



## CLGE's contribution to the Green Paper Modernising the Professional Qualifications Directive

The undertaking of modernizing the recognition directive is welcomed by CLGE.

We thank the commission for the very transparent approach allowing associations as ours to give their opinion. We sincerely hope that our positive and negative but always constructive comments will help to obtain a good directive geared towards an improved mobility of European professionals.

When CLGE reacts in questions related to the medical professions or architects this is clearly not meant to interfere with their prerogatives. These contributions are exclusively directed to a better understanding of the specific aspects of the cadastral surveyor in charge of property delimitations.

### 1. Introduction

CLGE wants to draw the attention on the fact that in our experience professional recognition is not the most important hindrance of market access. Even if a professional is recognised he/she has to face problems which make it very difficult to work in another country (different scopes of services, different standards, indirectly discriminating requirements in cadastral, planning and building laws, different software systems for procurement procedures, different language, etc.).

One has to keep in mind that the surveying profession can be performed in two major ways:

- with a public appointment, as a regulated professional to fulfil a task of public interest (cadastral surveying with property delimitation);
- without public appointment, for tasks which do not require regulation (other surveying activities) maybe with public interest but without any relation to the public authority.

CLGE insists on the importance of taking into account this difference. To ensure an optimal mobility of surveyors in Europe, it is also crucial to minimize the regulated activities to those who are related to cadastral surveying with property delimitation.

In some Member States, too many licences are still required to perform activities needing no public appointment (photogrammetry, geodesy ...).

### 2. NEW APPROACHES TO MOBILITY

#### 2.1. The European professional card

**Question 1:** *Do you have any comments on the respective roles of the competent authorities in the Member State of departure and the receiving Member State?*

The interdiction of cards issued by commercial entities is too weak. To ensure mutual trust professional cards can only be issued by national competent authorities and not by private professional associations. This is the only way to ensure correct information and validity.



The fact that in non-regulated countries a competent authority for issuing the cards has to be named is positive. Only if there is a reliable contact in the home member state recognition procedures can be handled in a fast and efficient way.

The approach of a stronger involvement of the home member state in recognition procedures is also positive. In some branches this concept already works quite well. A lot of competent authorities / chambers are already certifying all necessary information for the recognition in one document and vice-versa also accept such certificates.

However, bearing in mind the diversity of the surveying profession, the receiving member state must still be able to check the required compensation measures and linguistic skills when it comes to tasks related to public appointment, i.e. tasks in the field of cadastral surveying and property delimitation. Therefore, the introduction of a professional card cannot lead to a mandatory automatic recognition by the receiving state.

It is not clear if the issuing of a card is actually necessary and brings any added value. Certificates could be exchanged between the competent authorities via the IMI without technically and logistically complicated card systems. The establishment of a card system raises a lot of questions that are far from being solved yet.

Consequently CLGE is happy to read that the issuing of professional cards will not be mandatory.

**Question 2: Do you agree that a professional card could have the following effects, depending on the card holder's objectives?**

**a) The card holder moves on a temporary basis (temporary mobility):**

**- Option 1: the card would make any declaration which Member States can currently require under Article 7 of the Directive redundant.**

**- Option 2: the declaration regime is maintained but the card could be presented in place of any accompanying documents.**

**b) The card holder seeks automatic recognition of his qualifications: presentation of the card would accelerate the recognition procedure (receiving Member State should take a decision within two weeks instead of three months).**

**c) The card holder seeks recognition of his qualifications which are not subject to automatic recognition (the general system): presentation of the card would accelerate the recognition procedure (receiving Member State would have to take a decision within one month instead of four months).**

To a) Option 1: There are countries where the declaration system is not in force anymore and the service provider just has to inform the client about his professional authorisation, insurance etc. We think that this system is uncomplicated and has positive sides.

Option 2: Nevertheless, for member states which use the declaration system we think that it is enough if the card can be presented instead of the accompanying documents.



