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# REPORT FROM THE COMMISSION TO THE EUROPEAN PARLIAMENT, THE COUNCIL, THE EUROPEAN ECONOMIC AND SOCIAL COMMITTEE AND THE COMMITTEE OF THE REGIONS

## on the implementation of certain new elements introduced by Directive 2013/55/EU of the European Parliament and of the Council of 20 November 2013 amending Directive 2005/36/EC on the recognition of professional qualifications and Regulation (EU) No 1024/2012 on administrative cooperation through the Internal Market Information System ('the IMI Regulation')

{SWD(2020) 79 final}

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## 1. INTRODUCTION

The aim of Directive 2005/36/EC of the European Parliament and of the Council of 7 September 2005 on the recognition of professional qualifications[1] was to simplify the regimes for mutual recognition of professional qualifications by consolidating the specific directives adopted since the 1960s. In its Communication of 27 October 2011[2], the Commission identified the need to further modernise EU law in this area. As a result, it adopted amending Directive 2013/55/EU[3] on 20 November 2013, which brought in a number of changes to the framework governing the recognition of professional qualifications to modernise and facilitate the safe mobility of professionals across Europe[4].

This report is based on Article 60(2) of the revised Directive. It covers all key aspects of modernising EU law on this matter, including the specific implementation issues referred to in the second subparagraph of Article 60(2) (the European Professional Card, modernisation of the knowledge, skills and competences for 'sectoral' professions, and the common training principles). The report presents the results of the special upgrading programme for Romanian nurses, which will be a basis for review of the provisions on the acquired rights regime applicable to Romanian nurses responsible for general care. In the final section, the report puts forward several conclusions.

The report draws on an overview of national implementing measures that Member States sent to the Commission under Article 3(5) of amending Directive 2013/55/EU[5], bi-annual reports of Member States on application of the revised Directive[6], and information acquired by the Commission in its work to enforce and monitor application of this Directive in the Member States.

This report does not constitute a full evaluation within the meaning of the Better Regulation Guidelines[7]. It is accompanied by a staff working document, consisting of the following parts:

- Part I (Implementation plan 2014);
- Part II (Transposition of amending Directive 2013/55/EU in the Member States);
- Part III (Key issues raised in infringement procedures concerning non-compliance of national provisions with the revised Directive);
- Part IV (Statistics on the use of the Internal Market Information System), and
- Part V (Results of the special upgrading programme for Romanian nurses).

[1] OJ L 255, 30.9.2005, p. 22.

[2] Single Market Act, Twelve levers to boost growth and strengthen confidence, 'Working together to create new growth', COM(2011) 206 final.

[3] OJ L 354, 28.12.2013, p. 132.

[4] Directive 2005/36/EC, as amended by Directive 2013/55/EU is referred to as 'the revised Directive'.

[5] Available at: https://eur-lex.europa.eu/legal-content/EN/NIM/?uri=celex:32013L0055.

[6] Under Article 60(1) of the revised Directive, as from 20 October 2007, Member States shall, every 2 years, send a report to the Commission on the application of the system. These reports contain a statistical summary of the decision taken and a description of the main problems arising from the application of the Directive.

[7] SWD(2017) 350 Commission Staff Working Document — Better Regulation Guidelines.

## 2. MODERNISING THE RULES TO FACILITATE SAFE MOBILITY IN THE 21ST CENTURY

The changes brought in by amending Directive 2013/55/EU focused on modernising the framework of recognition of professional qualifications and adapting it to an evolving labour market. It placed a strong emphasis on the use of modern technology in recognition procedures to cut red tape and to speed up the formalities that enable professional mobility across Europe. The aim was to make it easier for professionals to have their qualifications recognised, whilst guaranteeing a higher level of protection for consumers and citizens.

This section outlines the main changes brought in by amending Directive 2013/55/EU.

*Updating harmonised training requirements for 'sectoral' professions*

The **harmonised minimum training conditions** defined in the revised Directive for 'sectoral' professions (doctors, nurses, dentists, veterinary surgeons, midwives, pharmacists and architects) were updated to reflect changes in the professions and in education in these fields. The changes cover the provisions on the entry requirements for training, the minimum duration of training, the lists of minimum knowledge, skills and competences, and the lists of minimum professional activities reserved to some professions.

