



## **EPSU contribution to the public consultation on the Directive on the Recognition of Professional Qualifications (2005/36/EC)**

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### **1. Introduction**

On 7 January 2011 the European Commission, DG MARKT, launched a public consultation on the Professional Qualifications Directive.

EPSU, the European Public Service Union (<http://www.epsu.org>), welcomes the opportunity to contribute to the ongoing process of evaluation and revision of the Directive on the Recognition of Professional Qualifications (2005/36/EC).

EPSU covers four key sectors: 1) Local and regional government (municipalities, districts, provinces/regions); 2) Central government and European administration; 3) Public utilities (i.e. the network industries: electricity, gas, water, waste) and 4) Health and social services.

Main horizontal issues EPSU as a platform for coordinated trade union action in all fields of public services deals with are 1) collective bargaining, 2) gender equality and 3) migration.

Topics such as professional education and training and competencies (including knowledge, skills, attitudes and values), working and pay conditions, the quality of public services for citizens as well as workers’/employees’ participation in social dialogue at different levels (enterprise, sectoral, national, European) are high on EPSU’ agenda. In these contexts EPSU aims at safeguarding standards, conditions or minimum requirements achieved through collective agreements or legislation respectively and of improving them.

**EPSU represents a total of about 8 million workers in 250 trade unions in 47 countries across Europe. 60% of the members of EPSU’s affiliates are women.**

**In the sector of health and social services**, with a share of on average nearly 90% female workforce across the EU, **EPSU represents about 3.5 unionised million women and men.**

The European social partners in the hospital sector, **EPSU and HOSPEEM**, have coordinated their work around this consultation and **decided to submit a joint contribution** (more info: 3.1)

This document contains EPSU’s reply to the questions of the consultation document (5.; pp. 6-16), EPSU’s main demands and recommendations (2.) as well as explanatory notes on the joint HOSPEEM-EPSU response (3.) and on the EPSU reply (4.).

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## 2. EPSU's main demands and recommendations

EPSU's **main five messages around priority issues** are summarised below. They are further developed under section 5. They have to be read and understood in the context our full reply.

1. In EPSU's view harmonised standards of **minimum requirements for health professionals under the automatic recognition principle have provided a simple, swift means of recognition** for health professionals across Europe and should continue to be supported, and implemented, although some modernisation is required. EPSU is against using/extending the option of "partial access" for the nursing and midwifery profession.

2. EPSU would like to see the **Internal Market Information System** (IMI system) developing in the direction to facilitate the process of the cross-country recognition of professional qualifications in an online modality and to assume the function of a "one stop shop". Its use could become mandatory for all competent authorities and professionals, especially for those in the health care sector.

3. EPSU members agree on the necessity and the advantages to **update** relevant annexes – e.g. Annex V in the case of sectoral professions – **with new topics, contents and competencies**. Several EPSU affiliates recommend that competence areas to a higher extent reflect qualifications as required and competencies as defined by the European Qualifications Framework (EQF) and/or in the Bologna process.

4. EPSU affiliates broadly agree that a framework for **Continuous Professional Development** (CPD) providing a common transversal concept should be integrated in the Directive as part of Article 22. They see the need that fundamental principles of CPD including a commitment to patient safety and quality of care are referred to in Community legislation, and then followed through by member states and the healthcare professionals. In order to make this orientation useful they recall the **need to improve the cross-border recognition of certificates issued under CPD**.

5. EPSU members agree on the need for employers to do a **language** test at the point of employment of a migrant health care professionals. In this context EPSU underlines the responsibility of employers in ensuring someone is competent for the job she/he is recruited to as well as for **proper induction for new staff from other countries**.

For EPSU it is important to recall as general guiding principle that **three key objectives are paramount and need to be guaranteed when updating and revising Directive 2005/36/EC**:

- High level of qualification and professional standards to ensure minimum requirements for access to the profession for the health care workforce for the health care workforce – concerning in particular professions benefitting from automatic recognition, but also those falling under the general system
- Health and safety of patients
- Quality of service provision in health and social care

In EPSU's view these objectives are the benchmarks against which the realisation and promotion of free movement within the EU and the recognition of professional qualifications need to be assessed and balanced with. In case of conflict they have to prevail.

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### 3. Explanatory note on the joint HOSPEEM-EPSU contribution

#### 3.1 Joint HOSPEEM-EPSU response

HOSPEEM, the European Hospital and Healthcare Employers' Association, and EPSU, the European Public Service Union, have decided to submit a **joint response to this consultation**. It has to be read as complementary to the present response by EPSU (cf. 5.) and to replies of individual EPSU members (see below 4.2)

This reply reflects the issues, concerns and proposal on which full or broad consensus between the European social partners for the hospital and health care sector could be reached. This is the case for two third to three quarters of general text submitted in EPSU's contribution.

