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**COMMUNICATION FROM THE COMMISSION TO THE EUROPEAN  
PARLIAMENT, THE COUNCIL AND THE EUROPEAN ECONOMIC AND SOCIAL  
COMMITTEE**

**on Evaluating national regulations on access to professions**

(Text with EEA relevance)

{SWD(2013) 402 final}

## 1. INTRODUCTION

European economies are suffering from the aftermath of the financial crisis and its impact on public finances. Throughout the Single Market national governments are considering how to stimulate employment creation and restore economic growth. In its June 2012 Communication<sup>1</sup> on the implementation of the Services Directive the Commission stressed the importance in this context of ensuring that the regulatory framework for professional services remains fit for purpose. The revised Professional Qualification Directive, on which the Council, European Parliament and Commission reached a political agreement in June 2013, addresses these issues and calls for a new strategy that requires each Member State to actively perform a review and to modernise their regulations on qualifications governing access to professions or professional titles<sup>2</sup>. This Communication presents a work plan for conducting such a review. Improving access to professions, in particular through a more flexible and transparent regulatory environment in Member States, would facilitate the mobility of qualified professionals within the internal market and the cross-border provision of professional services. This should also have a positive impact on the employment situation and enhance economic growth, especially since professional services alone amount to around 9% of the GDP in the Union.

In order to boost growth potential and consolidate the way to economic recovery, this review of regulated professions should be a priority. The Commission therefore urges Member States not to wait for the formal entry into force of the revised Professional Qualifications Directive (end 2013) and to begin reviewing at national level the qualifications requirements imposed on regulated professions and the scope of reserved activities. The Compact for Growth and Jobs approved by the European Council in June 2012 called for implementation of the Commission's Communication, "including through rigorous peer review of national restrictions and swift action to remove unjustified barriers". Similarly, the European Parliament called on the Commission to "identify areas where Member States are disproportionately blocking" this access<sup>3</sup>. The comprehensive approach to combat youth unemployment, agreed by the European Council on 28 June 2013, again underlined the need to take action to offer job prospects to young people.

In order to ensure that all Member States advance towards a common objective, this Communication sets out a framework enabling Member States to present a first set of national action plans by April 2015. The outcome should not be a "one size fits all" exercise. These action plans should be based on in-depth, case-by-case analysis of the barriers to access a profession and of the possible alternative regulatory mechanisms. This was one of the conclusions of a workshop with national ministries and professional organisations organised on 17 June 2013. An extensive mutual evaluation which will be carried out in the next two years should bring about tangible change in each Member State. In the course of this period, the Commission will begin identifying achievements and shortcomings in the Annual Single Market Integration Reports of November 2014 and 2015.

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<sup>1</sup> Communication on the implementation of the Services Directive "A partnership for new growth in services 2012-2015" (see [http://ec.europa.eu/internal\\_market/services/docs/services-dir/implementation/report/COM\\_2012\\_261\\_en.pdf](http://ec.europa.eu/internal_market/services/docs/services-dir/implementation/report/COM_2012_261_en.pdf))

<sup>2</sup> Article 59 of the revised Professional Qualifications' Directive (see: <http://www.europarl.europa.eu/document/activities/cont/201309/20130902ATT70679/20130902ATT70679EN.pdf>)

<sup>3</sup> Recommendation of 14 June 2012

The Commission has addressed country specific recommendations on this issue to several Member States. The mutual evaluation described in this Communication represents a separate exercise and does not affect the existing commitments made in the context of the European Semester.

In order to provide a complete picture of the barriers affecting the access and exercise of regulated professions, a report on the findings of the peer review on legal form, shareholding and tariff requirements conducted under the Services Directive, a further action which was announced in the June 2012 Communication, is published in parallel.

## **2. WHY DOES A REVIEW OF ALL PROFESSIONS MATTER?**

Large-scale reforms of the regulated professions are taking place in a number of Member States (e.g. Spain, Poland, Portugal, and Slovenia) and both the Commission and other international organisations are calling for such reviews of national regulations. The OECD, which has developed indicators measuring the regulatory restrictiveness of certain Member States for a selected number of professions and sectors, has underlined the distortive nature of these regulations<sup>4</sup>.

