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Dear Mrs Vergnaud,

Re: Modernising the Professional Qualifications Directive

FEE (the Federation of European Accountants) is pleased to provide you below with its comments on the European Commission's proposal for a Directive of the European Parliament and of the Council amending Directive 2005/36/EC on the recognition of professional qualifications and Regulation on administrative cooperation through the Internal Market Information System of 19 December 2011 (proposed PQD).

Recognition of professional qualifications obtained in another EU Member State is essential to establish an internal market for professional services.

We support the European Commission's objective of modernising and simplifying the existing rules to facilitate mobility for professionals where appropriate and help make the European economy more competitive while encouraging growth and job creation.

FEE has for many years supported initiatives to increase mobility of professionals in the accountancy services sphere, including working with member bodies to explain the arrangements under EU legislation for mobility and to reduce barriers.¹

Background information about the accountancy profession across 30 European countries is available in a recently published [FEE survey](#), including an outline of the different education, qualification and registration requirements (also for professionals from other EU Member States).

¹ FEE paper "Internal Market for Services and the Accountancy Profession: Qualifications and Recognition", November 2007, http://www.fee.be/publications/default.asp?library_ref=4&content_ref=761;
FEE Round Table on Qualifications and Recognition, June 2008,
http://www.fee.be/news/default.asp?library_ref=2&content_ref=848
FEE comments dated 14 April 2010, 17 March 2011 and 22 September 2011
http://www.fee.be/news/default.asp?content_ref=1471&library_ref=2

Mobility for trainees

The proposed PQD (Articles 2 para. 1 and 55a) would expand the scope also to nationals of a Member State wishing to pursue a remunerated traineeship in another Member State.

We welcome the proposed extension of the scope of the Directive, because mobility of trainees is equally important as mobility of professionals.

For statutory auditors, the existing legal framework² already allows mobility of trainees. In extreme cases, even the whole training period could be followed in another Member State.

Regarding other accountancy services, mobility of trainees is equally important. As the final examination after the training would take place in the home Member State, we trust that there would be adequate guarantee that a candidate has to provide acceptable proof of his knowledge in national law of the home Member State (e.g. tax and company law of the home Member State).

However, we see a need to clarify the proposed PQD regarding the following two subjects:

According to the proposed Article 55a, the home Member State shall recognise the remunerated traineeship pursued in another Member State and certified by a competent authority of that Member State.

As a remunerated traineeship is generally pursued in a firm, it is unclear, which competent authority in the host Member State could certify the training. Would it be the competent authority that is dealing with qualification and/or registration of qualified professionals in the host Member State? Would the trainee be required to register pro-forma with a professional institute?

Furthermore, the requirements for practical experience of trainees can have a different scope and content in home and host Member State, for example in those cases where a profession is not regulated to the same extent or in the same way in home and host Member State, meaning that education and qualification requirements are different. That can for example be the case if the profession in the host Member State is allowed to provide a different range of services (either more or less) than in the home Member State.

The training that would be certified by the host Member State in those cases may than for example only comprise part of what would be considered as an appropriate training in the home Member State. Would the home Member State be allowed to recognise the completed training as “partial” training and could the home Member State subsequently request further training in the home Member State?

² The legal framework regarding statutory audit services is under review, see the proposal for a Directive of the European Parliament and of the Council amending Directive 2006/43/EC on statutory audits of annual accounts and consolidated accounts and Proposal for a Regulation of the European Parliament and of the Council on specific requirements regarding statutory audit of public interest entities dated 30 November 2011

European Professional Card

The proposed PQD (Articles 4a – 4e) introduces the possibility for a European Professional Card, which would for each profession require an EU implementing act. Additionally, a European Professional Card would only be issued upon request by professionals.

We welcome that the European Professional Card would be optional for professionals. The provisions related to procedure, content and consequences of a European Professional Card appear to be comprehensive and well explained.

The European Professional Card has some potential to enhance recognition procedures, increase cross-border mobility as well as – where combined with appropriate control mechanisms to prevent misuse – transparency for both consumers and employers. In the long term it might even lead to qualification requirements becoming more similar within the EU, as measures to prevent qualification “shopping” evolve.

However, when analysing the proposed provisions, the European Parliament may want to consider specifically whether the system would be cost-efficient and non-bureaucratic to implement and maintain. Reliability and data protection matters would also have to be taken into account.