#### 3.2 Guiding principles for EPSU and HOSPEEM in view of updates and revisions of directive

EPSU and HOSPEEM agree that **three key objectives are paramount and need to be guaranteed when updating and revising Directive 2005/36/EC**:

- High level of qualification and professional standards to ensure minimum requirements for access to the profession for the health care workforce – concerning in particular professions benefitting from automatic recognition, but also those falling under the general system
- Health and safety of patients
- Quality of service provision in health and social care

In EPSU's view these objectives are the benchmarks against which the realisation and promotion of free movement within the EU and the recognition of professional qualifications need to be assessed and balanced with. In case of conflict they have to prevail.

Respecting these reference points will benefit employers, workers/employees and patients/users of health and social care services. Such an orientation is also in line with the objective of effective, efficient and financially sustainable health care systems delivering quality services as reflected in the Council Conclusions on Common Values and Principles in European Union Health Systems (22.06.2006) (2006/C 146/01). Using these guiding principles as benchmarks for updates and revisions of the European legal framework insofar finally is in the general interest.

#### 3.3 Relevant instruments available in the framework of the European sectoral social dialogue

In recent years the **European social partners have elaborated and adopted two instruments** also dealing with the transnational dimension of professional qualifications, competencies and continued professional development:

- The HOSPEEM-EPSU Code of Conduct on ethical cross-border recruitment and retention (2008) (<http://www.epsu.org/a/3718>), signed in April 2008, committing their affiliates to implement it and to monitor outcomes by 2012. It has inspired and guided to a considerable extent the elaboration of a WHO Code of Conduct with a global scope.
- The HOSPEEM-EPSU "Framework of Actions 'Recruitment and Retention'" defines training, up-skilling and continuous professional development as one of the priority concerns for the future work of European social partners in the hospital sector. The document (<http://www.epsu.org/a/7158>) has been finally adopted and signed in December 2010, following two years of detailed work and extensive exchange between HOSPEEM and EPSU. Our joint work programme 2011-2013 contains concrete activities underpinning and promoting the objectives and principles agreed.

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Both instruments help orienting EPSU's and HOSPEEM's work and exchange on professional qualifications and continued professional development. They also allow taking into account the interfaces to other key challenges for the health and social care sector, such as recruitment and retention, ageing and cross-border mobility and migration of the health care workforce.

### 3.4 Further involvement of social partners in process towards Green Paper and revised directive

HOSPEEM and EPSU have been looking into the topic of the recognition of professional qualifications in the first meeting of the Sectoral Social Dialogue Committee in 2011 and since then continued exchange and discussion, both within and across the employers' and employees' groups.

According to the **HOSPEEM-EPSU Work Programme 2011-2013** related work will predominantly take place during 2011 and in early 2012. It is the **priority issue for the first semester 2011**. HOSPEEM's and EPSU's interest and attention, however, will definitively reach beyond the current phase of evaluation, consultation and revision. Once adopted, the implementation and the monitoring of the economic and social impacts of the new legal framework will be accompanied by the social partners in this sector at different levels (enterprise, sectoral, national, European).

This is why the **European social partners in the hospital sector would like to underline their interest to be involved and signal their availability to participate throughout the further consultation and legislative process** to update and revise Directive 2005/36/EC.

### 3.5 Benefits and challenges related to the realisation of the fundamental freedom of movement

Work-related migration from third countries and mobility of health care professionals within the EU has become a widespread reality and can be expected to even grow in importance in the years to come. Facilitating access to the labour market of a EU member state other than the one where professional qualifications have been acquired and certified is instrumental to on the one hand better address staff shortages and on the other to also reply to the desire of health care professionals to work abroad (for some time or forever).

EPSU and HOSPEEM are in support of instruments and initiatives that help to realise the fundamental right of free movement of workers in the internal market including the EU system for the recognition of professional qualifications. Updated, clear and targeted rules and an effective and clear legal Community framework for the recognition of professional qualifications are in the common interest of both health and social care professionals and employers in the sector.

The European social partners in the hospital sector acknowledge that the cross-border recognition of professional qualifications can (and actually does) contribute to improving the short- and medium-term professional prospects as well as the economic situation of those women and men moving or migrating (including their family members, accompanying them or staying back home).

Both European social partners, however, are also aware of perceivable negative impacts of mobility and migration on health systems and "remaining" health professionals, employers and patients, in a number of EU MS, in particular in Central and Eastern Europe. These countries are increasingly confronted with a mobility-/migration-driven lack of in particular highly qualified or specialised personnel. Large differences in salaries, working conditions and career opportunities can exacerbate this problem. They intend to address related challenges. The situation is unlikely to substantially improve in the near future; it rather risks deteriorating, at least in some countries. The "sending countries" have to face severe economic consequences due to "brain drain" and a range of impacts for their societies as a whole and in particular for the families of those moving or migrating to another country, be it on a temporary or permanent basis.

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## 4. Explanatory note on EPSU's response

### 4.1 Elaboration of and sources for EPSU's reply

EPSU's contribution builds on an internal consultation with affiliates, within and outside the framework of the European Sectoral Social Dialogue for the Hospital Sector.