Although it made limited changes to the provisions on knowledge, skills and competences, no corresponding changes were made to the minimum study programmes set out in Annex V to the revised Directive. The revised Directive **delegated powers** to the Commission to make further updates to the knowledge and skills requirements and to the lists of training subjects in Annex V to the revised Directive. These updates could be made only, if necessary, at a later stage, and in light of generally acknowledged scientific and technical progress.

Through these delegated powers, the Commission may also update the following aspects of Annex V: the minimum training duration for medical and dental specialisations[8], categories of medical and dental specialities[9], and the lists of evidence of the formal qualifications that meet the minimum training conditions[10].

On 7 May 2018, the Commission published its first report on its use of the delegated powers[11]. The power to adopt delegated acts conferred on the Commission was subsequently extended tacitly until January 2024.

*New venues for automatic recognition*

The revised Directive brought in the possibility to establish **common training principles** (frameworks or tests) and to extend the system of automatic recognition to new professions. This new system allows professional organisations and Member State regulators to agree on a common set of knowledge, skills and competences (or an aptitude test) needed to pursue a profession. On this basis they can suggest to the Commission a common training framework

[8] Article 25(5) and 35(2) of the revised Directive.
[9] Article 26 and 35(5) of the revised Directive.
[10] Article 21a of the revised Directive.
[11] COM(2018) 263 final.

or test. Qualifications obtained under these common training frameworks (or tests) would automatically be recognised in other Member States. This possibility applies to cases where the profession (or the education and training for the profession) is already regulated in at least one third of Member States.

*Ease in establishing and providing services in another Member State*

The revised Directive also addressed specific problems in assessing requests for recognition under the **general system** of recognition, notably as regards modernising qualification levels, the mobility of professionals between non-regulating and regulating Member States, and the organisation of compensation measures. In particular, it made sure that qualification levels can be used by the authorities only as an initial benchmarking tool and that mere differences in the levels cannot be used as grounds to reject applications for recognition[12]. Member States may no longer impose compensatory measures on the basis of shorter training duration (they must demonstrate substantial differences in training). National authorities must duly justify the use of compensatory measures and make sure that aptitude tests are organised regularly.

Both in cases of establishment under the general system of recognition and in cases of temporary service provision, professionals coming from a **country that does not regulate** a profession no longer need to prove two years of professional experience over the previous 10 years (one year of required **professional experience** is sufficient).

The revised Directive also clarified that submission of a prior declaration for **temporary or occasional service provision** entitles service providers to have access to and exercise their profession throughout the host Member State. It also revised the timeframe for carrying out a check of professional qualifications under Article 7(4) of the revised Directive prior to the first provision of services for professions who work in the field of public health and safety.

*New rules for partial access, traineeships and language checks*

Building on the case law of the Court of Justice of the European Union[13], the revised Directive introduced the principle of **partial access** to a profession where the activities covered by a regulated profession differ from one country to another. This can be useful for professionals working in a genuine sector of the economy that does not exist as a profession in its own right in the Member State to which they wish to move.

The revised Directive now obliges Member States to **recognise professional traineeships** carried out in other Member States, where this period of traineeship is compulsory to access a regulated profession.

It also allows host Member States to carry out systematic **language checks** only for professions that have implications on patient safety. Language checks should take place only

[12] There is only one exception to this rule, i.e., where a professional is qualified at the lowest level (a), but seeks access to a profession in the host country with a qualification requirements at the highest level (e), the authorities can reject his/her application for recognition.

[13] CJEU of 19.1.2006, Case C-330/03, *Colegio de ingenieros de caminos, canales y puertos*, ECLI:EU:C:2006:45.

after the host Member State has recognised the qualification, should be limited to the knowledge of one official or administrative language of the host Member State, and should be proportionate to the activity to be pursued.

*Mandatory use of the Internal Market Information System*

The directive makes use of the Internal Market Information (**IMI**) system mandatory, both for **administrative exchanges** and for the purpose of **notifying the qualifications** needed to meet the harmonised minimum training requirements, i.e., qualifications listed in Annex V to the revised Directive. In addition, the IMI is the platform to operate the two new tools brought in by the latest revision of the directive, the **European Professional Card** and the **alert mechanism**.