The present chapter reviews the main arguments which could justify the presence of regulatory entry barriers and the expected benefits from opening the access to currently regulated professions and why it is important to review all barriers restricting the access to professions.

### **2.1 Regulation on access to professions may be beneficial**

#### **2.1.1 Help the consumer judge on the quality of a service**

Consumers may face difficulties in assessing the level of qualification of service providers which are essential for the delivery of services of a high quality. This asymmetry of information prevents consumers from making informed service provider choices. To remedy the risk of potential market failures, regulations clarifying the technical knowledge and competences which professionals available on the market should have,<sup>5</sup> could provide consumers with the reassurances they need.

#### **2.1.2 Support the proper functioning of an economy in a Member State**

##### ***Protecting consumers and the public good***

Professions may be regulated for health and safety reasons so as to avoid accidents caused by malpractice or faulty products. For example, for the majority of health professions, adequate qualifications, including traineeships, are required. There are also services which are considered as public goods, because they bring value to society in general; they may need to be regulated in order to ensure adequate supply and quality.

##### ***External effects for third parties***

Professional services may affect third parties. Regulation can ensure that the service providers take proper account of the impact of their activities beyond those who are paying for such a service. For example, the accounts of a company may require a

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<sup>4</sup> See in 2003, 2008 (and in 2013) under:

<http://www.oecd.org/eco/reform/indicatorsofregulatoryconditionsintheprofessionalservices.htm>

<sup>5</sup> Law and Kim (2005) Specialization and Regulation: The Rise of Professionals and the Emergence of Occupational Licensing Regulation

statutory audit because it is in the interest of the investor community - who should be able to trust these accounts - and not only the company which remunerates the auditor.

## **2.2 Benefits arising from opening access to professions**

### **2.2.1 Offer the consumer more choice at a better price**

#### ***Better prices***

Restrictions on access to professions limit the number of professionals authorised to provide a service. In consequence, the supply of professionals is not driven by the market. This can become problematic in the event of changes in the demand for the service. It could result in economic rents for incumbents and lead to higher prices at the expense of the rest of the economy and consumers even more so if the demand for the services is inelastic<sup>6</sup>.

#### ***Increasing consumer choice***

Excessive regulatory entry barriers to professions could create a market distortion and generate higher prices which could deter consumers who are not prepared or who cannot afford to pay under these conditions. There can often be less burdensome ways to regulate which still ensure a good quality of services and could lead to better prices. As a consequence, consumer choice would be increased and social inequalities amongst consumers may be reduced<sup>7</sup>.

### **2.2.2 Boost national competitiveness and employment**

#### ***Increasing competitiveness***

Professionals do not only offer services to final consumers. Professional services are an intermediate input for many sectors; therefore the multiplier effects can have a significant economic impact for the rest of the economy. Reducing entry regulatory barriers could lead to higher competition amongst an increased number of professionals which can also provide a stronger incentive to deliver high quality innovative services and to constantly review operational costs. A greater number of suppliers may also increase levels of innovation via stronger competition. Modernising regulation could stimulate professionals to provide their services in other Member States, thereby increasing market opportunities for EU businesses, competition and consumer choice.

#### ***Improving the employment situation***

Regulation may have a detrimental impact on employment creation by segmenting labour markets and making it more difficult for the labour supply to adjust to changes in consumer preferences<sup>8</sup>. As a consequence, labour shortages in certain professions may not be sufficiently addressed because mobility within and between professions is hampered by regulation. Reducing or removing entry barriers could facilitate young people's access to the domestic labour market whilst also enabling the mobility of professionals from other Member States.

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<sup>6</sup> Friedman (1962) Capitalism and Freedom., Shapiro (1986) Investment, Moral Hazard and Occupational Licensing, Stigler (1971) The Theory of Economic Regulation

<sup>7</sup> Friedman (1962) see footnote 6, Kleiner (2006) Licensing Occupations: Ensuring Quality or Restricting Competition?

