



EUROPEAN COMMISSION

MEMO

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Evaluating national regulations on access to professions – frequently asked questions

1. Why is the European Commission adopting a Communication on national regulations on access to professions?

Member States may reserve the right to access certain professional activities to the holders of specific qualifications (e.g. design of new buildings reserved to architects) for reasons of general interest. Such restrictions make the mobility of professionals within the single market more difficult. In addition, these measures may limit employment and competitiveness in the economic sectors concerned. The Commission is therefore inviting Member States to review their restrictions on the access to professions and to assess their proportionality.

The aim of this Communication is to prepare the transparency and mutual evaluation exercise foreseen in the revised Professional Qualifications Directive. A political agreement was reached on this proposal in June 2013 (see [MEMO/13/552](#)) and the revised Directive is due to be formally adopted before the end of the year. Article 59 of this Directive will introduce an obligation for Member States to list and describe the professions they regulate (including the activities reserved to qualified professionals) and to explain why the regulation is necessary. In addition, it foresees a mutual evaluation of the national legislation regulating the professions.

In this Communication, the Commission proposes a methodology and work plan for carrying out this mutual evaluation with all Member States.

2. What is a mutual evaluation exercise?

A mutual evaluation exercise requires each Member State to assess national restrictions and then to share their findings with other Member States. At a first stage, this is confidential.

The purpose of the mutual evaluation exercise, as foreseen in the revised Professional Qualifications Directive, is to increase understanding of the reasons underlying the regulation of professions and to encourage Member States to compare their regulatory approaches and to share best practices.

3. Which professions are regulated in the EU?

Hundreds of categories of regulated professions exist across the 28 Member States. A regulated profession implies that access to that profession is subject to a person holding a specific qualification, such as a university diploma.

Information about the specific professions regulated in Member States is available from the Commission's [Regulated Professions Database](#) (compiled from information made available by Member States)

4. Against which benchmarks will the assessment and mutual evaluation be carried out?

The Commission invites Member States to carry out a profession-by-profession analysis and to assess the justification for and proportionality of existing entry restrictions. The Communication includes several legal and economic arguments which could be examined by Member States and discussed during the mutual evaluation.

For example, the justification for entry restrictions should be assessed by taking into account other types of regulation imposed on the same activity, such as restrictions imposed on professional companies, technical standards imposed on the services provided, etc. Member States are invited to consider the cumulative effect of different rules with which the professional has to comply. The qualification requirement should also be considered in a labour market perspective, taking into consideration the possible role of employers and education bodies.

When assessing the proportionality of the entry restrictions, Member States should look at the level of the qualification required together with the complexity of the activities reserved to the profession. Alternative forms of regulation or protection, such as the use of titles or certifications, should also be examined to assess whether they would constitute a less restrictive and suitable alternative for the professional activity concerned. In addition, through the proportionality analysis, the Commission invites Member States to consider the balance between the measures taken to protect consumers and any economic impact on these consumers (increase in prices, reduction of consumer choice, etc.).

5. Are all professions concerned by this mutual evaluation?

The mutual evaluation exercise announced in this Communication is horizontal and covers all the professions falling under [Directive 2005/36/EC](#). The work plan suggested for conducting the mutual evaluation is organised in two clusters:

- the first cluster will cover professions in the fields of business services, construction, manufacturing, real estate, transport, wholesale and retail;
- the second cluster will be dedicated to professions in education, entertainment, health and social services, network services other than transport, public administration, tourism, and other services/activities.

6. What will the different steps of the mutual evaluation be?

The work plan proposed in the Communication is based on the following steps:

1. Mapping of the professions (November 2013 - March 2014): Member States will complete the Regulated Professions Database (list of regulated professions, identification of the type of regulation, description of reserved activities where relevant).

2. Assessment at national level and mutual evaluation:

a. First cluster of professions

- i. Detailed screening at national level (November 2013 – May 2014)
- ii. Mutual evaluation process (June 2014 – February 2015)
- iii. Preparation of national action plans (by April 2015)

b. Second cluster of professions

- i. Detailed screening at national level (June 2014 – November 2014)
- ii. Mutual evaluation process (November 2014 – September 2015)
- iii. Preparation of national action plans (by January 2016).

7. How will the stakeholders be involved in the mutual evaluation?

The Commission will continue to consult the interested professions during the mutual evaluation exercise. In particular, it will organise regular workshops to present the state of play of the mutual evaluation and to discuss developments. A first [workshop](#) took place on 17 June 2013.

8. What benefits can be expected?

The first benefit will be greater transparency regarding the professional activities for which a specific qualification is required in Member States. This is particularly important for professionals interested in providing their services in several Member States.

In addition, the Commission expects Member States to take concrete measures aimed at reducing the entry barriers to certain professional activities where they are not justified or proportionate. These measures should simplify access to professions, in particular for young people and for professionals from other Member States, and result in these sectors performing better for consumers in terms of choice of service provider and cost of the service.

9. Is the Commission encouraging Member States to deregulate professions?

No. The Commission is encouraging Member States to review their regulations limiting access to professions. Only in certain cases could such a review lead to the conclusion that the restrictions on the access to certain professions are unnecessary and should be eliminated. In other cases, Member States may decide to maintain the existing regulations or seek to improve them by for example reducing the level of the qualification required or restricting the scope of the activities reserved to qualified professionals.

The Commission will also invite the Member States that do not regulate certain professions to explain the alternative mechanisms used to protect consumers.

10. Will the mutual evaluation cover professions for which certification systems or protected titles are in place?

Yes, the mutual evaluation should cover all types of mechanisms that limit the access to professional activities or professional titles to qualified professionals. Member States should include in the transparency exercise all professional activities for which a mandatory certification is required or a protected title exists. In addition, the Commission invites Member States to provide greater transparency on voluntary certification systems developed by regulatory bodies or professional associations.

11. What is the link between this Communication and the accompanying Staff Working Document on legal forms, shareholding requirements and tariffs?

These two documents, presented by the Commission on the same day, are both related to the functioning of professional services. While this Communication is focused on the restrictions related to the access to professions, the Staff Working Document on legal forms, shareholding requirements and tariffs covers restrictions on the exercise of professional activities.

These documents cover separate but complementary exercises: a peer review carried out in the context of the Services Directive and a mutual evaluation which will be conducted under the Professional Qualifications Directive. Both exercises are aimed at reviewing restrictions imposed on the provision of professional services. As part of the necessity and proportionality assessments to be performed under the mutual evaluation exercise, Member States should also look at other forms of restriction imposed on professions. In this context, the impact of legal forms and shareholding requirements could be, in certain cases, seen as duplicating already existing regulations targeting the access to professions.

12. What is the link with the European semester process?

The European Semester and the transparency and mutual evaluation exercise are two different processes. The transparency and mutual evaluation exercise has been agreed by all Member States in the context of the revised Professionals Qualifications Directive, to be adopted before end 2013 and for which a political agreement was reached in June 2013. The process will last just over two years until March 2016. The European Semester on the other hand is an annual exercise under which the Council adopts recommendations to Member States on the basis of proposals made by the Commission. In the recommendations addressed to Member States in 2013, for eight Member States there was a recommendation related to the question of barriers to the access to or exercise of regulated professions.

At the end of the mutual evaluation exercise conducted by Member States, in light of the assessment made by the Commission, the Commission may decide to issue recommendations to certain Member States as part of the European Semester.

13. Why not legislate at EU level to remove barriers to achieve bigger gains?

Following the experience of the peer review under the Services Directive, it is important that Member States first thoroughly review their own regulatory framework. Benefits can be achieved more quickly in this way compared to any legislative initiative at this stage.