Substantial and detailed contributions have been received by about 10 affiliates, input on specific issues or comments by other members.

The reply summarises evidence from the ground with the application and implementation of the current directive as well as concerns and demands of EPSU members in view of the forthcoming update and revision.

EPSU's contribution has also benefitted from an exchange with the European Federation of Nurses (EFN) and takes into consideration a draft reply by the European Trade Union Confederation (ETUC) and EUROCADRES.

### 4.2 Contributions of individual EPSU affiliates to public consultation

Individual responses to the consultation – according to information confirmed with the EPSU Secretariat – will be sent by EPSU affiliates Pancyprian Civil Servants Trade Union (PASYDY), ver.di (D), Danish Nurses' Organization (DK), Confédération française démocratique du travail (CFDT)/Services de santé et services sociaux (F), Union of Health and Social Care Professionals [TEHY] (FIN), Royal College of Nursing (GB), Norwegian Nurses Organisation (N) as well as the Swedish Association of Health Professionals [Vårdförbundet] (S) and Kommunal (S).

Their contributions highlight country-specific experiences with, concerns about and expectations in view of the revision of the directive.

They might differ from EPSU's response with regard to particular demands, and this also mirrors differences as to objectives and design parameters of

- national health care systems (e.g. ownership; sources of financing; extent of integrated service delivery; role of interfaces to long-term care institutions and community care) and
- national systems of education and professional training (e.g. qualification levels and profiles; extent of professional specialisation; role and content of Continuous Professional Development (CPD)/life-long learning (LLL).

Differences might also relate to the character of the EPSU affiliates, comprising trade unions representing various professions in the health and social care sector as well as organisations combining the functions of trade union and professional association.

Realities, assessment and demands also can vary due to the different extent of dependence of national health and social care systems on migrant work force, as a consequence of cross-border mobility/migration at the initiative of the health care professionals themselves or due to their recruitment abroad by employers. Public authorities, employers, trade unions and professional associations in EU member states relying on a non-negligible to important share of migrant workers ("receiving countries") at least partially have other experiences, concerns and demands than the same stakeholders in countries experiencing the economic and social consequences of lack of qualified staff in the health and social care sector ("sending countries") when it comes to the updating and revision of the Directive 2005/36/EC. The replies insofar reflect partially (immanent or open) diverging or even contradictory interests.

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## 5. EPSU's reply to selected questions of the consultation paper by DG MARKT

General remark: EPSU would welcome if the evaluation and revision of the current European legal framework was to **focus on a range of core issues directly linked to the process of and the conditions for the cross-border recognition of professional qualifications** and operated in line with the three guiding principles EPSU and HOSPEEM have identified, cf. 3.2.

N.B.: To facilitate reading in contextualising the answers EPSU's reply takes up the headings of the consultation paper (text underlined) preceding the various questions (*text in italics*).

### Why simplification?

*Question 1: Do you have any suggestions for further improving citizen's access to information on the recognition processes for their professional qualification in another Member State?*

EPSU would like to see the Internal Market Information System (IMI system) developing in the direction to facilitate the process of the cross-country recognition of professional qualifications in an online modality and to assume the function of a "one stop shop". Its use could become mandatory for all competent authorities and professionals, especially for those in the health care sector.

By developing the IMI system as an online tool it would develop into the main source for exchanging information between the competent authorities of the Member States on the one hand and become instrumental in speeding up the recognition process and the free movement of health care professions, both for those falling under the system of automatic recognition (such as nurses, midwives and doctors) and for others under the general system (such as radiographers and biomedical scientists, as remarked by the Swedish EPSU affiliates)

*Question 2: Do you have any suggestions for the simplification of the current recognition procedure? If so please provide suggestions with supporting evidence.*

In EPSU's view harmonised standards of minimum requirements for health professionals under the automatic recognition principle have provided a simple, swift means of recognition for health professionals across Europe and should continue to be supported, and implemented, although some modernisation is required.

Following this line an online IMI system, also accessible for individual professionals in order to submit the documents required for the recognition, could both simplify and speed up the process. It is important to stress that a simplification and "bundling" based on this technical tool would nevertheless need to be set up without compromising on patient safety or data protection.

EPSU affiliates would like to see as a rule the indicating in which countries the qualification acquired is (expected to be) recognised the moment the certificate is being issued in an annex to certificates delivered to professionals in the health and social care sector. Also quicker updates should be encouraged. This should be facilitated by an easy-to-use and easily accessible database to take into account developments as to the modalities of reciprocal/mutual recognition.

### Making best practice enforceable

*Question 3: Should the Code of Conduct become enforceable? Is there a need to amend the contents of the Code of Conduct? Please specify and provide the reasons for your suggestions.*

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EPSU affiliates are in favour of annexing the “Code of Conduct for the competent authorities on how different provisions under the Directive must be interpreted” to the revised directive to serve as guidelines for the competent authorities. Stating that the major deficit is unsatisfactory knowledge of this Code of Conduct amongst many competent authorities they consider a better dissemination and regular update of the instrument – highlighting good and unacceptable practice – the appropriate remedy.