<sup>8</sup> Mortensen and Pissarides (1994) Job Creation and Job Destruction in the Theory of Unemployment

### **2.3 Consider the economic impacts of regulations**

A review of regulated professions represents a major opportunity for each Member State to assess the benefits and weigh them against the economic costs behind domestic regulations.

This type of analysis already exists in academic research where the focus is not so much on the number of barriers but more essentially on the impact of professional regulation on key indicators: the quality of a service, the wages of the professionals concerned, prices for the consumers and the overall impact on employment.

Several of these studies<sup>9</sup> conclude that no correlation between regulation and the quality of a service could be demonstrated. A possible explanation suggested by the researchers is the difficulty for low-income groups to access services from regulated professions due to high fees, which forces them to turn to do-it-yourself solutions. Also, for many professions, it is not clear how to measure quality.

Other studies<sup>10</sup> find that the average wage is significantly higher for regulated professionals than for non-regulated professionals and that the introduction of regulation increases professionals' earnings. There is then a risk of those increases being transmitted to prices, to the detriment of the people using those services.

Research in the US - where the regulations vary from one state to another - allows for a comparison of the impact of regulation between non-regulating and regulating states. For example, there is evidence in the US that, for certain professions, employment growth has been 20% higher in states without regulation<sup>11</sup>.

Research in Germany<sup>12</sup> also led to the conclusion that regulating professions might have a negative impact on the mobility of professionals between jobs as it prevented professionals from reacting quickly to labour market opportunities.

### **2.4 Allow professionals to take advantage of the Single Market**

Market participants wishing to offer professional services across borders or to find a job in another Member State are faced with considerable numbers of regulatory barriers related to professions. The term “regulated profession”, as defined in the Professional Qualifications Directive<sup>13</sup>, covers not only professional activities but also titles, the access to which is subject to the possession of specific qualifications in national regulations.

In the Union, the number of regulated professions<sup>14</sup> varies between Member States, ranging from under 50 to over 400 per country<sup>15</sup>. The average number per Member State

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<sup>9</sup> Carroll and Gaston (1981) A Note on the Quality of Legal Services: Peer Review and Disciplinary Service, Maurizi (1980) The impact of regulation on quality: The case of California contractors, Kugler and Sauer (2005) Doctors without Borders? Relicensing Requirements and Negative Selection in the Market for Physicians

<sup>10</sup> Kleiner and Krueger (2013) Analyzing the Extent and Influence of Occupational Licensing on the Labor Market

<sup>11</sup> Kleiner (2006) see footnote 7

<sup>12</sup> Plantl and Spitz-Oener (2009), How does Entry Regulation Influence Entry to Self-Employment and Occupational Mobility?

<sup>13</sup> See Article 3(1)a of Directive 2005/36/EC

<sup>14</sup> Regulated professions database maintained by the Commission on the basis of information provided by Member States. The database lists the regulated professions covered by Directive 2005/36/EC. (website: [http://ec.europa.eu/internal\\_market/qualifications/regprof/index.cfm?fuseaction=home.home](http://ec.europa.eu/internal_market/qualifications/regprof/index.cfm?fuseaction=home.home))

<sup>15</sup> The number of regulated professions by Member States needs to be treated with caution. The way Member States currently list their regulated professions in the Regulated Professions Database may differ (certain Member States may notify one single profession covering a large range of different activities/specialities while other Member States may notify several professions).

is currently estimated at 157. The largest number of regulated professions is in the health sector (more than 40% of all regulated professions in the EU), followed by education, business services, construction, trade and transport. The large disparities that exist between Member States impede professionals wishing to work abroad or to offer their services across borders.

Modern and flexible regulations on the access to professions should facilitate the free movement of professionals and help address the questions of unemployment and labour shortages faced in different parts of the Union. It should also make it easier for companies run by professionals to offer their services across the Union, take advantage of potential economies of scale and scope through a bigger market without having to comply with multiple national regulatory barriers, and support a more efficient allocation of resources.

### **2.5 Need for full transparency and a robust analysis**

In the light of the above analysis, Member States have many reasons to thoroughly consider the effects of potential barriers to trade in professional services throughout the Single Market but also to have a better understanding of the role of regulated professions for their domestic economy.