To c) An EU wide acceleration of the recognition procedure is in principle very desirable. Indeed complete documents make the recognition procedure in cases of permanent establishment easier. Nevertheless we think that a deadline for decisions within four weeks is not very realistic in view to national recognition systems as they work now.

We also think that the time pressure is not so strong in establishment procedures as long as the provision of temporary cross border services is easily possible.

## 2.2. Focus on economic activities: the principle of partial access

**Question 3: Do you agree that there would be important advantages to inserting the principle of partial access and specific criteria for its application into the Directive? (Please provide specific reasons for any derogation from the principle.)**

CLGE again insists on the importance of a good understanding of the surveying profession.

The regulated part related to the cadastral surveying and securing property rights cannot be divided; hence no partial access can be conceived.

The other activities of surveyors should not be regulated. Their access should be totally free and where they still exist, restrictions should definitively be removed.

In a more general way, we do not see any advantage of inserting the principle of partial access into the directive. On the contrary, in our view partial access should be restricted to singular exceptional cases evaluated on a case by case manner.

A general system of partial access would lead to confusion and uncertainty of clients / consumers and would fragment the market in a very undesirable way. Additionally it is also difficult to handle for national (controlling) authorities.

## 2.3. Reshaping common platforms

**Question 4: Do you support lowering the current threshold of two-thirds of the Member States to one-third (i.e. nine out of twenty seven Member States) as a condition for the creation of a common platform?**

**Do you agree on the need for an Internal Market test (based on the proportionality principle) to ensure a common platform does not constitute a barrier for service providers from non-participating Member States? (Please give specific arguments for or against this approach.) Professional qualifications in regulated professions**

Yes, we do think that the lowering of the current threshold of two-thirds of the Member States to one third is a necessary condition for the creation of a common platform. As such a common platform agreement brings mainly advantages we think that even a further lowering of the threshold would be possible and would make sense.

The Internal Market test should not be a hindrance. It must be clarified that the test cannot prevent the creation of the platform or oblige its abolition with the sole argument that there are non-participating member states that cannot fulfil the qualification level on which the participating member states have agreed. Otherwise the lowering of the threshold would not be relevant.



It is necessary to be aware that a platform does not worsen the situation for applicants of non-participating member states but only improves the situation for those applicants of participating member states.

## 2.4. Professional qualifications in regulated professions

**Question 5: Do you know any regulated professions where EU citizens might effectively face such situations? Please explain the profession, the qualifications and for which reasons these situations would not be justifiable.**

We don't see regulated professions in that case. However, we do believe that some of our typical activities require special authorizations in some countries (authorization to perform photogrammetry, topography, geodesy, ...), while this should not be the case. The only activity requiring this is cadastral surveying with property delimitation.

## 3. BUILDING ON ACHIEVEMENTS

### 3.1. Access to information and e-government

**Question 6: Would you support an obligation for Member States to ensure that information on the competent authorities and the required documents for the recognition of professional qualifications is available through a central on line access point in each Member State? Would you support an obligation to enable online completion of recognition procedures for all professionals? (Please give specific arguments for or against this approach).**

Yes, CLGE supports an obligation to ensure that information about competent authorities and required documents for the recognition of professional qualifications are available through a central online access point. We do not feel that the current information situation is satisfying.

The possibility to complete recognition procedures online would be a considerable facilitation for many applicants; hence CLGE is in favour of this kind of improvement.

### 3.2. Temporary mobility

#### 3.2.1. Consumers crossing borders

**Question 7: Do you agree that the requirement of two years' professional experience in the case of a professional coming from a non-regulating Member State should be lifted in case of consumers crossing borders and not choosing a local professional in the host Member State?**

**Should the host Member State still be entitled to require a prior declaration in this case? (Please give specific arguments for or against this approach.)**

In general terms it might make sense to lift the requirement for some professions but definitely not in the case of cadastral surveying services with property delimitation.



In this case, property rights are at stake and securing them does not differ with regard to the country of origin of the client.

