



Consultation on the regulation of professions: proportionality and Member States' National Action Plans

Fields marked with * are mandatory.

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CONSULTATION ON THE REGULATION OF PROFESSIONS: MEMBER STATES' NATIONAL ACTION PLANS AND PROPORTIONALITY IN REGULATION

On 28 October 2015, the European Commission adopted a [single market strategy](#) for goods and services. This sets out action to develop the single market for services, including by improving the regulation of professional services.

In a recent mutual evaluation exercise,[1] the EU Member States had to screen their arrangements for regulating the professions and demonstrate that they were 'proportionate' to legitimate public-interest objectives. They then had to produce [National Action Plans](#) (NAPs) outlining how they proposed to ensure that their regulation is as effective as possible, for both professionals and consumers.

How are professions regulated in the EU?

Professions across the EU, from doctors to geologists, hairdressers to tour guides, which together represent 22 % of the work force, are subject to almost 6 000 different regulations. As a result, 47 million people need some kind of authorisation, often on top of their education, to be able to do their job.

In some areas, for example to ensure safety, regulation is of course vital. However, the risks to a recipient of healthcare services are not the same as those faced by someone using the services of an estate agent, tour guide or hairdresser. When gauging the balance of risk, regulators should consider existing EU and national rules protecting the consumer, such as liability, consumer or health and safety legislation, so as not to add unnecessary layers of control.

There are big differences between Member States as regards which professions are regulated and the forms of regulation. Access to a profession may depend not only on having a qualification, but also on completing a period of practical training, registering with a competent authority and/or joining a professional association. Individuals may have to pay annual fees, undergo ongoing training and periodically re-register. They may be limited in the activities they can carry out (which may differ from one Member State to the next) or the legal form their company can take and who can invest in it or have a say in its operation. With some professions, some Member States choose not to regulate at all, relying instead on other measures such as consumer laws, while others impose several types of regulation. A full list of professions regulated across the EU can be found [here](#) and a map of regulated professions by Member State [here](#).

What is the impact of regulation?

All these rules add to the overall burden on the professional and the risk of negative consequences for the economy and the consumer. Regulation has an economic impact at both national and EU level and can create significant obstacles for European citizens seeking to provide or receive services in another Member State. In addition, it can raise competition issues, affect prices and impair businesses' or new professionals' ability to enter the market.

One way of avoiding unintended negative consequences is to assess the operation of regulation thoroughly and, if appropriate, adjust it so that it still meets its safety and quality objectives without undesirable side-effects. [Studies](#) show that some countries' efforts to modernise the regulation of professions have benefited their economy as a whole[2]. Also, the benefits depend on measures taken in other countries – if regulation was updated everywhere, additional benefits could be expected to accumulate, because the reforms would have a wider impact on a bigger market.

What is being done to address concerns?

The Directive on professional qualifications is aimed at minimising the negative impact that professional regulation can have on the single market and the mutual evaluation was designed to lead to a review of national requirements.

What is the purpose of this consultation?

We want you to tell us what you think about the quality and usefulness of national action plans [3] and in particular the way proportionality of the regulation of professions is assessed. We will analyse the results and feed them into:

- a report to be submitted to the European Parliament and the Council by January 2017[4];
- country- and profession-specific guidance for reform[5]; and
- an analytical framework proposing a more inclusive approach to proportionality assessment[6].

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To participate please register your personal details in the following page after which you will be taken to the first part of the consultation where your views on National Action Plans (NAPs) will be requested. You may respond to up to 4 NAPs by selecting the corresponding option 1, 2, 3 or 4 at the top of the page. In cases where the Member State has not yet submitted a NAP you may still share your views on professional regulation by this Member State. Following this you will then be taken to the second part of the consultation where you will be asked some further questions on the overall application of regulation in professional services and in particular about the proportionality of such regulation.

Thank you for taking the time to respond to this consultation.[7]

This consultation will close on 19/08/2016 [12 weeks from the date of publication].

Right click [here](#) to access a full list of National Action Plans submitted to date.

Disclaimer: This document is for the purpose of public consultation and does not reflect an official opinion or position of the European Commission.

[1] Under Directive 2005/36/EC on professional qualifications.

[2] Some examples of these studies can be found here:

http://ec.europa.eu/growth/tools-databases/newsroom/cf/itemdetail.cfm?item_id=8525&lang=en.

[3] You can respond in relation to as many NAPs as you wish. If the country you wish to comment on has not submitted one, you will still be able to share your views on how it regulates professions.