The peer review carried out in the context of the Services Directive on legal form, shareholding and tariffs requirements has identified barriers to the exercise of certain professional activities and difficulties faced by professionals wishing to establish in another Member State. Certain of these requirements may make the setting up of subsidiaries impossible in practice. While some Member States have modified their regulations on these issues whilst implementing the Services Directive, the peer review has revealed that many Member States did not carry a thorough proportionality assessment of the regulations in place.

The forthcoming mutual evaluation offers the opportunity for each Member State to undertake a rigorous assessment of the barriers limiting access to professional activities. Full transparency on the professions regulated in each Member State is an indispensable first step. Member States should then begin screening all the entry restrictions they have identified and analyse the necessity and proportionality of these restrictions taking into due consideration the benefits they bring for society and the economic impact they create. In particular, the impact these regulations have on quality, price and employment should be taken into consideration.

In parallel, to provide support for the Member States' work, the Commission intends to launch an economic study in the first half of 2014 allowing for comparative case studies to measure in greater detail the benefits for regulating professions, for not regulating them or for opting for different approaches in regulation.

### **3. HOW WILL THE COMMISSION CONDUCT THE MUTUAL EVALUATION?**

The Commission is inviting the Member States to begin a mutual evaluation sooner rather than later. Member States which have already started a screening exercise of their regulated professions in the context of the European semester and Memorandum of understanding should not be exempted from this exercise but work on the basis of what has already been achieved in terms of reduction of the restrictions to professions.

A profession-by-profession analysis is necessary to assess the regulations restricting access to the professions. Reforms taking place in Poland, Portugal and Slovenia are using this approach. The workshop held on 17 June 2013 also confirmed the need to consider each profession's specificities on its own merits.

However, each Member State should not work in isolation to present the final outcome of its domestic assessment. Rather, allowing Member States to compare their systems as early as possible before each Member State takes a final position, appears pivotal. .

### **3.1 Scope**

Article 59 of the revised Professional Qualifications Directive specifies three criteria for examining requirements on the access to professions, which can be summed up as follows:

- Compatibility with the principle of non-discrimination according to nationality or place of residence: Member States should ensure that professionals can access regulated professions without being a national or without having to reside in their national territory.
- Justification: regulation must be justified by an overriding reason of general interest.
- Proportionality: the proportionality of national measures should be analysed with reference to their suitability to securing the objectives they pursue. They should also not go beyond what is necessary in order to attain these objectives.

### **3.2 Assessing the justification for regulation**

For each regulated profession, Member States should identify the specific reason of general interest, justifying a given regulatory framework and checking that this justification is still valid today.

#### **3.2.1 Multiple layers of regulation**

When discussing the need for regulation, Member States will be invited to look at the existing safeguards offered through other types of ex-ante or ex-post regulation applicable to the services provided by each profession e.g. approval procedures, compliance with technical and safety standards, and inspection mechanisms. Regulation on access to a profession by means of a specific qualification should be maintained only if these safeguards are not sufficient. Otherwise, there could be a risk of duplication, or administrative “red tape” for the service recipients.

For the same reason, regulations linked to the exercise of professional activities must also be taken into account, notably those examined in the context of the peer review conducted under the Services Directive, namely legal form and shareholding requirements. Member States should look at the cumulative effect of all restrictions imposed on the same profession, including where appropriate compulsory membership to professional associations. Maintaining a requirement of qualification could in certain cases make sense provided other types of restrictions have been removed or significantly revised.

### **3.2.2 Safeguards offered by education systems or employers**

In many Member States, training programmes, including apprenticeship periods, have been developed, under the control of the State, to prepare individuals to carry out specific professions' activities<sup>16</sup> which might be non-regulated. The qualifications delivered act as quality assurance for employers when the access to the profession as such is not regulated and when there is no reserve of activities.