*New tools to facilitate the safe mobility of professionals across the EU*

The **European Professional Card (EPC)** is an innovative tool that aims to simplify recognition procedures and takes the form of an electronic certificate. It is based on enhanced cooperation between the authorities of the home and host Member State and on the systematic use of the IMI, in line with the Commission's policy to boost the Digital Single Market. The EPC can be made available to those professions that meet conditions as regards mobility (or potential for mobility), the number of regulating Member States, and the interest of stakeholders.[14]

To ensure that increased professional mobility does not come at the expense of the consumer and patient safety, the revised Directive requires that pro-active **alerts** be sent to all Member States on professionals who have restricted access to their health- or children-related profession in one of the Member States, or on professionals who have tried to use falsified documents in their applications.

*Easier access to information and procedures and reducing red tape*

Member States have a clear obligation to make available all **information** about recognition of qualifications for all regulated professions through the **points of single contact (PSCs),** which were created under Directive 2006/123/EC[15] (the Services Directive) and were already applicable when Directive 2005/36/EC was revised. Professionals should be able to **complete the procedures and formalities** covered by the revised Directive online via the PSCs or the competent authorities in charge of the profession. **Assistance centres** in each Member State must provide advice and assistance to individual cases.

*Greater transparency about regulatory requirements*

Member States were required to provide information on their existing regulated professions and professions that require a check of qualifications prior to the first provision of temporary

[14] Article 4a(7) of the revised Directive.

[15] Directive 2006/123/EC of the European Parliament and of the Council of 12 December 2006 on services in the internal market, OJ L 376, 27.12.2006, p.376.

or occasional services, and to keep that information up to date. In addition, Member States carried out a mutual evaluation of the barriers they have put in place limiting access to and exercise of regulated professions. The revised Directive also brought in ongoing obligations for Member States to report on any requirements removed or made less stringent, and any new or amended requirements, with explanations on their proportionality.

# 3. IMPLEMENTATION IN THE MEMBER STATES

## 3.1 Support for transposition

Acknowledging that a proper and timely implementation of the revised Directive was key to the success of modernisation and the new framework for the recognition of qualifications, the Commission made best endeavours to support the work of the Member States. Regular meetings took place in the expert groups established by the Directive[16] and the Commission held bilateral meetings with Member States. To raise awareness and exchange views on the key aspects of the modernisation work, the Commission organised a high-level conference[17] with the active participation of the European Parliament, the Council and several professional organisations and competent authorities. On a more technical level, the Commission organised several transposition workshops with experts from the Member States to discuss the main amendments, and participated in national implementation workshops. The Commission continued to provide assistance to the Member States at their request, in line with the actions outlined in the implementation plan (see Part I of the staff working document).

In parallel, the Commission worked closely with the Member States to ensure a proper implementation of the new obligations on transparency, mutual evaluation and proportionality assessments of their regulated professions under Article 59 of the revised Directive.

The Commission (with the assistance of an external contractor) also carried out an in-depth quality (conformity) check of the national legislation notified by the Member States.

## 3.2 Transposition delays and enforcement action

The transposition deadline for the amending Directive 2013/55/EU was 18 January 2016. Most of the Member States did not complete the transposition by the deadline. Bi-annual reports of Member States for the period of 2016-2018 indicate that Member States with a non-centralised approach to implementation (through federal, regional or provincial laws) faced a higher administrative burden due to the need to adapt a large body of legislation and to cooperate and involve a greater number of responsible authorities. Member States with comparatively fewer recognition decisions signalled the complexity of the recognition processes and difficulties to find and maintain the required expertise.

Part II of the staff working document provides a more detailed overview of Member State notifications of national implementing measures.

Infringement proceedings followed shortly after the transposition deadline expired. [18] A significant number of Member States were late in completing transposition. The Commission closed the last non-communication infringement cases in March 2018. Subsequently, the Commission checked the compliance of notified national regulations and administrative

[16] Group of Coordinators for the Recognition of Professional Qualifications.

[17] Conference 'Modernisation of the Professional Qualifications Directive: safe mobility' (Brussels, 12.2.2014).

[18] The Commission launched 22 so-called non-communication cases in March 2016. See COM press releases MEMO/16/3125 and IP/17/4773.

practices with the requirements of the revised Directive and launched infringement procedures, when needed.