The majority of EPSU members, however, oppose the idea of making it enforceable. This would not only not respect the subsidiarity principle, but also not comply with the established distribution of tasks and responsibilities, as a code of conduct is about procedures that in the context of a directive are neither supposed to be harmonised across the EU nor to become legally binding.

The necessary rights and rules on redress for professionals seeking recognition of their professional qualifications and encountering difficulties or being rejected in doing so are to be stipulated in the directive itself and should not be indirectly “enforced” based on a Code of Conduct.

#### Mitigating unintended consequences of compensation measures

*Question 4: Do you have any experience of compensation measures? Do you consider that they could have a deterrent effect, for example as regards the three years duration of an adaptation period?*

EPSU members as a rule don't have specific direct experience with compensation measures as the competent authorities decide on them.

EPSU and our affiliates are in line with EFN and its members in underlining that compensation measures, defined on case by case basis, are the appropriate instrument in case an applicant does not (yet fully) comply with the requirements for automatic recognition of the directive. As they consider essential this condition, they request to keep the current compensation measures as a benchmark to ensure safe and high quality work and health care. Some affiliates would like to even reinforce them. Other EPSU affiliates recall that professionals during the adaptation period are paid at a lower level and that they need support from employers. EPSU members warn against defining adaptation periods at excessive lengths with the effect of discouraging those that have moved/migrated or are intending to do so.

EPSU underlines that the requirement to undergo compensation measures is important especially in cases where qualifications and roles differ within and between health professionals in the country of origin of the health care workers and the country of her/his current employment. EPSU sees a role for the EU structural funds, in particular the ESF, to play when it comes to the co-financing of these courses.

*Question 5: Do you support the idea of developing Europe-wide codes of conduct on aptitude tests or adaptation periods?*

At least for the time being, there is still scepticism by affiliates if the appropriate format is a “Code of Conduct”, also given the complex nature of the matter and differences as to objectives and design parameters of national systems of education, professional training and Continuous Professional Development (CPD)/life-long learning (LLL).

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EPSU, however, would welcome the dissemination of guidelines and examples of proven good practice, that competent authorities and other stakeholders will be invited to make use of. This instrument would need to be available in different languages of the EU as well as in a language comprehensible to those working “on the ground” to serve the purpose.

Several EPSU affiliates suggest better integrate suitability and aptitude assessment already in the education/professional training.

*Question 6: Do you see a need to include the case-law on “partial access” into the Directive? Under what conditions could a professional who received “partial access” acquire full access?*

There is first a need to distinguish between the professions benefitting from automatic recognition and other professions in and outside the health and social care sector, comprising e.g. specialist nurses.

EPSU is against using/extending the option of “partial access” for the nursing and midwifery profession as the precondition for automatic recognition is to fully satisfying the minimum requirements as defined and being consistent with the claim that patients’ health and safety should be one of the guiding principles when applying and modernising the pertinent European legal framework. EPSU does not support any moves towards partial access to the nursing profession and does not see how this could function. Recognition and registration as a nurse can only be granted for a professional who has complete accountability of the qualification, since they are expected to work as autonomous professionals.

We also secondly need to distinguish between the procedure of recognition and related requirements on the one hand and options to adapt and improve existing but insufficient professional qualifications (also including in the context of continued professional development) and how they can be promoted on the other. Issues related to this second concern are being dealt with under the two previous questions and in relation to questions under heading “Retaining automatic recognition in the 21<sup>st</sup> century”, too.

EPSU members recall that applicants can apply for “accreditation of prior learning” or similar systems in cases where their qualification is considered insufficient by the competent authority of the host country. They put forward difficulties to adjust work and responsibilities at work for individuals with partial access and underline that it would be expensive and time consuming to set up a system providing for sufficient supervision and training opportunities and also challenging to plan and manage work in health care, particularly acute/emergency care, with an even more differentiated workforce with a certain number of colleagues with only partial access.

Achieving a qualification level equivalent to the one needed to fulfil the minimum requirements for automatic recognition the full access should be offered to migrant workers within a delay of maximum five years during which lacking knowledge, skills and competencies are being acquired to eventually arrive at a level that would allow access to the certificate for the profession in question.

#### Facilitating movement of new graduates

*Question 7: Do you consider it important to facilitate mobility for graduates who are not yet fully qualified professionals and who seek access to a remunerated traineeship or supervised practice in another Member State? Do you have any suggestions? Please be specific in your reasons.*

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This question is not relevant within the scope of the Directive 2005/36/EC that is addressed only to professionals (being EU citizens) who are fully qualified, i.e. fulfil minimum requirements as defined, to practice the profession in question in their country of origin or study and who wish to practice the same profession in another Member State.