Another important factor to take into account is the mode of exercise of the profession: regulating a profession which is mainly exercised by self-employed professionals could perhaps be considered as a necessary guarantee. The situation is different if the profession is mainly exercised by professionals employed in private companies or public entities where employers have a role to play in checking the competence of newly recruited staff and are responsible in the case of accidents or complaints.

These two elements - specific training and exercise of the profession as employee – should be taken into account when assessing the necessity of the regulation. They explain, for instance, why the engineering profession is not regulated in France where 95% of engineers are employed in a company or in public administration and recruitment is heavily based on the reputation of engineering schools.

### **3.2.3 Regional regulations**

Regional regulations on qualifications should face the same necessity test as regulations established at the federal level of a country. There is, however, an additional challenge. Mutual recognition of qualifications between regions in the same Member State needs to be effective in order to ensure professionals from the country or from abroad can practice on the entire national territory. As foreseen in article 10(4) of the Services Directive, any authorisation should in principle cover the entire territory of a Member State. In Spain, for instance, a major reform is therefore about to address these issues.

## **3.3 Assessing the proportionality of the regulation**

Where there is an overriding reason of general interest suitable for regulating access to a profession, Member States are also invited to examine the form and the level of regulation with a view to eliminating unjustified restrictions or barriers.

### **3.3.1 Scope and number of reserved activities**

The examination should consider the level of the required qualification as compared to the complexity of the tasks reserved to the profession. In some cases, it might be possible to revise the regulatory framework without compromising the desired objective, for instance by narrowing the scope of reserved activities, by granting access to some of the reserved activities to other regulated professions or by choosing less restrictive approaches. If, for instance, professionals from abroad request partial access to some but not all of the reserved activities, this might be an indicator of whether the existing regulation is still proportionate.

### **3.3.2 Impact on service recipients and on the market**

The proportionality analysis should also look at the impact of the regulation of the professions on the users of their services. For instance, in principle, the protection of

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<sup>16</sup> These are called «regulated education and training» under the Professional Qualifications Directive.



consumers could be used to justify any regulated profession, to reduce the risks associated with the professional activities. However, economic considerations, such as prices, wages, competitiveness and employment (see section 2.2. and 2.3) should also be assessed in each Member State and discussed amongst Member States.

### 3.3.3 Comparing alternative models

Member States use different forms of regulation for professional activities. The most common approach involves reserving the right to perform particular activities to qualified professionals by national laws or regulations. Other types include the protection of professional titles or mandatory or even voluntary certification schemes (see Annex I).

Member States using such systems are invited to present written reports on how mandatory and even voluntary certification schemes work in practice. In particular, they should refer to the use of accreditation according to Regulation (EC) No. 765/2008 as a public authority control of such certification schemes - in both the voluntary and mandatory sector - leading to recognition of accredited certificates.

The mutual evaluation should be an opportunity for the Member States which do not regulate professions in the sectors concerned to provide information on any alternative mechanisms guaranteeing the respect of an overriding reason of general interest. This should allow a dialogue between Member States using different approaches, where the impact of all types of formal and informal restrictions on the access to professional activities should be examined.

## 4. THE WORK PLAN

The process, illustrated in the flowchart in Annex II, should start in November 2013. Each Member State is invited first to carry out an accurate mapping of all its regulated professions and then continue with a screening of the justification for each regulated profession at domestic level. The next crucial step should be to compare the results in an extensive mutual evaluation between all Member States as early as possible. The Commission will regularly report on the progress made by Member States in the mutual evaluation. First measures aimed at reviewing the entry restrictions on certain professional activities should be proposed by Member States already by April 2015.

The mutual evaluation should be grouped in sectors in order to take account of the economic context (competition, price, employment, labour shortages, and quality of services). To facilitate the work, screening and mutual evaluation should be divided between two phases with distinct timetables, each one dealing with a different cluster of sectors. The first cluster should include all regulated professions in those economic sectors where modernisation of the regulatory framework could significantly contribute to employment and growth: business services, construction, manufacturing, real estate, transport, wholesale and retail. The second cluster should cover the remaining sectors (education, entertainment, health and social services, network services other than transport, public administration, tourism, other services/activities).