On 19 July 2018, the Commission started a first series of infringement procedures against 27 Member States[19] for non-compliance of their national legislation and practice with the revised Directive[20]. This set of infringement procedures ('1st batch') covered new issues crucial to the functioning of the revised Directive, in particular the new EPC, the alert mechanism, the partial access to a professional activity, the proportionality of language requirements and the setting up of assistance centres. In addition, the Commission raised issues relating to the transparency and proportionality of regulatory obstacles in professional services, following up on its Communication from January 2017 on reform recommendations for regulation in professional services[21].

After having assessed Member State replies to the above-mentioned letters of formal notice, on 7 March 2019, the Commission took further steps in the infringement procedures against 26 Member States. It sent reasoned opinions to 24 Member States[22] and additional letters of formal notice to two Member States[23] for non-compliance of their national legislation and practices with the revised EU rules on the recognition of professional qualifications[24]. These procedures are still ongoing with an exception of one case that was closed following compliance by the Member State concerned.

On 24 January 2019, the Commission launched a second set of infringement procedures ('2nd batch') against 27 Member States[25] regarding compliance of their national rules and practice with other key provisions of the directive. This included compliance with the rules on freedom of establishment, freedom to provide services, professions benefiting from automatic recognition based on harmonised minimum training requirements, documentation and formalities, recognition of professional traineeships and administrative cooperation[26]. On 27 November 2019, the Commission sent reasoned opinions to 22 Member States[27] and additional letters of formal notice to four Member States[28]. These procedures are still ongoing.

Though this enforcement work focused on the main changes brought in by amending Directive 2013/55/EU, it also addressed overall implementation of the revised Directive in the national legal frameworks. It was the first systematic and comprehensive assessment of the national legal framework for recognition of qualifications under the directive.

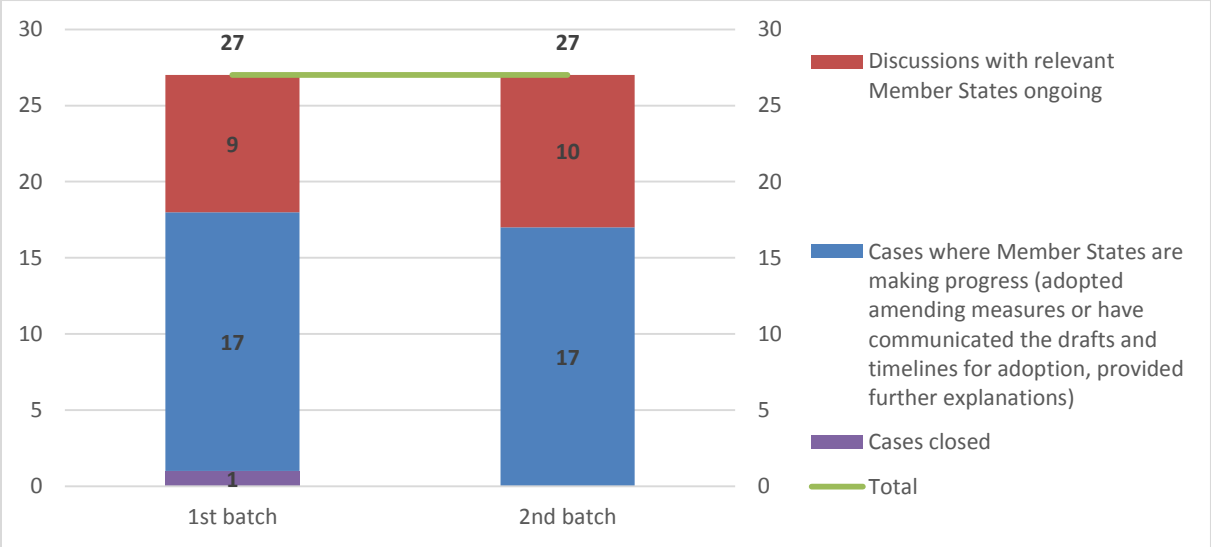
[19] All EU Member States, except Lithuania.
[20] See COM press release MEMO/18/4486.
[21] COM/2016/0820 final.
[22] Austria, Belgium, Bulgaria, Croatia, Cyprus, Denmark, Finland, France, Germany, Greece, Hungary, Ireland, Italy, Luxembourg, Malta, the Netherlands, Poland, Portugal, Romania, Slovakia, Slovenia, Spain, Sweden, and the United Kingdom.
[23] Estonia and Latvia.
[24] See COM press release MEMO/19/1472.
[25] All Member States, except Denmark.
[26] See COM press release IP/19/467.
[27] All Member States, except Denmark, Belgium, Germany, Malta and Spain.
[28] Spain and Belgium (10 October 2019); Malta and Germany (27 November 2019).