For further details we refer to the comment letters that FEE has issued in the course of the European Commission’s process of review of the PQD.³

Prior declaration

The proposed PQD would not change the requirement for a prior declaration as such (Article 7). Only in cases where a European Professional Card is used (see above), the transmission of the validation information to the host Member State concerned shall constitute the prior declaration (Article 4c para. 1).

We welcome that the system will harmonise the declaration process at least in those cases where the European Professional Card is used.

However, for professions without a European Professional Card, the current system of a prior declaration would remain. This system is not consistently interpreted in the Member States which might lead to barriers in the internal market.

There is still a need to clarify the requirements for the prior declaration, in particular under which circumstances the prior declaration needs to be renewed, for example if another service is provided to the same client in the host Member State or if a similar service is provided to another client in the same host Member State.

³ FEE comments dated 14 April 2010, 17 March 2011 and 22 September 2011
http://www.fee.be/news/default.asp?content_ref=1471&library_ref=2

Partial access

The proposed PQD (Article 4f) would allow partial access to a profession under certain conditions.

We refrain from detailed comments, as partial access to the accountancy profession is only relevant in exceptional cases, because many accountancy activities (other than the provision of statutory audit services) are not regulated and not reserved to a specific profession.

Professional accountants provide a wide range of - sometimes mutually exclusive - services, including preparation of financial information, tax services, statutory audit, as well as many innovative services in the areas of non-financial reporting, assurance services other than statutory audit, sustainability and corporate social responsibility, strategy and management consultancy and corporate governance.

The rules regarding the pursuit of those activities generally vary across Europe:

Depending on the Member State concerned, the provision of all or some of these accountancy services can be regulated or not.

Where regulatory approaches for the market access of accountants exist, which can for example cover education and qualification, the use of professional titles as well as membership in professional institutes and supervision, the rules vary from country to country.

Qualification and market access of professionals are harmonised at EU level for statutory audit services only. However, under the current legal framework,⁴ accountants who want to establish in another Member State and provide statutory audit services, need to be approved and registered in this Member State and are subject to an aptitude test. Therefore, partial access regarding statutory audit services appears to be impossible.

Temporary and occasional services in another Member State

Although the proposed PQD (Article 5) does not change the regime for temporary and occasional services in another Member State for accountancy services in general, the review of the Directive should be used as an occasion to clarify the following two issues:

As technology is getting smarter, more and more professional services are provided on-line, either in form of advice via email for intellectual services or in form of automated services via on-line access to the client's business data. Direct physical contact with the client, e.g. meetings, or on-site presence of the service provider is no longer required to the same extent.

⁴ The legal framework regarding statutory audit services is under review, see the proposal for a Directive of the European Parliament and of the Council amending Directive 2006/43/EC on statutory audits of annual accounts and consolidated accounts and Proposal for a Regulation of the European Parliament and of the Council on specific requirements regarding statutory audit of public interest entities dated 30 November 2011

As technology does not stop at borders, the concept of temporary and occasional services in another Member State needs to be reconsidered as a whole and adapted to a contemporary professional environment.

If the concept as such is not completely overhauled, it becomes even more important to define what “temporary and occasional” means in practice. Although we understand that it is challenging to include such a definition in a Directive that applies to more than 800 professions, the effort should be undertaken for the benefit of simplifying and enhancing cross-border trade in services and thus the completion of the Single Market.

Regarding statutory audit services it needs to be highlighted that the specific provisions of the Statutory Audit Directive prevail.⁵

Additionally, the review of the Directive could also be used to clarify Article 5 para. 1 (b).

The proposed (and not significantly amended provision) says that “Member States shall not restrict the free provision of services in another Member State where the service provider moves, if he has pursued that profession in one or several Member States *for at least two years* during the last 10 years preceding the provision of services when the profession is not regulated in the Member State of establishment.”

As outlined by the Court of Justice of the European Union⁶, the experience relied on must consist of *full-time* work for at least two years during the previous ten years, therefore a reference to “full-time” work should also be made in the Directive.

Compensation measures

The proposed PQD would provide for a harmonisation of the aptitude test process, as far as the frequency and the possibility to resit the test are concerned (Article 14 para. 7).

Further harmonisation (e.g. written or oral tests, duration of the test and – to the extent possible – also the content) would have been helpful; however, we understand that it is practically not feasible in a Directive that applies to more than 800 professions.

