The task is of course not to deregulate, but to make nationally achieved educational requirements transparent, as a basis for mutual recognition, thus strengthening the opportunities of working people to have their qualifications assessed, and if appropriate, confirmed.

Europe's social and economic well-being is dependent on having a well-educated and highly skilled population, and education and training play an essential role in giving citizens the knowledge, skills and competences they need to participate fully in society and the economy. We support the position that mobile/migrant workers enjoy equal treatment with other workers in the host country, rejecting entering into agreements which stipulate differently.

We would like to point out however that some of the challenges highlighted in the Commission's Green Paper will not be solved by the Directive alone. Global competition, demographic developments, technological progress, climate change obligations and shifts in patterns of employment individually and collectively are having a dramatic impact on labour markets and the need for new knowledge, skills and competences. If Europe is to meet these challenges, it will need to create more and better jobs and enable working men and women to improve their skills and more specifically match them to short-term and long-term labour market demand.

The aim of the modernisation exercise should be threefold:

- To promote mobility of European workers, but not at the expense of the quality of educational standards and of working conditions. Mobility and quality must be in equilibrium, enhancing each other. That is the basis for stronger cooperation which respects the national competences on education and training.
- To take into account processes and initiatives started after 2005, and in particular, the introduction of the European Qualifications Framework and the 'Bologna' process, as well as future EU Recommendations about Non-formal and Informal Learning.
- To involve professional associations and social partners at national and European level in the implementation of the modernised Directive in a dialogue with the national competent authorities. Indeed to take a leaf out of the EQF book, and include a commitment to *'promoting the participation of all relevant stakeholders including, in accordance with national legislation and practice, higher education and vocational education and training institutions, social partners, sectors and experts on the comparison and use of qualifications at the European level'*.

**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?**

Firstly there is a need to clarify the role of the ‘competent authorities’ in general within the current Directive. The ‘competent authorities’ should facilitate and not hinder mobility and the recognition of professional qualifications.

In addition we would like to see clearer defined responsibilities placed on the role of the competent authorities in the Member State of departure, particularly in terms of the verification of documentation. However, the competent authorities in the receiving Member State should have the right to decide on the demand for recognition of professional qualifications.

We are of the opinion that the recognition process could be speeded up if the Internal Market Information System (IMI) was used by all the Member States’ competent authorities. However further investigation is required to see whether it can in its present form be extended to other professions.

Finally, we agree that no commercial authorities should be allowed to become competent authorities.

**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.**

First of all it is necessary to define the term ‘temporary’.

The Green Paper’s description of the purpose and function of the professional card is more detailed than before. However many unanswered questions remain, as to its content, its legal status, its updating and finally the way in which it is awarded.

We prefer option 2. One exception could be for doctors, that is to say that in this case the declaration regime would be maintained but the European Professional Card could be presented in place of any accompanying documentation.

So as to avoid any confusion for employers and for working men and women, any further development of the European Professional Card should of course be compatible with other EU initiatives, notably the European Skills Passport.

**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).**

We are in favour of a reduction in the period but are of the opinion that the deadline proposed by the Commission (two weeks) is too ambitious and will lead to a needless dilution of the quality of the recognition procedure.

**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).**

We are in favour of a reduction in the period but are of the opinion that the deadline proposed by the Commission (one month) is too ambitious and will lead to a needless dilution of the quality 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).**

We have reservations as to the insertion of the principle of partial access as it would go against the logic and purpose of minimum standards required to carry out a profession.

Moreover it would be extremely difficult to decide which areas of activity could be opened up to partial access. Quality should not be sacrificed, and safety should not be compromised, in the name of partial access.

**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).**

We would like the Commission to explain why it has been decided to drop the notion of Europe-wide common platforms and replace them with these partial agreements.

We support the lowering of the current thresholds of two-thirds of the Member States to one-third as a condition for the creation of a common platform. Clearly however there would need to be a balanced mix of Member States – big/small; East/West/North/South.