Therefore CLGE is strongly against a change of the current regulation as there is no practical need for that at all. This would only endanger the quality of surveying services especially in the field of property delimitation.

Again, the other surveying services should not be affected by this, since they do not require regulations at all.

It must be underpinned that the other professions in the scope of the Green Paper have nothing to do with tasks of public appointment such as cadastral surveying with property delimitation does in several member states. One has to bear in mind that this kind of activities aims securing property rights, as prescribed by European legislation. The controlling body must be capable to ascertain that the rules of art are respected by the practitioner. The result of his work must be geo-referenced and integrated in the state run database. Last but not least, a penalty board must be able to instruct infringement procedures.

### **3.2.2. The question of "regulated education and training"**

***Question 8: Do you agree that the notion of "regulated education and training" could encompass all training recognised by a Member State which is relevant to a profession and not only the training which is explicitly geared towards a specific profession? (Please give specific arguments for or against this approach.)***

In several member states, the profession opens itself to other relevant training. However, given the specificity of cadastral surveying with property delimitation, this opening can only be envisaged, if this relevant training is completed by profession specific practice, under the control of a recognized professional.

Thus, the requirements for training geared towards the profession cannot simply be eased for the profession of cadastral surveyors with tasks of public interest, i.e. property delimitation. Such a change could endanger the quality of the training and therefore also the quality of the services. As regulated activities of surveyors are in the public interest and can have an impact on the quality of life, security and health of people and property, the quality of these services is very important.

Receiving countries including a mandatory two years traineeship cannot be forced to skip this requirement by recognized non-specific training in the Member State of origin.



### 3.3. Opening up the general system

#### 3.3.1. Levels of qualification

**Question 9: Would you support the deletion of the classification outlined in Article 11 (including Annex II)? (Please give specific arguments for or against this approach.)**

No, we think that it is very important to keep the classification outlined in Art 11. It is a practical and proven system that is also widely accepted. At the moment there is no other system available that could be an acceptable alternative. The European Qualification Framework and the national allocations are firstly not perfected yet and still widely unknown. Secondly we principally doubt that the EQF can ever be an appropriate basis for professional recognition. We think it is the wrong approach, to neglect/underestimate the duration of studies. For many professions also a personal maturing and developing process is necessary which also takes a certain amount of time.

A shift towards the EQF system would definitely lead to huge practical problems in professional recognition.

We also think that for highly qualified professions as the profession of cadastral surveyors performing property delimitations it is important that, if there is a difference of two or more levels between the qualification of the professional and the qualification required in the host Member State, the recognition is not possible. Otherwise there is a danger that huge additional practical efforts and costs in view to compensation measures will arise for the host member state but also for the applicant. With such huge differences in the level of education it can often not be seen as the same profession any more. Additionally the abolishment of this regulation could lead to complete erosion of academic qualifications and of highly qualified national professions. Especially in the case of cadastral surveying with property delimitation services this would be very dangerous and undesirable since many of these services are provided in public interest and therefore have an impact on quality of life, security and health of persons and their property.

The problems that would arise from the abolishment of Art 11 would not improve mobility but on the contrary they would lead to massive confusion and obstacles that hinder mobility.

#### 3.3.2. Compensation measures

**Question 10: If Article 11 of the Directive is deleted, should the four steps outlined above be implemented in a modernised Directive? If you do not support the implementation of all four steps, would any of them be acceptable to you? (Please give specific arguments for or against all or each of the steps.)**

See answer to Question 9, for obvious reasons, related to the answers to our previous answer, CLGE strongly opposes the deletion of Article 11.

No of the proposed steps is acceptable for us.

Apart from that CLGE is in favour of an obligation for competent authorities to give detailed reasons for their decisions on compensation measures.



### 3.3.3. Partially qualified professionals

**Question 11: Would you support extending the benefits of the Directive to graduates from academic training who wish to complete a period of remunerated supervised practical experience in the profession abroad? (Please give specific arguments for or against this approach.)**

CLGE supports the possibility for graduates of an academic training to obtain supervised professional practice in another member state and to get this practice accepted for professional access in the home country or elsewhere.