*Question 8: How should the home Member State proceed in case the professional wishes to return after a supervised practice in another Member State? Please be specific in your reasons.*

In particular in times of high levels of unemployment or precarious employment for young people in general and young professionals across many sectors schemes to facilitate cross-border mobility need to be encouraged and financially supported, not least from EU sources.

Mechanisms and systems of bilateral and mutual recognition need to be better used or put into place to validate related professional experience/supervised practice. This could be done in form of an agreement signed between the sending and receiving education institution or employer and the young professional, backed up by framework agreements between member states and ideally should contain a guarantee for later recognition, provided successful completion of the defined phase of professional experience/supervised practice abroad, prior to/when starting it.

But again, this issue currently is not and in the future should not be dealt with under Directive 2005/36/EC, see our reply to question 7 above.

#### Facilitating movement between non-regulating and regulating member states

*Question 9: To which extent has the requirement of two years of professional experience become a barrier to accessing a profession where mobility across many Member States in Europe is vital? Please be specific in your reasons.*

This requirement does not apply to most health care professions under Directive 2005/36/EC as the great majority is regulated in basically all member states. But in the instances where it applies it is not seen as a problem by EPSU and not considered as a barrier unduly restricting cross-border mobility and insofar can be kept.

Even if minimum requirements for the automatic recognition of professional qualifications have been defined for the midwifery profession, there are differences in the professional experiences in the clinical area, noticeably concerning midwifery practice. Firstly there are two tracks for midwifery education and secondly a huge difference of the possibility for midwives to practice the full scope of activities in line with Article 42 of Directive 2005/36/EC in different Member States. To make it possible for midwives to practice in their full potential under the scope of activities set out there, EPSU members propose to better streamline the midwifery education.

*Question 10: How could the concept of “regulated education” be better used in the interest of consumers? If such education is not specifically geared to a given profession could a minimum list of relevant competences attested by a home Member State be a way forward?*

For professions under the scheme of automatic recognition this concept is not relevant.

For other professions, including from the health sector, in a mid-term perspective a list of relevant competencies attested by the institution issuing the certificate and/or the home member state could be useful, both for competent authorities and for clients/users/consumers in other member states.

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EPSU is aware of the fact that such a process would imply considerable resources and the potential benefits of such a list would need to be weighted against the input needed.

### A European Professional Card

*Question 11: What are your views about the objectives of a European professional card? Should such a card speed up the recognition process? Should it increase transparency for consumers and employers? Should it enhance confidence and forge closer cooperation between a home and a host Member State?*

EPSU members a priori are not against such a European Professional Card if certain conditions were to be fulfilled. They are, however, also not too enthusiastic about such an instrument and don't consider it an issue of priority concern.

EPSU affiliates also state that for the time being too few information is being generally known about concrete features, conditions and options to use such a card to those not involved in the Steering Committee set up by DG MARKT on exploring its feasibility, usefulness and use. On a broader information basis a definitive position could be developed following further deliberation within and amongst EPSU members. Currently there is not yet (and logically also can't be) a clear and common position within EPSU on a range of issues related to the proposal of a European Professional Card.

Should a European Professional Card be introduced economic (which costs; whom to bear them), legal (period of validity; data protection) and technical (fraud/risks of counterfeiting; option to update information easily and quickly) challenges must be considered.

If it were to become a tool to address challenges related to the current declaration regime for professions and professionals where temporary mobility is an important reality its introduction could be considered should there be no other similarly appropriate scheme (such as the IMI system).

In line with what has been said above in relation to questions 1 and 2, EPSU insofar advocates for devoting energy and putting resources into further developing and "upgrading" the IMI system. This would serve a triple aim as it would 1) exactly serve the core purposes of the directive, 2) directly benefit different stakeholders and 3) present a modern ICT-based solution (that can also be extended, updated and upgraded rather easily, quickly and consistently across Europe).

The assessment and positions presented here and for this section in general (i.e. for questions 11 to 14) are not least due to the specificities of the health and social care sector. Patients/users as a rule and for many different reasons neither are in a position to fully assess the professional qualifications of those treating/taking care of them when they need the services nor do they need to freely choose a professional on the market. The recruitment decisions and ability and aptitude tests are being operated by those employing the large majority of health care professionals and this is seen as "proxy" for "qualification" and "quality" by patients/users. These and other features contribute to placing health and social care, as a rule comprehensively regulated across the EU, outside the "usual" provider-client/consumer logic and relationship characteristic for other markets for services and goods.

*Question 12: Do you agree with the proposed features of the card?*

See our response to question 11.

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*Question 13: What information would be essential on the card? How could a timely update of such information be organised?*

See our response to question 11.

*Question 14: Do you think that the title professional card is appropriate? Would the title professional passport, with its connotation of mobility, be more appropriate?*

See our response to question 11. Those EPSU members answering this question would favour the term of “professional passport” given its connotation of mobility/migration. This would also allow to better “carving out” the purpose of such an instrument, in which form whatever finally realised (cf. EPSU’s preference for the time being in our answer to question 11). If we were to move towards the introduction of a European Professional Card it would in any case need to be available to citizens in/of all EU member states.