There would also need to be a clear procedure for the endorsement of a common platform based on a decision-making system that involves all appropriate stakeholders, including the social partners. However under no circumstances should common platforms be used to lower educational standards and to define minimum requirements in terms of the lowest possible common denominator.

We also agree on the need for some form of Internal Market test to ensure that a common platform does not constitute a barrier for service providers from non-participating Member States.

The criteria for common platforms should be established by the appropriate stakeholders - professional organisations, including social partners, and Member States.

**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.**

A relevant example is provided by our EU-level member ETUCE, and it concerns the teaching profession. We agree with ETUCE and would like to emphasise that the education systems as well as educational requirements are under national competences, and they cannot be undermined by providing access to for numerous jobseekers who cannot meet the national requirements to enter the teaching profession.

**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 support the proposal that Member States should ensure that complete 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. We are also in favour of obliging competent authorities to enable online completion of recognition procedures for all professionals. There must however be the possibility for the national competent authorities to require that original documents are presented.

**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 are not in favour of revoking the requirement of two years' professional experience in the case of a professional coming from a non-regulating Member State. In any case the host Member State should still be entitled to require a prior declaration.

**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).**

Here it is necessary to take into consideration processes and initiatives started after 2005, and in particular, the introduction of the European Qualifications Framework and the 'Bologna' process, as well as the future EU Recommendation about Non-formal and Informal Learning. For us, what matters is that the professional has the appropriate qualifications, from within the different National Qualification Frameworks (NQF), based on the appropriate knowledge, skills and competences, to carry out the profession adequately. All work experience and education that contributes to that goal would therefore be relevant.

**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).**

We are in favour of aligning the classification outlined in Article 11 with levels within the National Qualifications Frameworks (NQF) and the European Qualifications Framework (EQF)/ 'Bologna process', for the simple reason that retaining two systems in the medium term would be very confusing for working men and women and employers and is to be avoided. The referencing of the NQFs to the EQF would enable comparability across Europe. If this is not possible in the short term, given the different operational time scales affecting the Directive and the EQF/'Bologna' process, the classification in the Directive should be phased out gradually, in line with national decisions which guarantee coherent and coordinated national qualification systems..

**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).**

Step 1 - we agree with this step, but emphasises that the national competent authorities should retain the right to require any compensatory measures, if there is any doubt about the professional competence of the worker.

Step 2 – we agree with this step, as long as the worker is able to demonstrate that s/he has the appropriate qualifications to carry out the profession adequately.

Step 3 –we agree with this.

Step 4 –we agree with this.

**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).**

Given the serious problems within the European labour market, particularly for young people, it is advisable to do more to enable them to improve their employment chances, and so we would be in favour of extending the benefits of the Directive to graduates who wish to complete a period of remunerated and supervised practical experience in their chosen profession abroad.

However this is a training opportunity only and should not be used to displace existing qualified professionals in the host countries.

**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).**

Firstly, we would like to point out that the issue of safety is not only a subject of concern for the health sector.

However within the context of this question we prefer Option 2. It is, however, important that such an alert mechanism would only be triggered where a health professional is taken off the national register and/or no longer allowed to practice due to a disciplinary sanction, an infraction of criminal law or when presenting fake diplomas, certificates, etc. Alerts should only be triggered at the point that a case is upheld, not at the point of complaint or before a final decision has been taken in an ongoing proceeding (unless a health professional has been suspended for public protection reasons).

There are two preconditions for giving support for a move towards a stricter and more comprehensive alert system: First there is the need to have sufficient clarity between competent authorities on what constitutes a disciplinary case as the criteria and practice differ between Member States. Currently there is no common view on what proactive information exchange and early warning means across the EU27. Secondly, clarity also needs to be achieved between 10 Member States as to which possibilities and processes of appeal are in place (and that minimum requirements are fulfilled in this regard).

**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.**

Again, we believe that this issue is not only a subject of concern for the health sector.

