



# Thomas Wiedmann

How can the European regulator efficiently support the recognition of qualification efforts of the real estate professionals ?



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Born 1964 in Altheim, Germany. Lawyer. Various posts within the German judicial system and ministry administration before joining the European Commission in 2005. Since then legal administrator within the Directorate-General Internal Market and Services, Directorate D, Unit 4 (Professional Qualifications). Main functions: Evaluation of the Professional Qualifications Directive, International aspects of recognition of professional qualifications, Responsible for the correct application of the Directive in specific Member States.

### **Summary of the presentation**

How can the European regulator efficiently support recognition of qualification efforts of the real estate professionals ?

The Commission services are currently carrying out a comprehensive evaluation of the Professional Qualifications Directive. Already the first findings reveal that the rules in place need to be reviewed. In its recently adopted Single Market Act, the Commission therefore proposes measures to modernize and simplify the Directive. It is now time to think about what can be improved but also about new concepts. The Second European Real Estate Convention is an excellent opportunity to discuss the needs of the Real Estate profession under the future system of the recognition of professional qualifications.



# How can the European regulator efficiently support recognition of qualifications efforts of the real estate professional

The Second European Real Estate  
Convention

Vienna, 19 November 2010

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# Article 53 TFEU

- Facilitation of free movement of persons by directives for the mutual recognition of professional qualifications
- Harmonisation of medical and paramedical training
- New: qualified majority

# History

- Rules for craft, commerce and industry sectors
- Harmonisation approach
- mid 1980s: move away from harmonisation approach towards mutual recognition (Directive 89/48/EEC)
- 2005: Directive 2005/36/EC on the recognition of professional qualifications

# Today's EU law on the recognition of professional qualifications

- Directive 2005/36/EC on the recognition of professional qualifications
- rules applying to lawyers concerning the provision of services and the establishment under the title of country of origin (Directives 98/5/EC and 77/249/EEC)

# New Directive

Directive 2005/36/EC on the recognition of professional qualifications of 7 September 2005

- Transposition deadline: 20 October 2007

# What is the Directive about?

- Consolidation of existing Community law
- Facilitation of provision of services
- Increasing administrative cooperation



# Three systems of recognition

## **(1) Automatic recognition**

seven professions, for which the minimum training requirements have been harmonised

## **(2) Recognition based on professional experience and skills**

professions of craft, commerce and industry sectors listed in the annex of the Directive

## **(3) General system**

All other regulated professions, which are not subject to specific rules

# (1) Automatic recognition

- Directive lays down the minimum training requirements
- Automatic recognition of the diplomas

i.e. Member States shall give these diplomas the same effect as the diplomas which they issue themselves

# Automatic recognition is granted for seven privileged professions

Doctors, dentists, nurses, midwives, pharmacists, veterinary surgeons and architects



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## (2) Recognition on the basis of professional experience

As to the professions listed in annex IV  
(craft, commerce and industry sectors):

access to the profession if the migrant can demonstrate sufficient professional experience and skills according to the criteria laid down in the directive

# (3) General System

All other professions are subject to the general system

**Principle:** Access to a profession shall be granted to a professional who is **fully qualified** for the profession in question in another Member State

**Under certain conditions:** Compensatory measures if duration or content of training are **differing substantially** from those required in the host Member State

# Possible compensatory measures

- Adaptation period



- Aptitude test



# Common platforms

- **New feature** under the Directive
- Definition: a common platform is a **set of standardised compensation measures** (additional training, adaptation period, aptitude test, professional practice etc.)
- **Objective:**
  - to overcome national differences in training requirements
  - whilst avoiding compensatory measures
- **Conditions:**
  - proposed by MS or professional organisations
  - compensate for differences in training requirements in at least two-thirds of the MS, including all MS regulating the profession

# Provision of services

## **Most important novelty of the Directive:**

### Facilitation of provision of services

= temporary and occasional exercise of the profession in the host Member State

**Principle:** Member States shall not restrict, for any reason relating to professional qualifications, the free provision of services



# What does this mean?

Competent authorities must not check the qualifications if

- the professional is **legally established** in another MS
- or, in case the profession is not regulated, he has exercised the professions for two years

**Exception** for (non-sectoral) professions with public health or safety implications

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# Conditions

- Provision of services under the **professional rules** and disciplinary provisions which are applicable in the host MS
- No or only pro-forma registration with **professional organisations**
- Yearly **notification** to the competent authority

# Administrative cooperation

- **New:** Competent authorities shall exchange **all information** related to the application of the directive
- Before: only few information obligations
- Support by IMI

# Evaluation of the Professional Qualifications Directive

- Report on the transposition and implementation
- Experience reports from competent authorities
- Consultations with all stakeholders

# Review of the Directive by 2012

- Need for further simplification
- Adaptation to developments in education and training
- New concepts

# Professional Card

- **Recital 32** mentions the possibility to develop professional cards in order to facilitate mobility
- Single Market Act  
Fifty proposals to make the Single Market work better have been presented, to be put in place by 2012

# A possible way forward

- Setting up a **Steering Group** composed of representatives of professional organisations to study the specific features of a professional card.
- Criteria for selection:
  - already a **specific project**
  - **authorities expressed interest**
  - **professions with high cross-border mobility.**
- Steering Group: develop common features – starting in January
- Further discussion within professions

# Thank you for your attention

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