



**European Commission's Green paper
"Modernising the Professional Qualifications
Directive"
[COM(2011) 367 final]**

**CEC European Managers Position
September 2011**

Preface

In light of the Framework of actions for the lifelong development of competencies and qualifications adopted by the European social partners on 28 February 2002, among whom CEC, and in particular of its second priority aiming at improving the recognition and validation of competencies and qualifications acquired by employees in the course of their occupational life, CEC:

- . Asks for the establishment of effective, transparent and modern procedures for the recognition of professional qualifications, a key tool to promote mobility and respond to the increasing demand for highly-qualified jobs in certain Member States. From CEC's viewpoint, the refusal to recognise one's qualifications, be they academic or professional, is a much greater obstacle to mobility than discrepancies in the legal framework of employment relations. Thus, a possible reasoning could be that similar academic and professional qualifications are "a priori" equivalent, with no exclusion from the scope of the directive (this "a priori equivalence" must not impede the enforcement of compensation measures in case of substantial differences).
- . Stresses the importance of recognising qualifications and skills acquired through on-going training for employees working abroad.
- . Highlights the specific situation of executives and managerial staff as regards mobility, as studies show that managers are more likely to be mobile than less skilled workers. Therefore, it is all the more important for managers to keep their skills up to date, as their occupations are more exposed to changes.

(Q1) Do you have any comments on the respective roles of the competent authorities in the Member State of departure and the receiving Member State?

. CEC supports the Commission's view to increase the responsibilities borne by the Member State of departure in the process. It is clear that the verification of migrating professionals' qualifications will be facilitated in a system under which the Member State of departure is primarily responsible, as professionals are more familiar with their national authorities and national procedures than with those of the receiving Member State.

. However, this switch in the respective roles of participating countries is only envisaged if professionals apply for a European professional card. As the European professional card is to be delivered upon request by interested professionals and in no way mandatory, the verification process will become even more complex if an effective cooperation between competent authorities is not established. Managing both the current system and the new system once national competent authorities begin issuing European professional cards may create shortcomings and defaults in the recognition of qualifications. Therefore, CEC calls the European Commission to promote the European professional card exhaustively among professionals and employees.¹ Furthermore, the practice of certain occupations (architect, health sector) is subject to the holding of a national professional card in some Member States. CEC considers that it would be necessary that the national professional card suits the European card, in particular regarding the transfer of information from the national card towards the European professional card.

(Q2) 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).

. Regarding temporary mobility, CEC is in favour of the option 1, which maximizes the simplification of the process for professionals. Prior declaration is not necessary if the Member State of departure effectively verified the migrating professional's qualifications when delivering the European professional card. Nevertheless, the simplification of the process can only be reached if we ensure that the European professional card groups together all the essential information. Beyond the administrative information required by the prior declaration which must be taken up (reference of the insurance company, number of the contract, legal address...)², the European professional card could also aggregate technical information (information similar to the content of a CV: graduations, professional experience, specific skills...).

¹ Considering the experience of the European Curriculum Vitae which is non-binding and therefore faces difficulties to be spread among Member States, CEC deems that the professional card could acquire binding force to increase the efficiency of the European system for mobility.

² Article 7 of the Directive states that when the service provider moves from one Member State to another in order to provide services, the prior declaration sent to the host Member State shall include in particular information on the protection of the worker with regard to professional liability.

Thus, the professional card would be more general and comprehensive, and would significantly simplify the administrative process for mobility.³

. In any case, be it permanent or long-term establishment through automatic or non-automatic recognition, CEC considers that the European professional card should enable faster cooperation between the Member State of departure and the receiving Member State. The deadlines suggested by the Commission seem realistic. If however the period currently foreseen was not sufficient, Member States should at least commit to reduce by half the length of recognition procedures.

(Q3) 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.)

. As transnational mobility becomes a requirement in every manager's career, CEC welcomes every initiative that could lead to facilitating mobility. The insertion of the principle of partial access into the Directive would be a step forward: beyond the extension of safeguards that it would offer professionals as highlighted in the Green Paper, this would also contribute to raising awareness on this type of access among professionals and thus intensify its use.

. Nevertheless, proportionate restrictions on the freedom of establishment and the freedom to provide services could still be necessary, in particular for the transferability of qualifications in recognized hazardous industries.⁴

(Q4) 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.)