In parallel, the Commission will launch a study in the first half of 2014 (see section 2.5). The Commission will also continue to involve stakeholders and consult professions by holding annual workshops, as it did in June 2013.

After the screening mutual evaluation carried out for each cluster, Member States will be invited to present **national action plans**, which may include actions already underway.

For each regulated profession, they should determine the most appropriate action, including the following options:

- maintain the existing regulation on the access to the profession, indicating whether other types of regulation applicable to the exercise of the profession have been removed or reviewed;
- modify the existing regulation, for instance through a review of the qualification requirements, e.g. shortening the duration of the training programme or traineeship, or a reduction of the scope of reserved activities, e.g. reserving only the activities associated with specific expertise and/or higher risks;
- replace the existing form of regulation with another system capable of ensuring quality of the services, for instance protection of the title or a voluntary certification system supervised by State authorities; or
- repeal the existing regulation.

When Member States receive requests for new regulation directly from the professions, action plans should also contain clear and transparent criteria under which these requests for new regulation will be examined.

In order to facilitate the process, the Commission proposes to proceed in three phases with precise timetables and provide timely feedback to Member States in each phase.

#### **4.1 First phase: Mapping of professions in each Member State**

As of November 2013, Member States should check the information already available in the Commission's Regulated Professions Database and provide all the necessary additional data, including on the protection of titles and on professional activities subject to a mandatory certification. For those cases, where a mandatory certification originates from a EU Directive (e.g. in road transport), Member States should notify the Commission to which EU instrument it refers to. For each regulated profession, Member States should also provide a description of the reserved activities. The Regulated Professions Database should be completed by February 2014.

In March 2014, the Commission intends to publish a **European Map of Regulated Professions**.

#### **4.2 Second phase (November 2013 – April 2015): screening, evaluating and national action plans for the first cluster of sectors**

Between November 2013 and May 2014, Member States should perform a detailed screening for the professions covered under the first cluster. As from June 2014, the Commission will organise meetings to allow Member States to exchange the outcomes of their domestic screenings. All Member States will have the possibility to comment on the developments and initial conclusions from other Member States.

Member States will be invited to take account of the Commission's findings which it will present in its Annual Single Market Integration Report (together with a more detailed evaluation report) in November 2014.

The screening and mutual evaluation process should allow each Member State to prepare **initial reports on the professions included in the first cluster by April 2015**, indicating the measures they have taken or intend to take. The conclusions of these reports should be articulated with national reforms programmes (NRPs) to be delivered at the same time also as part of the European Semester. These findings could also be

considered in the context of the preparation of the 2015 Country Specific Recommendations.

#### **4.3 Third phase (June 2014 – January 2016): screening, evaluating and national action plans for the second cluster of sectors**

The same process as for the first cluster should be followed. The Commission will present detailed conclusions in its Annual Single Market Integration Report as well as a more detailed evaluation report in November 2015. Member States should provide a **second report by January 2016**, indicating the measures they have taken or intend to take. Again, the findings for these sectors could be considered for the 2016 European Semester.

In **June 2015 and March 2016**, the Commission will propose any follow up remedial actions in the light of the action plans received from Member States in June 2015 and in January 2016. These actions may include, inter alia, the launch of infringement procedures where discriminatory or disproportionate national requirements are maintained.

## **5. CONCLUSION**

The transparency and mutual evaluation of regulated professions should result in the modernisation of the national frameworks which limit the access to professions. The results should encourage the mobility of professionals in the Single Market, help to create new jobs in the professional sectors concerned, improve the competitiveness of these and related sectors and open growth opportunities.

The Commission expects Member States to fully engage in this exercise, devoting sufficient resources to participate in the screening and mutual evaluation of national regulations. The Commission is conscious of the significant work to be carried out at national level and is willing to assist wherever possible.

## ANNEX I

### **Different approaches in regulating professional activities**

#### ***1. Regulated professions associated with reserved activities***

Reserving the right to perform particular activities to qualified professionals by national laws or regulations is the most common approach. Under this approach, Member States themselves define a set of professional activities for which they consider that a specific qualification is required. For instance, the activities related to designing buildings are exclusively reserved to architects in many Member States.