In addition, on 6 June 2019, all 28 Member States received specific letters of formal notice with the request to improve the functioning of their PSCs established under the Services Directive. This also covered information and procedures related to the recognition of qualifications (Articles 57 and 57a of the revised Directive) with a view to providing user-friendly, one-stop shops for service providers and professionals[29]. These infringement procedures are still ongoing.

### 3.3 Implementation in the Member States: state of play

In the Commission's assessment of national transposition measures and the measures taken to enforce the rules, the Commission found that the Member States are making progress in implementation of the revised Directive to different degrees of success. Member States' efforts were effectively improved by the Commission's enforcement action, as shown in graph 1 below.

*Graph 1. Number of cases where Member States are making progress v the number of cases where discussions with the Member States concerned are ongoing on one or more issues of non-compliance (March 2020)*




The section below provides an overview of implementation in Member States of the revised Directive, including the main changes brought in to modernise the rules. The overview is based on the main findings from the work described above, in particular the conformity assessment and other available information. Part III of the staff working document gives a more detailed overview of the key issues raised in the infringement procedures.

*Transposition of harmonised minimum training requirements for 'sectoral' professions*

The harmonised minimum training requirements (entry requirements, the minimum training duration, the lists of minimum knowledge, skills and competences, and the lists of minimum reserved professional activities) are the basis for automatic recognition of qualifications

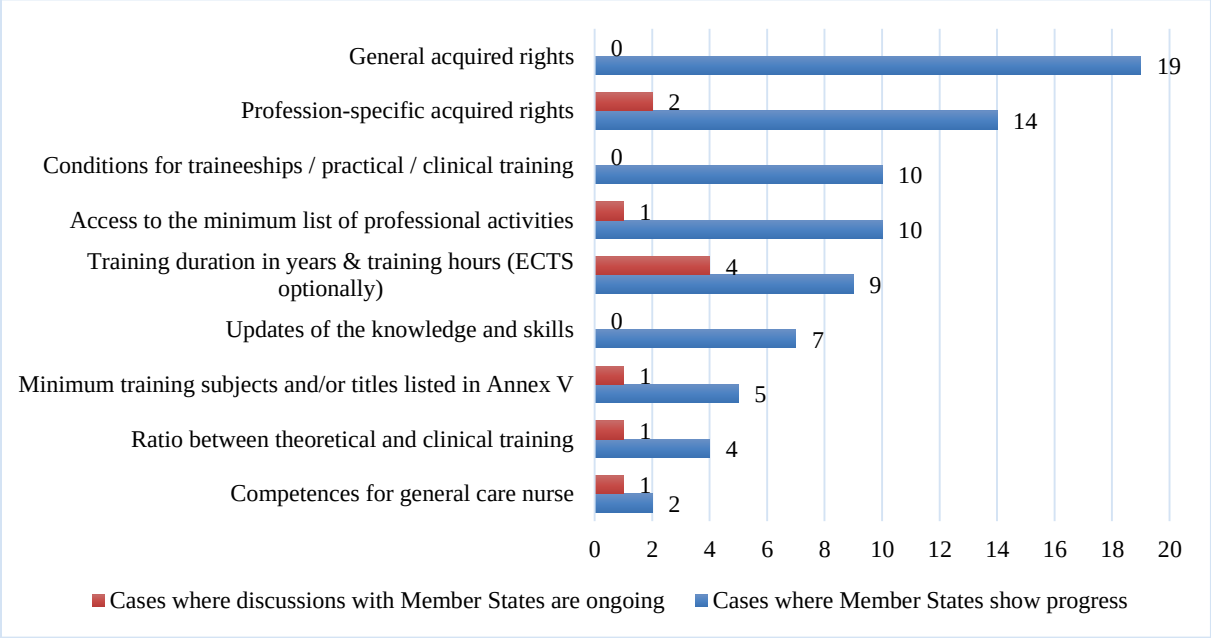
[29] See COM press release MEMO/19/2772.

between Member States. In addition, professionals can benefit from automatic recognition through general or specific acquired rights.