#### Abandon common platform, move towards European curricula

*Question 15: What are your views about introducing the concept of a European curriculum – a kind of 28<sup>th</sup> regime applicable in addition to national requirements? What conditions could be foreseen for its development?*

Common minimum requirements have been developed, approved and fixed to allow for the automatic recognition for the seven professions currently falling under this scheme. In this context the route of developing European curricula based on a common set of competencies to become a 28<sup>th</sup> regime does not apply. In the health and social care field this idea therefore has relevance in view of specialisations of professions under the above-mentioned scheme and for professions falling under the general system.

Educational opportunities and professional qualifications requirement for health professions in both service training and continuing professional development are not a uniform concept, but vary across member states in duration, content and levels. Working towards a common European understanding and/or framework would nevertheless be useful. EPSU members would like to see national frameworks for a basic or post basic specialisation secured within the system for further/continued professional training and higher/tertiary education. This is in particular important for countries and sectors where such national frameworks currently are elaborated/updated or have been already negotiated and where their design involves the social partners (as e.g. in Denmark). These structures should be overarched and complemented by a common European understanding and/or framework focusing on competencies needed, to be achieved and proven.

Should developing such a 28<sup>th</sup> regime establishing a “common European level” entail the risk of undermining attempts in member states to raise the educational level for specialist professionals, e.g. specialist nurses, EPSU clearly would not push for and support related initiatives. EPSU members favour to leave the responsibility and power to define and control the compliance with such requirements with the competent national authorities as the rule. EPSU members are also hesitant to opt for such a concept if and as long as this will complicate or further delay ongoing national processes involving social partners and regulatory bodies for defining and agreeing on basic or post basic specialisations.

Some EPSU affiliates nevertheless are in favour of launching a pilot process/experimentation phase for basic or post basic specialisations for a limited number of regulated professions – including one or two from the health and social care sector – if and as long as the conditions and

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safeguards set out above in this paragraph are being respected and competent authorities are the ones steering these processes. Some also are open to a stronger focus on competencies, without reducing minimum requirements on education, training and competencies and without moving towards a harmonisation at European level.

#### Offering consumers the high quality they demand

*Question 16: To what extent is there a risk of fragmenting markets through excessive numbers of regulated professions? Please give illustrative examples of sectors which get more and more fragmented.*

EPSU is of the opinion that appropriate approach would be to increase the number of professions falling under the scheme of automatic recognition. This could help to prevent from excessive fragmentation, to “counter” where appropriate a trend to too strong specialisations on a basic professional training level and support cross-border mobility/migration without compromising on respecting the guiding principles for an update and revision of Directive 2005/36/EC (cf. 3.2) as advocated for by EPSU.

*Question 17: Should lighter regimes for professionals be developed who accompany consumers to another Member State?*

Referring to what has been explained under 3.2 EPSU opposes any kind of lighter regimes for health professionals of any kind as a general rule to ensure patient safety and health and this consequently also has to apply to those accompanying a patient/user abroad.

#### Making it easier for professionals to move temporarily

*Question 18: How could the current declaration regime be simplified, in order to reduce unnecessary burdens? Is it necessary to require a declaration where the essential part of the services is provided online without declaration? Is it necessary to clarify the terms “temporary or occasional” or should the conditions for professionals to seek recognition of qualifications on a permanent basis be simplified?*

*Question 19: Is there a need for retaining a pro-forma registration system?*

*Question 20: Should Member States reduce the current scope for prior checks of qualifications and accordingly the scope for derogation from the declaration regime?*

In order to ensure patient safety EPSU would not want to see a weakening of the current temporary registration requirements for health professionals, which also provides a clear system of complaint and redress for the patient in the country in which they are being treated.

EPSU considers that it could be useful to clarify the terms “temporarily” or “occasional” in the context of the Directive 2005/36/EC, however, only if this is not to deregulate or to water down minimum requirements or other things of that kind.

If the IMI system is to develop towards a system with updated information also (partially) accessible to health and social care professionals this should also help to simplify procedural requirements by means of an adapted ICT-solution.

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EPSU members from Norway and Sweden replying to question 20 underline that they don't wish a reduction of current checks of professional qualifications in particular as regards biomedical scientists and radiographers today coming under the general system in view of guaranteeing high levels of patient health and safety and to allow them to work around the full scope of tasks comparable to those trained/having studied and certified there. A French member asks for a reduction of the current scope for prior checks of qualifications for professions non-regulated at European level.

### Retaining automatic recognition in the 21<sup>st</sup> century

*Question 21: Does the current minimum training harmonisation offer a real access to the profession, in particular for nurses, midwives and pharmacists?*

In EPSU's view the current minimum training harmonisation, in particular for the professions referred to in Question 21, have proven to be a solid and relevant basis that has not only offered real access to the profession, but also helped to advance the status of nurses and midwives. Directive 2005/36/EC has become a cornerstone for educational reform improving the quality of education/training and practice. All in all it has insofar also been instrumental to make (some) progress with a positive impact on gender equality.