. CEC supports the Commission's proposal to lower the current threshold required for the creation of a common platform, and welcomes the decision to move the concept closer to the automatic recognition systems. Common platforms could be an interesting tool to facilitate the mobility of numerous professionals who do not benefit from automatic recognition, provided that they are effectively used to develop common standards and competencies for a given profession rather than "accommodate" potential huge differences between national regulations.

³ This proposal derives from the idea of a "blue passport" recently presented by the European sectoral federations during the meetings of the European sectoral dialogue. Nevertheless, CEC wishes to call attention to the rules of protection that will govern the personal data featured on the card.

⁴ Coal mining for example.

(Q6) 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).

. As mentioned in the answer to question 1, CEC is in favour of every initiative towards the simplification of the verification of migrating professionals' qualifications. Easy access to information is an absolute necessity to ensure the efficiency of the system. A central online access point offering complete information on competent authorities and document requirements, as well as possibilities to complete applications online should thus be mandatory.

(Q8) 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.)

. With regard to the concept of education defined in a lifelong learning perspective, as expressed in the Framework of Actions above-mentioned, CEC pushes for the extension of the notion of regulated education and training. Thus, general and "transferable" skills must continue to be promoted within education and training programmes, as a majority of employees have several different occupations throughout their working life. CEC is particularly aware of the importance of on-going training in the working life: if this is important to general workers regarding their ever changing environment, it is vital to managers and executives in order to stay "operational" and anticipate changes in their field of activity. From CEC's perspective, professionals can only keep up their skills and competences through on-going training.

. The European Commission acknowledges in its Green Paper that a revision of the definition of the notion of regulated education and training could enable many more professionals to benefit from temporary mobility. CEC considers that transnational mobility is an important way to increase professional skills and experience. Therefore, keeping the definition of regulated education and training limited to those specifically geared towards a specific profession would hinder the initial objective of the Directive, namely facilitating and increasing mobility in the Single Market.

(Q9) Would you support the deletion of the classification outlined in Article 11 (including Annex II)? (Please give specific arguments for or against this approach).

. CEC supports the deletion of the five levels of qualification defined in Article 11. Avoiding any exclusion from the scope of the Directive prior to the examination of substantial differences in training would increase the number of professionals who could benefit from the recognition of their qualifications. CEC is aware of the Commission's assessment of Article 11, supported by comments from stakeholders.⁵ Nevertheless, the deletion of Article 11 could be seen as a decision to open up the system of recognition

⁵ In its evaluation document of the Professional Qualifications Directive, the European Commission underlines that Article 11 is mainly used by competent authorities in a different way than initially intended, namely to determine if the applicant can benefit from the Directive. Indeed, the majority of competent authorities use Article 11 "as a benchmarking tool to assess the necessity of compensation measures". Evaluation of the Professional Qualifications Directive, Working Document of the Directorate General Internal Market and Services of the European Commission, published on 5 July 2011.

of qualifications. It would be an important step in favour of professional mobility, as it would fully protect the individual right to work anywhere within the European single market. Diminishing restrictive regulation within the Directive will thus enable all professionals to take full advantage of the freedom of movement.

. Moreover, the classification outlined in the European Qualifications Framework is closer to individual situations than the classification of Article 11, as the former is based on learning outcomes. Even though it can be time consuming to compare learning outcomes when competent authorities proceed with the verification of qualifications, this would better take into account the skills and competences acquired by the applicant (rather than focusing on the type and duration of training). Therefore, the European Qualifications Framework must be promoted so as to better match jobs with skills and competencies, regardless the type of qualification.

(Q10) 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.)

. From CEC's perspective, supporting the deletion of Article 11 of the Directive in order to clarify the recognition process and to increase mobility opportunities should not lead to giving Member States more discretion in the use of compensation measures. CEC welcomes in particular the third step identified by the European Commission, namely the mandatory explanation required in case of compensation measure imposed by the competent authority in the host Member State. Indeed, as underlined by the evaluation document of the Professional Qualifications Directive above-mentioned, « in the majority of cases (73% of all recognition decisions), citizens obtain the recognition of their qualifications without any compensation measures ». Thus, CEC considers that such a requirement would not be excessively burdensome for national authorities and would effectively restrain the use of disproportionate compensation measures.

. In light of the answer given to questions 8 and 9, CEC supports the deletion of Article 13(2) of the Directive. Avoiding a-priori exclusion from the scope of the Directive is an absolute necessity in order that more professionals can have their qualifications recognised, be they academic or professional. The assessment of qualifications and the identification of potential substantial differences must be privileged without exclusion.