The Commission's assessment of national transposition measures shows that implementation in Member States of updated **harmonised minimum training conditions** for 'sectoral' professions was generally adequate. However, the Commission had to take infringement measures to address a number of specific issues. In the majority of cases, in reply to the letters of formal notice and reasoned opinions, the Member States communicated the necessary amendments to their national provisions, or indicated a specific timeline for adopting these amendments. Discussions are ongoing with the remaining Member States.

In particular, non-compliance issues in specific Member States concerned the key issues shown in Graph 2 below (see Part III of the staff working document, table 'Sectoral professions'):

*Graph 2. Number of Member States concerned by the key issues of non-compliance regarding sectoral professions (March 2020)*




*Possible future updates (by means of delegated acts) to the knowledge and skills requirements and to the lists of training subjects*

The revised Directive delegated powers to the Commission to make further updates to the knowledge and skills requirements and to the lists of training subjects in Annex V to the revised Directive, if necessary, and in light of generally acknowledged scientific and technical progress.

In this context, in parallel with the review of national transposition measures, in 2017-2018 the Commission commissioned a study to collect background information and an independent

assessment prior to taking an informed decision on whether further changes to the revised Directive are needed for nurses responsible for general care, and if so, to what extent[30].

The study will map the current national requirements in all EU, EFTA States (Iceland, Liechtenstein, Norway and Switzerland) and the UK with regard to theoretical and clinical training for nurses responsible for general care and the knowledge and skills that they should acquire during such training. The mapping focuses on identifying any existing requirements in Member States that go beyond the minimum training requirements set under the revised Directive and assesses whether these requirements reflect an adaptation to generally acknowledged scientific and technical progress. The study will also contain an assessment of the mapped requirements and suggestions on whether or not there is a need to revise the knowledge and skills requirements and the lists of training subjects for nurses responsible for general care.

On 12 November 2019, a stakeholder workshop took place in Brussels where preliminary results of the study were presented and discussed with national authorities, training institutions and representatives of the profession on national and EU/EFTA level. On 27 November 2019, preliminary results were also consulted with Member States via the national coordinators for the recognition of professional qualifications. On 21 January 2020, the preliminary results were presented for discussion at the meeting of the group of coordinators for the recognition of professional qualifications.

The preliminary results of the research corroborated with stakeholders input indicate a number of suggestions for possible updates to the knowledge and skills requirements and the list of training subjects for nurses responsible for general care. The study will be finalised and published in the course of 2020. The Commission will subsequently discuss the final findings in the group of coordinators for the recognition of professional qualifications to assess the next steps.

In parallel, the Commission launched another call for tender for the dentist and pharmacist professions[31]. These studies will focus on the need to update the required knowledge and skills requirements and the lists of training subjects for these professions.

*Other delegated acts for 'sectoral' professions*

On the basis of Article 21a(4) of the revised Directive, the Commission is also empowered to adopt **delegated acts amending the lists of evidence of formal qualifications in Annex V** to the revised Directive, which serve as a basis for automatic recognition.

Following the last revision of the directive, the use of IMI by Member States became mandatory for the purpose of notifying new titles of qualifications for sectoral professions benefitting from automatic recognition (and for notifying changes to old titles and training

[30] Call for tenders No 628/PP/GRO/IM A/17/1131/9580 (closed with a non-award notice) and No 711/PP/GRO/IMA/18/1131/11026 (study ongoing).

[31] Call for tender No 2019/S 144-353631 (closed with non-award decision), call for tender available at https://etendering.ted.europa.eu/cft/cft-display.html?cftId=5139

programmes)[32]. Therefore, prompt notification of any changes to qualification titles via IMI by Member States is a necessary precondition for the Commission to be able to update Annex V. Following feedback from the Member States in their bi-annual reports, it is essential to have up-to-date lists of Annex V diplomas for the automatic recognition system to function.

Since 2014, the Commission has regularly updated these lists in Annex V on the basis of Member State notifications via IMI. So far, the Commission has adopted four delegated decisions amending Annex V to the revised Directive[33].

More details on the use of IMI by individual Member States for notifications of Annex V diplomas is set out in Part IV (section 2) of the accompanying staff working document.