This reason, the need to ensure evidence-based practice and the rationales behind the guiding principles sketched out under 3.2 make EPSU members oppose any downgrading of current minimum baseline criteria. They also unambiguously request that for all health (and social) care professions minimum requirements are being set as to years and to hours of training as well as to the share of theory and practice/theoretical and clinical education. Minimum requirements regarding training also have to be upheld to guarantee patient safety in the light of the Directive on the application of patients' rights in cross-border healthcare, finally adopted by the European Council on 28 February 2011. Some EPSU members would like to extend education of nurses responsible for general care to four years instead of three years to enable them to have access to tertiary education and to fulfil the 4,600 hours requirement. Some would also go beyond the 10 years of general education as "entry condition". Other affiliates, in particular from countries with a dual professional education, amongst them German member ver.di, would strongly oppose any changes in this regard and stretching the three year training period. On the backdrop of staff shortages and the demographic development the recruitment of health care professionals could otherwise not be guaranteed and synchronised with the secondary education system. Germany also works with a high level of qualified personnel and has only about 10% of auxiliary staff. Lifting up these requirements would mean failure to recruit in sufficient numbers, with auxiliary staff then needing to step in and eventually entailing lower service quality and degradation processes for professionals.

EPSU members across the board agree on the necessity and the advantages to update relevant annexes – e.g. Annex V in the case of sectoral professions – with new topics, contents and competencies (also cf. EPSU's answer to Question 22).

A French EPSU member sheds light on a particular, but perhaps symptomatic issue, with EPSU sharing their position: for pharmacists there is a need to remedy for an inconsistency stipulated by article 21, paragraph 4 of the directive that allows not to grant automatic recognition if the person in question is to open a pharmacy or is to work in a pharmacy existing for less than 3 years.

A Norwegian EPSU member would like to see requirements of knowledge on health care legislation, health care services and language skills included under Directive 2005/36/EC.

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*Question 22: Do you see a need to modernise the minimum training requirements? Should these requirements also include a limited set of competences? If so what kind of competences should be considered?*

EPSU members see no need to change the minimum training requirements, as already also mentioned under Question 21. They, however, recommend updating annexes to the directive – Annex V in the cases of nursing and midwifery professions – with relevant research to better meet requirements of and current advancements in today’s healthcare sector. In this regard they mention in particular topics such as public health, health prevention, health promotion, eHealth, quality development and patient safety necessary in today’s nursing and midwifery education. EPSU members would also encourage exchange on the addition of a limited number of competences as to the directive, whilst maintaining the current hours/content requirements. Nurse and midwife education would need to meet both requirements.

Several EPSU affiliates recommend that competence areas to a higher extent reflect qualifications as required and competencies as defined by the European Qualifications Framework (EQF) and/or in the Bologna process. Many would like to see a comprehensive definition of competencies expected for certification per profession and in a given member state. There is, however, a caveat as to competencies-based and outcome-oriented approaches. EPSU in this regard shares a concern elaborated on in a detailed way in contributions of Swedish members (and the EFN) and would like to bring it to the attention of the European Commission<sup>1</sup>. A French EPSU member brings up a proposal supported by EPSU, asking the Directive 2005/36/EC to include a reference to the need of a regular assessment of education and training programmes and of the accreditation of providers. A German member recalls the need to reassess the EQF on permeability of professions and professional experience should it become a more important reference frame, claiming it will be partly inappropriate as the EQF gives higher weight to general education and academic work to the detriment of practical skills and professional experience, albeit highly relevant in this context.

*Question 23: Should a Member State be obliged to be more transparent and to provide more information to the other Member States about future qualifications which benefit from automatic recognition?*

As EFN and its members EPSU is of the opinion that the content of the education and training programmes should be disclosed to the competent authorities of other member states, including regular updates on relevant changes, via the IMI system.

*Question 24: Should the current scheme for notifying new diplomas be overhauled? Should such notifications be made at a much earlier stage? Please be specific in your reasons.*

EPSU transports the views of its affiliates that demand that new diplomas should be notified once a new education/training programme is submitted for approval under the national accreditation programme. The competent authorities at all times should be up to date with current educations

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<sup>1</sup> Referring to the nursing professions we include a literal quote (text in italics), with slight revisions operated by the EPSU Secretariat: “As regards the introduction of a set of competencies for a general care nurse there are concerns about incorporating a list of competencies into the Annex V. As the forthcoming Single Market Act refers to the revision of Directive 2005/36/EC and underlines the ambition to promote growth and to create more jobs by simplifying the process of the recognition of professional qualifications, we fear and warn against the risk of including a list of competences with a tick box substitute to the current minimum training requirements. Acknowledging that in some Member States a list of competences is part of the midwives and nurses legislation including them into the Directive 2005/36/EC could allow other professionals – without being fully qualified – to fit into/formally comply with some items of the set of minimum competencies. This in turn would allow them to benefit from a possible “partial access” to the nursing profession we consider unacceptable in the context of scheme of automatic mutual recognition of professional qualifications”.

