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

Brussels 24 March 2011

1. Explanatory note on the joint HOSPEEM-EPSU contribution

1.1 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 response sent by EPSU on the 15th of March 2011 and to replies of individual EPSU or HOSPEEM members.

This joint reply reflects the issues, concerns and proposals on which full or broad consensus between the European social partners for the hospital and health care sector could be reached.

1.2 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**:

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

1.3 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, skills, 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

by HOSPEEM and EPSU. Our joint work programme 2011-2013 contains concrete activities underpinning and promoting the objectives and principles agreed.

Both instruments help orienting EPSU's and HOSPEEM's work and exchange on professional qualifications and continued professional development. They also contribute 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.

1.4 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 social partners in the health and social care sector at different levels (enterprise, sectoral, national, European) will be involved in the implementation and the monitoring of the economic and social impacts of the new legal framework. .

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

1.5 Benefits and challenges related to the realisation of the fundamental freedom of movement

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 abroad 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 highly qualified or specialised personnel. 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.

2. EPSU's and HOSPEEM's reply to the consultation paper by DG MARKT

General remark: EPSU and HOSPEEM would welcome the evaluation and revision of the current European legal framework **focusing 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. 1.2.

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 and HOSPEEM would like to see the Internal Market Information System (IMI system) developing to facilitate the process of cross-country recognition of professional qualifications online and to assume the function of a "one stop shop". Its use could/should 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)

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

In HOSPEEM and EPSU's view harmonised standards for health professionals and automatic recognition 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.

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.

HOSPEEM and EPSU oppose the idea of making the Code of Conduct enforceable. Making it enforceable would not only fail to respect the subsidiarity principle, but also not comply with the established distribution of tasks and responsibilities. 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 legal recourse for EU citizens seeking recognition of their professional qualifications and thereby encountering difficulties or being rejected are to be stipulated in the directive itself.

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 and HOSPEEM underline 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 this condition essential, our members wish to keep the current compensation measures as a benchmark to ensure safe and high quality work and health care.

EPSU and HOSPEEM underline 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.

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 CPD/LLL.

HOSPEEM and 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 actors "on the ground" to serve the purpose.

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.

For the former, EPSU and HOSPEEM are against using/extending the option of "partial access" for healthcare professions, as the precondition for automatic recognition is to fully satisfy the minimum requirements as defined. This is 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. In view of the latter HOSPEEM and EPSU support joined-up strategies and policies to define a broad trunk of common knowledge, skills and competences to be acquired and tested and warns against trends to further push differentiation for the basic level(s) of education and training for professions split up into specialisations, a development also concerning e.g. the nursing profession.

EPSU and HOSPEEM 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. We suggest there would be difficulties adjusting work and responsibilities at work for individuals with partial access. 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.

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 healthcare professions under Directive 2005/36/EC, but in those instances that it does, we would like to keep it.

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.

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?

We don’t think this is the best solution to the issues raised in the consultation document. The technical applications and communications available at present should make co-operation between Member States comparatively easy. However, we fear that not all features might be eventually achieved. In line with what has been said above in relation to questions 1 and 2, EPSU and HOSPEEM advocate 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 quite easily, quickly and consistently across Europe).

EPSU and HOSPEEM state that at the moment those not involved in the Steering Committee set up by DG MARKT on exploring its feasibility, usefulness and use know too little information about concrete features, conditions and options for the use of such a 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.

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

See our response to question 11.

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.

Abandon common platform, move towards European curricula

Question 15: What are your views about introducing the concept of a European curriculum – a kind of 28th 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 28th regime does not apply. In the health and social care field this idea therefore has relevance for specialisations of professions under the above-mentioned scheme and for professions falling under the general system. If initiatives towards elaborating a concept of a European curriculum are taken HOSPEEM and EPSU would like and need to first evaluate the concrete proposal. Only then a position could be developed and further work explored, not least as developing such a 28th regime i.e. entails the risk of undermining attempts in member states to improve the educational level for specialist professions.

Offering consumers the high quality they demand

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

Referring to our response under 3.2 HOSPEEM and EPSU oppose any kind of lighter regimes for health professionals of any kind as a general rule and this consequently also has to apply to those accompanying a patient/user abroad. These checks of qualification are important for the safety of the public.

Making it easier for professionals to move temporarily

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

No, we think the current checks should remain in place. However if the IMI system is to develop into a system with updated information also (partially) accessible to health and social care professionals this ICT-solution should help to simplify procedural requirements .

Retaining automatic recognition in the 21st 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 and HOSPEEM'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.

This reason, the need to ensure evidence-based practice and the rationales behind the guiding principles sketched out under 1.2 make HOSPEEM and EPSU oppose any downgrading of current minimum baseline criteria. 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.

EPSU and HOSPEEM across the board agree on the necessity and advantages of updating relevant annexes – e.g. .Annex V in the case of nurses and midwives – with new topics and contents, i.e. knowledge, skills and competencies.

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?

HOSPEEM and EPSU see no need to lower 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 particular topics such as public health, health prevention, health promotion, eHealth, quality development and patient safety necessary in today's nursing education.

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?

HOSPEEM and EPSU are 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 and HOSPEEM are of the view 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

and curriculums. 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?

EPSU and HOSPEEM affiliates see the need for fundamental principles of CPD including a commitment to patient safety and quality of care to be referred to in Community legislation, and then followed through by Member States and the healthcare professionals.

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

HOSPEEM and EPSU are 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 a range of legal reasons, including e.g. fraud (i.e. when having presented a false certificate to obtain recognition).

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

EPSU and HOSPEEM don't reply to this question.

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 create documentation in patients' records, is essential for safe and good health care services. In this context, however, what is needed is to find a balance between the conflicting objectives of free

movement, patient health and safety, qualify of health and social care and staff use according to needs and urgencies.

Current EU rules, however, do not allow language testing of EU health workers at the point of recognition, Article 53 of Directive 2005/36/EC. EPSU and HOSPEEM agree on the need for employers to do a language test at the point of employment of a migrant health care worker. In this context HOSPEEM and EPSU underline 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 document 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 and HOSPEEM's view language training – in particular work-place related knowledge – should become part of adaptation training, in the interest of both employers and employees and in the ultimate interest of patients/users and the health care system.