A regulation in the directive, stating that professional experience acquired in one country cannot be rejected in another receiving country with the sole argument that it was not acquired in this country, could be helpful.

However, it should be insured that such professional experiences cannot bypass periods of professional experience under the control of a recognized cadastral surveyor active in the field of property delimitation, of the receiving Member State, if this kind of traineeship is mandatory in this country. This limitation is due to the lack of harmonization of European Member State legislations about property, as well as town- and rural planning.

### 3.4. Exploiting the potential of IMI

#### 3.4.1. Mandatory use of IMI for all professions

#### 3.4.2. Alert mechanism for health professions

**Question 12: Which of the two options for the introduction of an alert mechanism for health professionals within the IMI system do you prefer? Option 1: Extending the alert mechanism as foreseen under the Services Directive to all professionals, including health professionals? The initiating Member State would decide to which other Member States the alert should be addressed.)**

**Option 2: Introducing the wider and more rigorous alert obligation for Member States to immediately alert all other Member States if a health professional is no longer allowed to practise due to a disciplinary sanction? The initiating Member State would be obliged to address each alert to all other Member States.)**

CLGE has no comments about health professionals.

However, for CLGE it makes no doubt that as far as cadastral surveying with property delimitation is concerned option 2 would be the only acceptable solution.

CLGE once again wants to stress that, if health questions are of course very important, services related to cadastral surveying with property delimitation are very important too as their activities have far reaching effects in the lives of their clients.

A similar alert should therefore be guaranteed in favour of clients of cadastral surveyors with property delimitation activities when it comes to their monopolistic activities and related sanctions.



### 3.5. Language requirements

**Question 13: Which of the two options outlines above do you prefer?**

**Option 1: Clarifying the existing rules in the Code of Conduct**

**Option 2: Amending the Directive itself with regard to health professionals having direct contact with patients and benefiting from automatic recognition.**

For the time being, this question does not apply to cadastral surveyors, because they are not health professionals.

However, thorough language skills are of course very important for surveyors since only such skills enable them to understand the specificities of the profession in the receiving Member State. Moreover and if possible more importantly these skills are required to allow the surveyors to serve, guide and advice their clients or employers in a language all the concerned parties can understand. Indeed, unlike common surveying tasks, cadastral surveying with property delimitation requires a profound knowledge of the language of the receiving Member State, since very fine, sometimes irrational arguments of competing parties must be dealt with. It suffers no doubt that cadastral surveyors of this kind cannot perform their task without close verbal and written interaction with their clients, while this is not true for some health professionals.

Although the option is not offered, CLGE asks the Commission to take these specifics into account.

## 4. Modernizing automatic recognition

### 4.1. A three phase approach to modernization

**Question 14: Would you support a three-phase approach to modernisation of the minimum training requirements under the Directive consisting of the following phases:**

**- the first phase to review the foundations, notably the minimum training periods, and preparing the institutional framework for further adaptations, as part of the modernisation of the Directive in 2011-2012;**

**- the second phase (2013-2014) to build on the reviewed foundations, including, where necessary, the revision of training subjects and initial work on adding competences using the new institutional framework; and**

**- the third phase (post-2014) to address the issue of ECTS credits using the new institutional framework?**

Again, this question applies not to cadastral surveyors but to medical professionals and architects.

CLGE notices that these professions are very diverse. Moreover it is properly stated that "The system of automatic recognition for these professions is widely seen as a success".

We therefore advocate that as far as cadastral surveying with property delimitation is concerned such a scheme to obtain automatic recognition would be a good move, provided that the high level of required qualification is taken into account. Cadastral



surveyors bearing responsibilities related to property delimitation, comparable with responsibilities of architects, do not understand why general purpose nurses and midwives are regulated in a given way whilst this is not done for them.

