



The political 'state of art' on the Directive on Mutual Recognition of Professional Qualifications

Background

Europeans were the first to systematically apply mutual recognition of diplomas and professional qualifications based on harmonisation of education and training. Having had many years of experience of Mutual Recognition Agreements (MRAs), the EU is currently adapting its MRA model. What are known as *Sectoral Directives* were introduced in 1977 and deal with the individual professions of medicine, dentistry, veterinary surgery, pharmacy, general care nursing, midwifery and architecture. They provide minimum harmonisation of training and automatic recognition of title throughout the European Union.

Paul de Raeve, RN, MScN, MQA, General Secretary of the European Federation of Nurses Associations (EFN) provides us with the following update and reflections. The EFN has been active in lobbying for changes to the initial legislative proposal.

What is happening in Europe with the new Directive on Mutual Recognition of Professional Qualifications and what processes is it currently going through?

The current methods available at European level for policy formulation is the joint-decision procedure in which the European Commission sends its proposal of law to the Parliament and the European Council, both sharing legislative powers. Under the consultation procedure, other bodies such as the Economic and Social Committee and the Committee of the Regions are also consulted as their opinions are an integral part of the EU's decision-making process. In the case of the Directive on Mutual Recognition of professional Qualifications, the legal nature of the proposal makes consultation among all these bodies compulsory. In 2002 the EU Commission proposed a new directive on professional qualifications. This directive sought to clarify and simplify the rules on the free movement of qualified people between the Member States. The first reading in the European Parliament took place on the 3rd October 2002. The Second reading is foreseen in October 2004, with new Members of the European Parliament from the 25 Member States.

The EFN along with the colleagues from the other professions included in the Sectoral directive, as mentioned above, has undertaken two years of intensive lobbying of the European Commission and the European Parliament on certain aspects of the proposed legislation.

EFN lobby activities generated positive outcomes.

On 18 May 2004, the Council agreed by a qualified majority, on the proposal for a Directive on the Recognition of Professional Qualifications. The outcomes include:

- Changes to Cross-Border Provisions of Services on a temporary and occasional basis and, in particular, on the declaration requirements.
- Substantial improvement on the initial proposal of the “sixteen weeks” rule which originally would have allowed a professional to give a service for up to 16 weeks without declaring their presence to the body regulating the profession in the host country.
- Explicit acknowledgement of the special position of professions with respect to public health and public safety. It was agreed that when a professional intends to provide services in another EU country for the first time, member states may require that, he/she informs the competent body in the host member state in a written declaration including information about insurance cover or other forms of cover for professional protection and liability. Member States may require: a proof of the nationality, an attestation certifying that the holder is legally established in a Member State for the purpose of practising the activities concerned, evidence of professional qualifications, and proof that the service provider has practised the activity concerned for at least two years during the previous ten years. If the service provider intends to provide temporary or occasional services in that Member State, the declaration shall be renewed once a year.
- A single committee to oversee the regime will replace the separate professional advisory committees (the Advisory Committee for Nursing for the nursing profession). The Commission will set up the Expert Group and consult external stakeholders (see diagram 1), but these remain outside the directive, and are only included in the annexes. An official statement from the Commission on this point is not yet available.
- Last but not least, the provision of linguistic competence still remains ambiguous.

If this proposal survives the full scrutiny of the European Institutions, there should be a faster processing of requests for recognition of qualifications to work in another Member State, and in handling the updating of provisions. However, professionals for whom national education and training conditions differ substantially from the host country may need to meet certain agreed criteria designed to bridge these differences as the directive provides for making recognition of qualifications subject to completing a compensation measure. This can be either an aptitude test or an adaptation period.

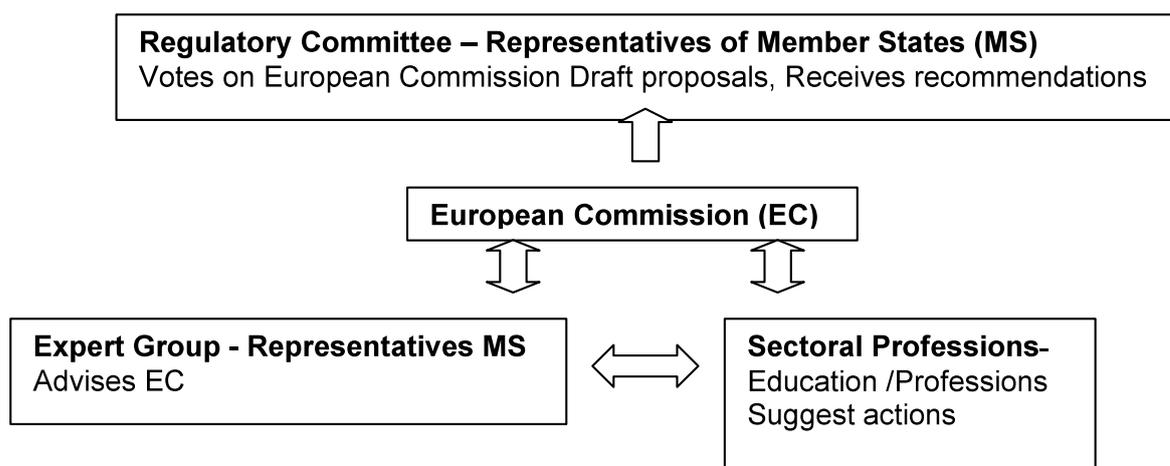


Diagram 1 Proposed EU Mechanism For Managing Directive

What main changes will this Directive will bring for nurses?

While the Nursing Directive itself has not changed, it is more than 30 years old! The process of modification of the Commission proposal emphasizes greater liberalisation of the provision of services, more automatic recognition of qualifications and increased flexibility in the procedures for updating the Directive. This updating and the process foreseen must guarantee the development of the nursing profession in Europe in order to achieve the 2010 Lisbon Targets.

The specific nature of the system requires that appropriate expertise be made available to ensure effective implementation. National representation (regulatory body, competent authority) is already guaranteed via the composition of the regulatory committee included in the proposed directive. Problems are foreseen if member states are not compelled to involve the professions in the work of this committee. Further clarification is needed on the mandate of the "expert group". Who will appoint its members and on what basis? Under which legal framework will the relation between 'the European professional organisations' and 'the expert group' be set? What would be its tasks? Would it be expected to put forward specific proposals for amending or up-dating the directive? And what about recommendations and reports? What range of issues should it cover? Would it cover the directive in all its aspects or be limited to a number of issues? The "European representative associations" of the seven professions concerned are willing to work co-operatively with the Commission in this area.

What challenges may arise when this Directive is implemented?

The elimination of obstacles by the elimination of all rules inherent to the professions, on the grounds that they are an obstacle to the creation of the single market and freedom of movement to provide professional services must not be achieved at the expense of consumer protection. It is important to ensure that the professionals are subject to regulatory controls adequate enough to maintain the confidence of users of professional services and third parties. Thus it is necessary that the host country know the professional profile of person who to going provide services in another member state. This entails much work for the regulatory bodies and requires strong alliances among nurses' organisations, at national and European level, to create a unified voice and develop mechanism that will simplify the process of verification.