[4] See article 59 Directive 2005/36/EC on professional qualifications.

[5] See Upgrading the single market: more opportunities for people and business (section 2.3: Making the market without borders for services a practical reality).

[6] *ibid*

[7] Our report will be based primarily on aggregated information; we may quote from individual responses, but without indicating the source or any personal details (see data protection rules).

Regardless of your answer to question A.4, your contribution may be subject to a request for access to documents under Regulation (EC) No 1049/2001 on public access to European Parliament, Council and Commission documents. Any such request will be assessed against the conditions in the Regulation and in accordance with applicable data protection rules.

Privacy:

[Specific Privacy Statement.doc](#)

INFORMATION ABOUT WHO YOU ARE

***Please indicate who you are/ in which capacity you are responding:**

- Provider of professional services
- User of professional services
- Public authority
- Other

*

Which of the below best describes you:

- Trade Union
- Research institution / Think tank
- Other

*

Please specify

umbrella employers organisation

***Which sector does your activity primarily relate to?**

- business services
- construction
- manufacturing
- real estate
- transport
- wholesale and retail
- education
- entertainment
- health and social services
- network services other than transport
- public administration
- tourism
- other services/activities
- None of the above, I am responding as a consumer of services in general and without an interest in one particular sector or profession

***Which profession in this sector?**

all sectors

*

In which country is your primary place of residence or establishment (e.g corporate headquarters)

- Austria
- Belgium
- Bulgaria
- Croatia
- Cyprus
- Czech Republic
- Denmark
- Estonia
- Finland
- France
- Germany
- Greece
- Hungary
- Ireland
- Italy
- Latvia
- Lithuania
- Luxembourg
- Malta
- Netherlands
- Poland
- Portugal
- Romania
- Slovak Republic
- Slovenia
- Spain
- Sweden
- United Kingdom
- Country from EEA/EFTA
- International Organisation

*

Please tell us the name of your organisation / your address:

Svaz průmyslu a dopravy ČR, Freyova 948/11, 190 00 Praha 9

*

If we have further questions on the opinions you express, do you give permission for us to contact you?

- Yes
- No

*

Are you registered in the Interest Transparency Register?

If your organisation/institution is not registered, we will consider your input as coming from an individual.

The transparency register may be found here: [Transparency Register](#)

- Yes
- No
- I am responding as a private individual

*

Please indicate your registration number:

785320514128-81

***Received contributions may be published on the Commission's website, with the identity of the contributor. Please state your preference with regard to the publication of your contribution:** (Please note that regardless the option chosen, your contribution may be subject to a request for access to documents under [Regulation 1049/2001](#) on public access to European Parliament, Council and Commission documents. In this case the request will be assessed against the conditions set out in the Regulation and in accordance with applicable [data protection rules](#))

- My contribution may be published under the name indicated; I declare that none of it is subject to copyright restrictions that prevent publication
- My contribution may be published but should be kept anonymous; I declare that none of it is subject to copyright restrictions that prevent publication
- I do not agree that my contribution will be published at all

NATIONAL ACTION PLANS

You may comment on up to 4 [National Action Plans](#) (NAPs) and the questions will be repeated for each Member State you choose.

Should the NAP for the Member State you wish to comment on not have been submitted, you should choose the option: **The country I wish to comment on has not submitted a NAP** and you will still be given the opportunity to share your views on the regulation of a profession(s) by this Member State.

***Please now choose the number of Member States you wish to respond to below:**

First Member State

*

Which Member State?

- Austria
- Belgium
- Bulgaria
- Croatia
- Cyprus
- Czech Republic
- Denmark
- Estonia
- Finland
- France
- Germany
- Greece
- Hungary
- Ireland
- Italy
- Latvia
- Lithuania
- Luxembourg
- Malta
- Netherlands
- Poland
- Portugal
- Romania
- Slovak Republic
- Slovenia
- Spain
- Sweden
- United Kingdom
- The country I wish to comment on has not submitted a NAP**

*

Do you think this NAP is based upon the most relevant information on the impact of regulation on the market and/or professionals (e.g empirical studies, reports by professional associations and consumer protection bodies, reports and/or opinions of other national authorities such as competition authorities)?

- Yes
- To some extent
- Not really
- No
- Don't know

*

Do you think this NAP is based upon the most relevant information on the impact of regulation on securing quality and consumer protection?