In opposition to health questions which are more or less homogeneous over the European Union, the cadastral systems are very diverse and require specific high profile knowledge from the surveyors. This alone would justify implementing the three phased approach to our profession.

## 4.2. Increasing confidence in automatic recognition

### 4.2.1. Clarifying the status of professionals

**Question 15: Once professionals seek establishment in a Member State other than that in which they acquired their qualifications, they should demonstrate to the host Member State that they have the right to exercise their profession in the home Member State. This principle applies in the case of temporary mobility. Should it be extended to cases where a professional wishes to establish himself? (Please give specific arguments for or against this approach.) Is there a need for the Directive to address the question of continuing professional development more extensively?**

As far as cadastral surveying with property delimitation is concerned CLGE is in favour of this extension.

It is evident that those who are barred from the exercise of a monopolistic professional activity, related to public interest, in one country should not be allowed to exercise it in another Member State nor elsewhere, for the sake of the same public interest.

We advocate a harmonization of the conditions of exercise for this kind of activities. This would help to enforce what common sense makes evident but too complex and heterogeneous regulations seem to make impossible.

The continued professional development is one specific example of what precedes and clearly merits to be addressed extensively in the Directive.

As a matter of fact another approach would introduce discrimination amongst cadastral surveyors and clearly endanger the consumer protection as well as the public interest.

### 4.2.2. Clarifying minimum training periods for doctors, nurses and midwives

**Question 16: Would you support clarifying the minimum training requirements for doctors, nurses and midwives to state that the conditions relating to the minimum years of training and the minimum hours of training apply cumulatively? (Please give specific arguments for or against this approach.)**

Not applicable.



#### 4.2.3. Ensuring better compliance at national level

**Question 17: Do you agree that Member States should make notifications as soon as a new program of education and training is approved? Would you support an obligation for Member States to submit a report to the Commission on the compliance of each programme of education and training leading to the acquisition of a title notified to the Commission with the Directive? Should Member States designate a national compliance function for this purpose? (Please give specific arguments for or against this approach.)**

CLGE would indeed support this, assuming that the commission would inform the competent authorities of the Member States about such changes.

The Member States should only designate a national compliance function, if currently there is no existing authority in charge of the profession. Such compliance functions can only be given to legal bodies assuming public authority.

#### 4.3. – 4.5. Not applicable

**Question 18 – 21: Not applicable**

#### 4.6. Architects

**Question 22: Which of the two options outlined above do you prefer?**

**Option 1: Maintaining the current requirement of at least four years academic training?**

**Option 2: Complementing the current requirement of a minimum four-year academic training by a requirement of two years of professional practice. As an alternative option, architects would also qualify for automatic recognition after completing a five-year academic programme, complemented by at least one year of professional practice.**

CLGE strongly advocates the second option.

These two years of professional practice is an absolute must for tasks entrusted to architects. In our minds, it would be better to have a five years study with two years of practice and a state examination as lawyers do have.

We think that cadastral surveyors performing property delimitations regulated by the state should benefit from the same provisions as architects since they bear responsibilities of the same kind and importance to the European Citizens and Society.

#### 4.7. Automatic recognition in the areas of craft, trading and industry

**Question 23: Not applicable**



#### 4.8. Third country qualifications

**Question 24:**

***Do you consider it necessary to make adjustments to the treatment of EU citizens holding third country qualifications under the Directive, for example by reducing the three years rule in Article 3 (3)? Would you welcome such adjustment also for third country nationals, including those falling under the European Neighbourhood Policy, who benefit from an equal treatment clause under relevant European legislation? (Please give specific arguments for or against this approach.)***

In the field of cadastral surveying with property delimitation, CLGE is not in favour of an adjustment of the treatment for EU citizens and third country nationals under the directive if there is no thorough scrutiny of the initial studies.

It could happen that nationals from the receiving Member State would try to avoid high level training by studying abroad in easier circumstances. That cannot be our goal.

For CLGE, gathered in Tallinn on 16 – 17 September 2011

Jean-Yves Piriot, President

19 September 2011