*Common training principles (frameworks or tests)*

On 24 June 2019, Commission Delegated Regulation (EU) 2019/907 of 14 March 2019 establishing a common training test for ski instructors under Article 49b of the revised Directive entered into force[34]. This is the first use case of the new tool to issue delegated regulations.

The common training test for ski instructors was developed in close consultation with organisations representing ski instructors from all interested EU countries. It is a voluntary framework for the automatic recognition of qualifications held by ski instructors under a formal EU legal instrument. Ski instructors holding a relevant qualification can take a test to assess their technical abilities and a test to assess their safety-related competences. Successful completion of these standardised tests allows ski instructors to benefit from automatic recognition while guaranteeing a high level of training and skills. However, the Commission Delegated Regulation (EU) 2019/907 neither harmonises national training nor imposes additional regulation on Member States. For ski instructors not qualified under the common training test, the general regime for recognition of qualifications under the revised Directive remains applicable.

In addition to this first use case, the Commission has been in contact with representatives of several professions to explore the scope to introduce common training principles.

Around 30 professional organisations have expressed an interest in common training principles and no formal suggestions came from the Member States. Further analysis of the expressions of interest revealed that a number of these professions did not reach the required threshold of Member States where the profession or education and training is regulated, e.g. osteopaths, chiropractors and fitness instructors. Other suggestions could lead to extending regulation at national level, which could have a negative impact on access to the profession

[32] Article 21a(1) of the revised Directive.

[33] Commission delegated decisions (EU) 2016/790, 2017/2113, 2019/608, and 2020/548.

[34] Commission Delegated Regulation (EU) 2019/907 of 14 March 2019 establishing a Common Training Test for ski instructors under Article 49b of the revised Directive 2005/36/EC of the European Parliament and of the Council on the recognition of the professional qualifications (OJ L 145, 4.6.2019, p. 7-18).

and mobility. Such measures would ultimately not fulfil the main objective of the common training principles to enable professionals to move across Member States more easily.

The Member States consulted via the Group of Coordinators expressed mainly positive views on bringing in common training principles for engineers and ski instructors, but rather cautious to do so for other professions.

The Commission contracted two studies to look into the possibility of developing common training frameworks. One concerned healthcare assistants[35] (2015-2016) and another concerned engineers[36] (2016-2017).

As regards healthcare assistants, although the study identified a degree of convergence among Member States on a core set of knowledge, skills and competences and interest to define the role of healthcare assistants across Europe, there were diverging views on the levels of education required, the qualification levels to be achieved, the final level of autonomy of professionals and potential unintended consequences of developing such a framework on national health work forces and education systems.

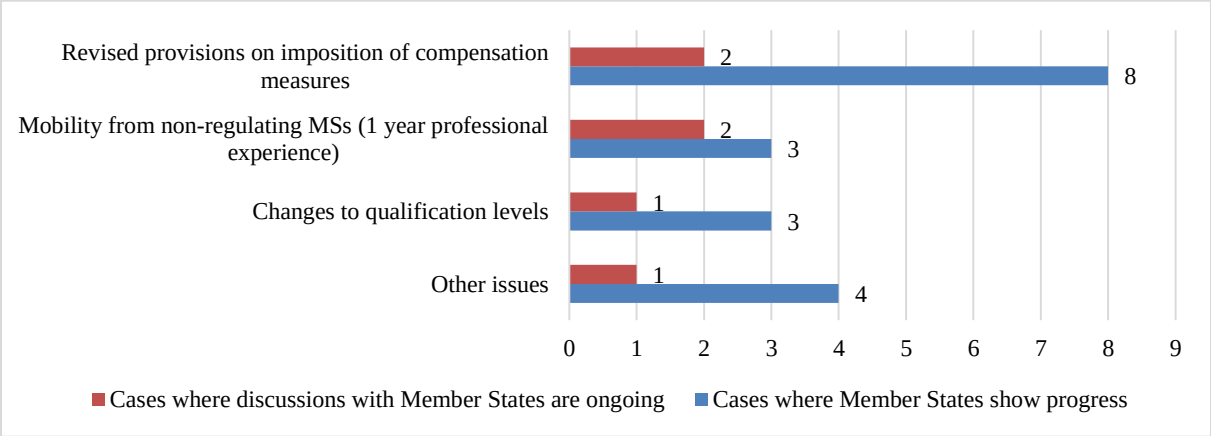
As regards engineers, the mapping of the profession identified a wide range of regulatory regimes for the profession and a high number of engineering specialities. The project finally focused on civil engineers. Although there was consensus to develop the idea of a framework for engineers, several stakeholders (in particular non-regulating Member States) and education providers were hesitant regarding process and potential consequences on the regulation of the profession in non-regulating countries and on the education system.

