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THE EUROPEAN UNION**

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NOTE

from: Presidency / General Secretariat of the Council
to: Permanent Representatives Committee / Council (Competitiveness)
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Subject: Presidency Progress Report on the modernisation of the Professional
Qualifications Directive

The attached progress report, drawn under the Presidency's responsibility, outlines the progress achieved so far regarding the proposal for a Directive amending Directive 2005/36/EC on the recognition of professional qualifications, which is one of the priority proposals of the Single Market Act I.

Without prejudice to ongoing work, the report is focusing on the progress achieved in a number of key issues addressed by the proposed Directive, namely the European Professional Card, the transparency of regulated professions, some other horizontal issues and aspects relating to individual professions.

The Council (Competitiveness) will be invited to take note of the report set out in Annex to this Note at its meeting on 10-11 December 2012.

I. INTRODUCTION

Mobility of qualified professionals is still low in the European Union.¹ The potential for a more integrated services market and the use of electronic procedures remain largely unexploited in the area of professional services. The modernisation of the professional qualifications recognition system has been identified by the Commission as being very significant. In order to simplify the procedures, modernise the recognition system and extend the scope of the Directive, the Commission presented in December 2011 a proposal to modernise the Professional Qualifications Directive.

This proposal is one of the twelve levers of the Single Market Act I (SMA I) presented by the Commission in April 2011 aiming to boost growth and strengthen confidence amongst citizens. On 23 October 2011, the European Council indicated that "*all efforts should be made to ensure agreement by the end of 2012 on the 12 priority proposals set out in the SMA I, giving utmost priority to those which can bring the most benefits to growth and jobs*". In a letter of 8 October 2012, the President of the European Council appealed to all Member States and European institutions for further efforts to conclude the measures of SMA I, including the modernisation of the Professional Qualifications Directive, as soon as possible.

II. STATE OF PLAY

The Working Party on Establishment and Services has examined the proposal at ten meetings (twelve days, seven of which under Cyprus Presidency), most recently on 28 and 29 November 2012. The discussions were based primarily on two compromise texts presented respectively by the Danish and the Cyprus Presidencies. The Presidency had also contacts with the IMCO Rapporteur, Ms Vergnaud.

¹ According to the EU Labour Force Survey (EU-LFS) in the second quarter of 2012 there were around 7.6 million EU citizens economically active in another EU country, representing 3.1% of the EU labour force and the size of the annual increases is only around 0.1%. Also, 10% of EU citizens have already worked abroad and 28% of EU citizens are considering working abroad. (Eurobarometer n° 363).

The Competitiveness Council:

- on 30 May 2012, held an orientation debate on the European Professional Card and the transparency exercise
- on 10 October 2012, pledged to intensify efforts in order to speed up the process for the adoption of the twelve levers included in the SMA I.

The proposal has been welcomed by all Member States in general since it aims to modernise, simplify and accelerate the recognition procedures. However, delegations have reservations on a considerable number of issues, which the Presidency has tried to address by presenting compromise proposals.

In particular, the Working Party has discussed in depth the following elements of the proposal:

A. European Professional Card

The European Council of 30 January 2012 welcomed the idea of the European Professional Card, an instrument which would simplify and accelerate the recognition procedures. However, the practical modalities of the implementation of the card are still to be agreed in greater detail. Further important progress has been made on the basis of a compromise text presented by the Presidency in October. The Presidency also notes the high expectations in the European Parliament on this issue supported by the IMCO Rapporteur.

B. Transparency of regulated professions

The European Council of 2 March 2012 stressed the importance of reducing the number of regulated professions and removing unjustified regulatory barriers. The proposal provides for a transparency exercise involving an evaluation of the justification of the need for regulation against the principles of necessity, proportionality and non-discrimination. The discussions have shown a difference of views among Member States. While some Member States would prefer to start the

mutual evaluation as quickly as possible, others advocate a more cautious approach underlining the competence of the Member State to regulate the professions. The Presidency notes the intention of the Commission, announced in its Communication on the implementation of the Services Directive of 8 June 2012,² to publish in 2013, once the revised Directive has been adopted, a Communication drawing on progress made with the country specific recommendations and other developments in Member States as regards the regulation of professions and setting out a common methodology for the evaluation in this field.

C. Other horizontal issues

Discussion progressed well on all the other horizontal aspects of the proposal.

More specifically:

- Member States tend to agree regarding the exclusion of health professions from the scope of the **partial access principle**.
- The conditions for **recognition of remunerated traineeships** need further clarification but Member States largely agree that the remuneration element should not be decisive.
- Further discussions are needed also regarding the scope of the **alert mechanism**.

D. Individual professions

The proposal foresees updating the minimum training requirements for the sectoral professions and the inclusion of notaries – under specific conditions – in the scope of the Directive.

The discussions regarding the update of the minimum training requirements focused especially on the training conditions for **doctors** and on the access conditions to **nurse** education, where significant progress has been achieved on the basis of a possible compromise formula presented by the Presidency. A number of Member States have specific needs for this sector and a balanced compromise should be found. Member States agree that the current rules regarding traineeship for **pharmacists** should not change. Significant progress has also been made regarding the minimum training requirements for **architects**.

² Doc. 11145/12.

There is support for the exclusion of **notaries** from the scope of the Directive. The Commission is reflecting on a pragmatic way forward, suggesting as a possible solution the provision of a review and a standstill clause.

III. CONCLUSION

The Presidency, in cooperation with the forthcoming Irish Presidency, intends to finalise a new compromise text, which will serve as a basis for further discussions in the Working Party as from January 2013, and to assist the incoming Presidency to reach a rapid agreement with the European Parliament.