- Yes
- To some extent
- Not really
- No
- Don't know

*

From reading this NAP do you think it thoroughly analysed all regulated professions?

- Yes
- To some extent
- Not really
- No
- No opinion

Please explain why you think this:

Detailed description about regulatory framework, overview about ongoing professions, professions under the review (recommended to change, maintain or withdraw).

*

From reading this NAP do you think it thoroughly analysed all impacts of regulation?

- Yes
- To some extent
- Not really
- No
- No opinion

Please explain why you think this:

Overall, thinking about any proposals made in the NAP, to what extent do you agree with the following statements?

"The proposals in this NAP will....

Please enter one tick only per row.

	Agree	Disagree	Don't know / no opinion
*...make it easier to access or exercise the professions"	<input checked="" type="radio"/>	<input type="radio"/>	<input type="radio"/>
*...make it harder to access or exercise the professions"	<input type="radio"/>	<input checked="" type="radio"/>	<input type="radio"/>
*...improve consumer choice"	<input checked="" type="radio"/>	<input type="radio"/>	<input type="radio"/>
*...improve prices for consumers"	<input type="radio"/>	<input type="radio"/>	<input checked="" type="radio"/>
*...improve employment opportunities / business growth"	<input checked="" type="radio"/>	<input type="radio"/>	<input type="radio"/>
*...improve opportunities for economic growth"	<input checked="" type="radio"/>	<input type="radio"/>	<input type="radio"/>
*...improve the quality of service provision"	<input checked="" type="radio"/>	<input type="radio"/>	<input type="radio"/>
*...not change anything"	<input type="radio"/>	<input checked="" type="radio"/>	<input type="radio"/>

*

Is your profession or a profession of interest to you mentioned in this NAP?

- Yes, there is a profession of interest to me mentioned
- No, the profession I am interested in is not mentioned
- I am not interested in a particular profession

Are there any further general observations you wish to make regarding this NAP?

Would you like to add any further information regarding the regulation of a specific profession(s) in this Member State or in general which you think may be helpful for assessing the operation of regulation in the professional landscape?

Please be aware that if you have experience of a situation which you think breaches European Union law or your rights as a citizen, you are advised to bring your complaint to a SOLVIT center. There are SOLVIT centers in all Member States and may be found by following this link: [SOLVIT EU](#)

PROPORTIONALITY IN REGULATION

Assessing proportionality in the regulation of professions is an existing legal requirement under EU law. It means that it must be ensured that no less restrictive means are available to meet the public policy objectives (such as e.g. public health, consumer safety, protection of cultural heritage, etc) which the regulation in question is designed to achieve. Criteria for carrying out such an assessment have been developed by the European Court of Justice in a number of case law decisions[1]. However, there is no clarity as to what minimum criteria should be applied to demonstrate compliance with the requirement to assess proportionality.

Indeed, during the mutual evaluation process carried out in 2013-2016, the information gathered from Member States showed that the quality of the proportionality analysis is in many cases inadequate and that the criteria used for, as well as the intensity of the assessments themselves, varied widely across the Member States. To address the lack of clarity regarding the appropriate minimum criteria to be used and diverging levels of scrutiny of national regulation, the Commission is consulting on a possible common EU-wide methodology for assessing the necessity and proportionality of national regulations in the professions (“proportionality test”).

[1] See Articles 45, 49 and 56 of the Treaty on the Functioning of the European Union; also, Cases C-55/94 Reinhard Gebhard v. Consiglio dell’Ordine degli Avvocati e Procuratori di Milano and C-108/96 MacQueen and Others.

*

Should authorities analyse the impact of the professional regulations they introduce?

- Yes
- No
- No opinion

*

Should proportionality be analysed with a set of common minimum criteria to assess the impact of regulation so that the most relevant factors are considered by all regulators?

- Yes
- No
- No opinion

*

Are you aware of requirements for a proportionality assessment of regulation in your country?

- Yes, a systematic methodology exists.
- Yes, its is done on a case by case basis.
- No, there is no methodology to assess the proportionality of regulation.
- I don't know.

***Are you aware of existing criteria at the national or EU level to analyse proportionality in professional regulation?**

- Yes
- No

***Do you think there should be common guidance on how to conduct a proportionality assessment?**

- Yes
- No
- Don't know / no opinion

***Do you think such guidance should be mandatory for public authorities to use?**

- Yes
- No
- Don't know

It is an existing legal requirement before adopting any act of law to analyse the necessity and proportionality of the regulation, i.e. by demonstrating that no less restrictive means are available to meet the public objectives. However, there is no common European methodology on how to properly conduct this analysis.