We support the proposal to amend the Directive itself in view of language requirements and tests and therefore support Option 2.

However we reject the distinction proposed in the Green Paper between health professionals having direct contact with patients and others. This distinction is neither practicable nor relevant. All health professionals, with or without regular contact with patients, need to have an appropriate level of knowledge of the official language in a given Member State to carry out all their tasks properly.

The design of tests of knowledge of general language should stay in the competence of the responsible bodies in the Member States, but requirements to be fulfilled should be fully transparent for a health care worker seeking (automatic) recognition of her/his professional qualifications, e.g. by making them easily accessible via the National Contact Points and by providing sample language tests.

**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 would support a three-phase approach, but would insist on the need to follow the approach taken by the 'Bologna' process and also the European Qualifications Framework in any development work; namely, *'promoting the participation of all relevant stakeholders including, in accordance with national legislation and practice, higher education and vocational education and training institutions, social partners, sectors and experts on the comparison and use of qualifications at the European level'*.

**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 are in favour of extending the principle currently applicable to temporary mobility that also professionals seeking establishment in a Member State other than that in which they acquire their qualifications should have to demonstrate to the receiving Member State that they have the right to exercise their profession/to practice in the home Member State (this comprises issues such as meeting any recent practices, continuing professional development and fitness to practice requirements of the Member State where they qualified).

Continuing professional development is indispensable to ensure the continuing competence of all professionals, and not only those in the health sector, and so we support the idea of a reference in the Directive requiring Member States to have systems for the recognition of continuing professional development.

**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).**

What matters is that the professional has the appropriate qualifications, from within the different National Qualification Frameworks (NQF), EQF and/or the 'Bologna' process, based on the appropriate knowledge, skills and competences, to carry out the profession adequately. The definition of hours/months/years within different national training systems varies widely and is not always a reliable indicator.

However in the short term the requirement to have a minimum number of hours and/or years of training should be maintained for certain professions, such as doctors, nurses and midwives.

**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).**

We agree that in order to facilitate free movement of health professionals it is important for competent authorities to notify the Commission in a timely and transparent fashion of any new diplomas/degrees and their content, which meet the requirements for recognition of the different sectoral professions and of other health professions under the general system.

**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).**

We have no comment to make.

**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).**

We agree with this proposal, as the locus of the training is a secondary issue. What matters is that the professional has the appropriate qualifications, from within the different National Qualification Frameworks (NQF) and/or the 'Bologna' process, based on the appropriate knowledge, skills and competences, to carry out the profession adequately.

**Question 20: Which of the two options outlines above do you prefer?**

**Option 1: Maintaining the requirement of ten years of general education.**

**Option 2: Increasing the requirement of ten years to twelve years of general school education.**

It is indeed the case that in many Member States there has been a move towards a requirement of 12 years of general school education as an admission requirement for nursing. This reflects considerable changes during the last decades in the roles and demands of these professions. Member States should be encouraged to move in this direction if it corresponds to their national requirements. However we are not in favour of a mandatory EU-wide requirement to do this. If some Member States prefer to keep a requirement of 10 years, they should be allowed to do so, and the modernisation of this Directive should not be used to force them to change their national requirements.

**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).**

We do not agree with the expansion of the list of pharmacists' activities. The ETUC does not 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.**

There is support for both options amongst affiliated organisations within ETUC and Eurocadres, as there are different kinds of architects with different kinds of educational backgrounds. In Finland, for example, there is a 4-year tertiary education diploma for construction architects and a 5-year tertiary education diploma for architects.

**Question 23: Which of the two 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.**

We are in favour of 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).**

ETUC and Eurocadres would prefer maintaining the rules currently in place as to the treatment of EU citizens having initially acquired qualifications in a third country in order to maintain the integrity of the harmonised education standards for professionals across Europe and trust and public confidence in the system.

We would support the adjustment of current rules for third country nationals to enable them to benefit from an equal treatment clause under relevant European legislation (family members of EU citizens; long-term residents; blue card holders).