Qualification requirements and the extent of reserved activities are usually controlled by a public authority at national or regional level. In some cases, this power is delegated to professional bodies (orders, chambers, colleges) which have organisational and disciplinary functions and are responsible for the development and application of a deontological code.

To overcome the possible barriers created by national regulations, a system of mutual recognition of qualifications has been put in place within the EU. Directive 2005/36/EC applies to professionals qualified in one Member State (whether or not the profession is regulated there) and willing to establish themselves or provide services in another Member State, where the profession is regulated.

#### ***2. Professional activities regulated through mandatory certification***

Access to professional activities which require specific knowledge of technical rules or processes may be subject to mandatory certification at national level. In some instances, this obligation derives from EU legislation. The main difference between this approach and the reserves of activity described above is that the qualification requirement is not exclusively linked to a profession as such. A limited range of specific technical activities depends on the possession of a certificate which could be acquired by members of different professions.

One example is the EU legislation in the area of fluorinated gases<sup>17</sup>. It provides for mandatory certification for companies and personnel working with stationary refrigeration, air conditioning and heat pump equipment. Similar legislation has been developed at EU level for certain categories of train drivers<sup>18</sup> and on certain categories of professional drivers engaged in road transport<sup>19</sup>.

In all these cases, the EU legislation defines the minimum training requirements. It sometimes defines the conditions and procedures for the recognition of the certificates issued in other Member States. In addition, if these certification schemes are based on accreditation in accordance with Regulation (EC) No. 765/2008, other Member States are obliged to recognise these certificates. However, where this is not the case or where the exact conditions for the recognition are not specified, Directive 2005/36/EC provides the necessary framework for recognition.

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<sup>17</sup> Regulation 842/2006 -; Commission Regulation 303/2008

<sup>18</sup> Directive 2007/59/EC

<sup>19</sup> Directive 2003/59/EC

### ***3. Protected professional titles***

Another approach consists of regulating the access to professional titles. In this case, a specific qualification is required to use a professional title, but the activity associated with the profession is not reserved to the holders of this title: anybody can exercise the activities, as long as they do not use the title. For example, the professional title of “Ingenieur” is protected by law in Germany and can be obtained only on the basis of an academic qualification in engineering or natural sciences.

Some professional bodies have the exclusive power, granted by public authorities, to award professional titles (e.g. professional bodies incorporated by charter in the UK).

A protected professional title is a signal for consumers and employers that the holder meets the particular qualifications requirements, whilst leaving them free to hire professionals who do not hold the title.

### ***4. Voluntary certification schemes***

Voluntary certification systems are often used by professions which are not regulated by law. Their main objectives are to demonstrate professional competence, guarantee quality of services and inform consumers, in the absence of regulation. Article 26 of the Services Directive<sup>20</sup> promotes the development of certification systems and quality labels to enable assessment of the competence of service providers and to ensure high quality of service.

Some certification schemes are developed by regulatory bodies appointed by state authorities (e.g. Hairdressing Council in the UK). The management of this type of certification systems can however entail important costs for stakeholders.

There is a growing trend among professional associations to develop their own certification schemes, and in some cases, to subject their membership to prior certification of the future member.

In Italy, a new law on the organisation of non-regulated professions was adopted in 2012 introducing the possibility to constitute professional associations and promoting the voluntary self-certification of professionals exercising non-regulated activities. The self-certification is to be based on national technical norms which define the competences required for the practice of the profession.

These practices aim to improve the transparency of professional activities for the consumers and help them choose between different service providers. However, if these certification schemes are not based on accreditation according to Regulation (EC) No. 765/2008, there is no control of their quality or functioning. In addition, they may create practical obstacles to the access of professional activities. They could, for example, favour the development of dominant professional associations, leading to the isolation of new entrants from other countries: although access to the professional activities would be unrestricted by law, certification would become a necessity on the market; at the same time, in the absence of state regulation, the system of recognition provided for in Directive 2005/36/EC would not apply.

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<sup>20</sup> Directive 2006/123/EC

## ANNEX II