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and curriculums. Failure to do so should be sanctioned. Such a system increasing transparency would also be advantageous for potential migrants.

*Question 25: Do you see a need for modernising this regime on automatic recognition, notably the list of activities listed in Annex IV?*

Yes.

*Question 26: Do you see a need for shortening the number of years of professional experience necessary to qualify for automatic recognition?*

No.

### Continued professional development

*Question 27: Do you see a need for taking more account of continuing professional development at EU level? If yes, how could this need be reflected in the Directive?*

Significant investment in the education and continued professional training of health professionals to facilitate the successful introduction and implementation of new skills, skill mixes and innovative working methods is crucial to support a high quality of professional services. This has to go hand in hand with the establishment of career pathways and the extension of career ladders to all health care professionals. EPSU recalls the need to establish CPD as a right for health care workers, implying the employer's support to better make CPD a reality and a regular element of the work.

EPSU affiliates therefore broadly agree that a framework for Continuous Professional Development (CPD) providing a common transversal concept should be integrated in the Directive as part of Article 22. They see the need that fundamental principles of CPD including a commitment to patient safety and quality of care are referred to in Community legislation, and then followed through by member states and the healthcare professionals. Such a frame in a mid- and long-term perspective at least could also help health workers in some countries where there is very little investment in lifelong learning and where the individual health care professionals have to pay for any additional CPD themselves, in particular on the backdrop of shortages or lack of skilled staff. A German EPSU member explicitly mentions the need to improve the cross-country recognition of certificates issued under CPD.

However, due to the considerable variations on how Member States understand and organise CPD, EPSU underlines that it has to be operationalised as an incentive for both employers and employees, comprising a description of the responsibilities for both. CPD, however, cannot and should not become one of the minimum requirements for mutual recognition of professional qualifications. The revised directive could helpfully contain wording to the effect that member states should have mechanisms in place whereby competent authorities should require CPD in order for professionals – already having their professional qualifications recognised, but some years ago and ever since not having exercised the profession – to renew or maintain registration, as this is already today the case in some countries using national registers (such as the Norway, Sweden or the UK).

### More efficient cooperation between competent authorities

*Question 28: Would the extension of IMI to the professions outside the scope of the Services Directive create more confidence between Member States? Should the extension of the mandatory*

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*use of IMI include a proactive alert mechanism for cases where such a mechanism currently does not apply, notably health professions?*

EPSU does not feel prepared to answer these questions. As related impacts have not been discussed with affiliates EPSU lacks information and an evidence-based assessment of needs from the ground. Not knowing sufficiently about the reality of the work of competent authorities EPSU also considers impossible to assess in a proper manner what mixing up issues falling under the service directive and others under the scope of the Directive 2005/36/EC, be it on the administrative level or in other contexts, could imply in the long run.

*Question 29: In which cases should an alert obligation be triggered?*

The majority of EPSU affiliates is in favour of such an automatic alert in case a health care professional is no longer authorised to exercise the profession/taken off the national register due to legal reasons, including e.g. fraud (i.e. having presented a false certificate to obtain recognition).

### Language skills

*Question 30: Have you encountered any major problems with the current language regime as foreseen in the Directive?*

It is obvious that an appropriate level of general language knowledge and of relevant technical language to communicate with colleagues and patients/users as well as to make the documentation in the patients' records is essential for safe and good health care services. In this context, however, what is needed is to find a balance between conflicting objectives of free movement, patient health and safety, quality of health and social care and staff use according to needs and urgencies.

EPSU members from the Nordic Countries in their responses and a Belgian EPSU affiliate in an internal note refer to reports by competent authorities about cases of adverse events caused by language problems with immigrant health care workers and from this deduce the request to put language tests upfront as an element of the recognition process.

Current EU rules, however, do not allow language testing of EU health workers at the point of recognition. EPSU members agree on the need for employers to do a language test at the point of employment of a migrant health care professionals. In this context EPSU underlines the responsibility of employers in ensuring someone is competent for the job she/he is recruited to (which includes ability to communicate effectively with colleagues and patients and to well do documentation work on the treatment and caring process to correctly inform the clinical decisions) as well as for proper induction for new staff from other countries. In EPSU's view language training – in particular work-place related knowledge – should become part of adaption training, in the interest of both employers and employees and in the ultimate interest of patients/users and the health care system. Regulators and/or competent authorities have a role to play to monitor this.

EPSU would like to encourage employers and/or competent authorities – outside the regulatory framework of the Directive 2005/36/EC – to offer courses/training comprising knowledge on health care legislation, health care services and key elements of work-place related culture, following the same rationale as exposed at the end of the paragraph above.