It needs to be highlighted that regarding statutory audit services the provisions of the Statutory Audit Directive prevail.⁷

⁵ The legal framework regarding statutory audit services is under review, see the proposal for a Directive of the European Parliament and of the Council amending Directive 2006/43/EC on statutory audits of annual accounts and consolidated accounts and Proposal for a Regulation of the European Parliament and of the Council on specific requirements regarding statutory audit of public interest entities dated 30 November 2011

⁶ C-424/09, Judgement dated 5 April 2011,
<http://curia.europa.eu/juris/document/document.jsf?text=profession%2Bqualification%2Btwo%2Byears&docid=81746&pageIndex=0&doclang=EN&mode=req&dir=&occ=first&part=1&cid=2736564#ctx1>

⁷ The legal framework regarding statutory audit services is under review, see the proposal for a Directive of the European Parliament and of the Council amending Directive 2006/43/EC on statutory audits of annual accounts and consolidated accounts and Proposal for a Regulation of the European Parliament and of the Council on specific requirements regarding statutory audit of public interest entities dated 30 November 2011

Levels of qualification

The proposed PQD still groups professional qualifications under certain levels for the conditions for recognition and for the decision to impose compensation measures.

However, some of the levels of qualification have been amended (in particular Article 11 (c), (d) and (e)) and one paragraph is deleted.

Although we welcome the proposed amendments, because they drive the focus more on substance and content of a qualification, these amendments may lead to challenges in practice for the relevant host Member State to assess a qualification, in particular as a reference to the European Credit Transfer and Accumulation System (ECTS) is included.

Common training frameworks and tests

The proposed PQD would introduce the possibility for common training frameworks and tests under certain conditions with the consequence of automatic recognition (Articles 49 a and 49b) provided that the profession is regulated in at least one third of all Member States (currently 9). This system would replace the current system of common platforms that requires two thirds of all Member States (currently 18).

We welcome the idea of common training frameworks and tests, which might become a possible step forward in approximating professional qualifications across the European Union.

For the accountancy profession it would be challenging to develop a common training framework taking into account that accountancy services require in-depth knowledge of national tax and company law.

As long as these areas of law vary considerably across the European Union, automatic recognition without compensation measures appears to be implausible.

Nevertheless, there are already some international benchmarks available in form of the “International Education Standards” (IES 1 – 8) for the accountancy profession issued by the International Accounting Education Standards Board (IAESB) that could serve as a starting point.

Another initiative trying to develop, maintain and unify professional accountancy education benchmarks is the Common Content Project.

Language

The proposed PQD (Article 53) obliges Member States to ensure that controls of the knowledge of a language are carried out if there is a serious and concrete doubt about the professional’s sufficient language knowledge.

Where an aptitude test is required, it already represents an inherent language test, because the aptitude test is in the vast majority of Member States only offered in national language(s).

Nevertheless, adequate proficiency in language is a prerequisite for a proper understanding of laws etc. applicable in a particular jurisdiction. Therefore, we welcome the proposed PQD amendments.

Central online access to information

We welcome the proposed PQD provision (Article 57a) that Member States will be obliged to inform all interested parties via a central online access to information point. We appreciate that the existing points of single contact will be used for that purpose, so that the service providers can find information via one online-portal.

However, in practice the points of single contact refer to the local competent authorities for specific questions, where the service provider might face different levels of understanding and efficiency.

Member States should be encouraged to promote and further develop the effectiveness of communication of the respective competent authorities.

Transparency – numbers of regulated professions

The proposed PQD (Article 59) will require Member States to evaluate their regulated professions. We understand that the ultimate aim of the evaluation exercise would be to finally reduce the number of regulated professions.

Generally, the requested list of existing regulated professions per Member State could provide a reasonable basis to evaluate different models existing across the European Union and to proceed with reflections on the role of regulation of professional activities and titles.

However, it might be worth noting that the decision of a Member State to regulate or not regulate a specific profession can be driven by national considerations about the public interest, quality assurance and consumer protection.

For further information on this letter, please contact Petra Weymüller, FEE Senior Manager from the FEE Secretariat at Tel.: +32 2 285 40 75 or e-mail at petra.weymuller@fee.be.

Yours sincerely,



Philip Johnson
FEE President

cc: Malcolm Harbour, Chair of IMCO, European Parliament
Pervenche Berès, Chair of EMPL, European Parliament
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