What do you think the impact would be of introducing a common methodology to clarify the minimum criteria necessary for the proper assessment of proportionality when introducing new or revising old regulations?

please enter one tick per row

	Agree	Disagree	Don't know
*Would improve the quality of regulation	<input checked="" type="radio"/>	<input type="radio"/>	<input type="radio"/>

*Would simplify professional regulation	<input checked="" type="radio"/>	<input type="radio"/>	<input type="radio"/>
*Would lead to the modernisation of national regulation regarding access and conduct requirements	<input type="radio"/>	<input type="radio"/>	<input checked="" type="radio"/>
*Would help to clarify the minimum criteria necessary to comply with the requirement to assess proportionality	<input checked="" type="radio"/>	<input type="radio"/>	<input type="radio"/>
*Would support Member States with a common template and guidance on the method needed to carry out such assessments	<input checked="" type="radio"/>	<input type="radio"/>	<input type="radio"/>
*Would improve the overall quality of proportionality assessments	<input checked="" type="radio"/>	<input type="radio"/>	<input type="radio"/>
*Would help investigating alternatives to regulation and propose appropriate actions to improve legislation	<input checked="" type="radio"/>	<input type="radio"/>	<input type="radio"/>
*Would make proportionality assessments more transparent and comparable across Member States	<input checked="" type="radio"/>	<input type="radio"/>	<input type="radio"/>
Would support compliance with existing legal requirements on the notification of new regulation and the reasons for which it is considered proportionate * As stipulated under existing EU rules in the Professional Qualifications Directive 2005/36/EC as well as the Treaty	<input checked="" type="radio"/>	<input type="radio"/>	<input type="radio"/>
*Would improve the involvement of various affected groups, such as businesses and consumers, in the development of legislation	<input type="radio"/>	<input type="radio"/>	<input checked="" type="radio"/>
*Would make it easier to compare regulatory requirements across the EU	<input checked="" type="radio"/>	<input type="radio"/>	<input type="radio"/>

*Would improve legal certainty on compliance with existing requirements under EU law	<input checked="" type="radio"/>	<input type="radio"/>	<input type="radio"/>
*Would make Member States seriously consider, in a structured way, necessity and proportionality factors when adopting new or revising existing regulations	<input type="radio"/>	<input type="radio"/>	<input checked="" type="radio"/>
*Would reduce administrative burdens for professionals	<input checked="" type="radio"/>	<input type="radio"/>	<input type="radio"/>
*Would ease access to the professions	<input checked="" type="radio"/>	<input type="radio"/>	<input type="radio"/>
*Would ease the mobility of professionals between Member States	<input checked="" type="radio"/>	<input type="radio"/>	<input type="radio"/>
*Would increase competition in the market	<input checked="" type="radio"/>	<input type="radio"/>	<input type="radio"/>
*Would raise the level of consumer protection	<input type="radio"/>	<input type="radio"/>	<input checked="" type="radio"/>
*Would improve the functioning of labour market	<input type="radio"/>	<input type="radio"/>	<input checked="" type="radio"/>
*Would deliver a better price-to-quality ratio of services	<input type="radio"/>	<input type="radio"/>	<input checked="" type="radio"/>
*Would raise the quality of professional services	<input checked="" type="radio"/>	<input type="radio"/>	<input type="radio"/>

Useful links

[Single Market Strategy \(http://europa.eu/rapid/press-release_IP-15-5909_en.htm\)](http://europa.eu/rapid/press-release_IP-15-5909_en.htm)

[Free Movement of Professionals](http://ec.europa.eu/growth/single-market/services/free-movement-professionals/index_en.htm)

[\(http://ec.europa.eu/growth/single-market/services/free-movement-professionals/index_en.htm\)](http://ec.europa.eu/growth/single-market/services/free-movement-professionals/index_en.htm)

[Single Market for Services \(http://ec.europa.eu/growth/single-market/services/index_en.htm\)](http://ec.europa.eu/growth/single-market/services/index_en.htm)

Background Documents

[Upgrading the Single Market: more opportunities for people and business](#)

[\(/eusurvey/files/44a8b5aa-c694-4755-b434-7e52a7369d54\)](/eusurvey/files/44a8b5aa-c694-4755-b434-7e52a7369d54)

Contact

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