*General system of recognition and temporary service provision*

The revision of the **general system of recognition** has been satisfactorily transposed in nearly all Member States, with the exception of several cases of non-compliance, for example, regarding changes to qualification levels, the new rules on mobility from non-regulated countries and the setting of compensation measures. In the vast majority of cases, the Member States showed progress by responding to the infringement measures and communicating specific solutions to the issues raised. For very few cases, discussions are still ongoing with the Member States concerned (see Part III of the staff working document, table on 'General system of recognition').

[35] Core Competences of Healthcare Assistants in Europe (CC4HCA), available at https://ec.europa.eu/health/sites/health/files/workforce/docs/2018_corecompetences_healthcareassistants_en.pdf.
[36] Not published.

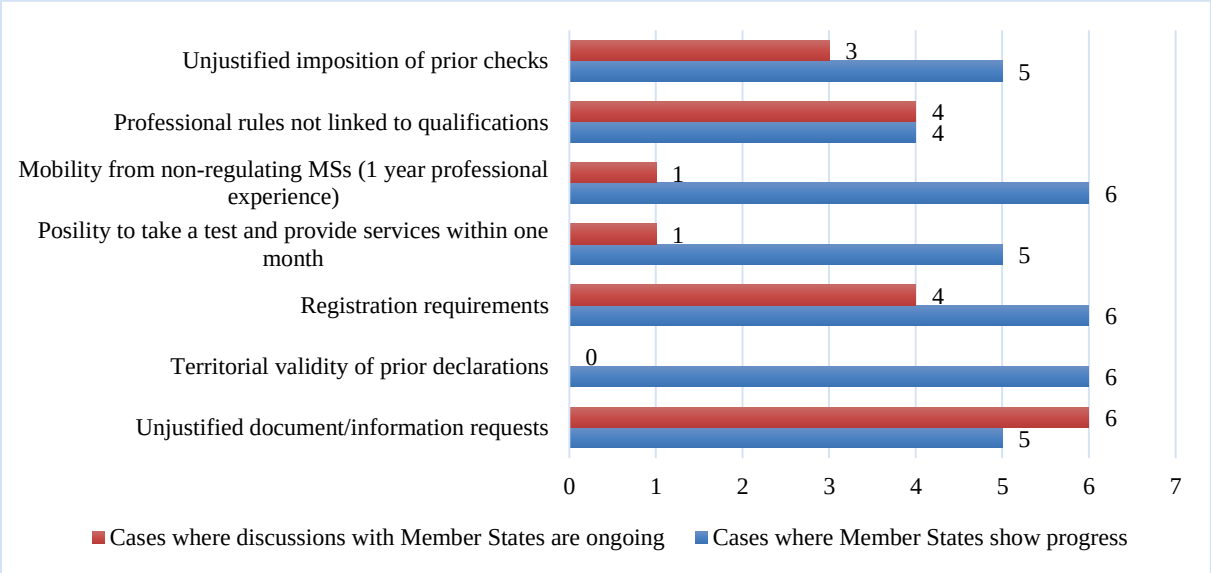
*Graph 3. Number of Member States concerned by the key issues of non-compliance regarding the general system of recognition (March 2020)*




Ensuring consistent and efficient implementation of the **provisions governing temporary and occasional service provision** across the Member States to the benefits of citizens and businesses is a key component of an efficient single market of services for regulated professions. This is crucial to ensure Article 56 TFEU is applied and to protect the fundamental freedom to provide services.

Implementing the revised provisions of Title II of the revised Directive on temporary and occasional service provision raised concerns for 21 Member States and with eight Member States discussions are still ongoing. In particular, the instances of non-compliance in those Member States concerned the main issues outlined in Graph 4 below (see Part III of the staff working document, table on 'Temporary service provision'):

*Graph 4. Number of Member States concerned by key issues of non-compliance (temporary service provision) (March 2020)*



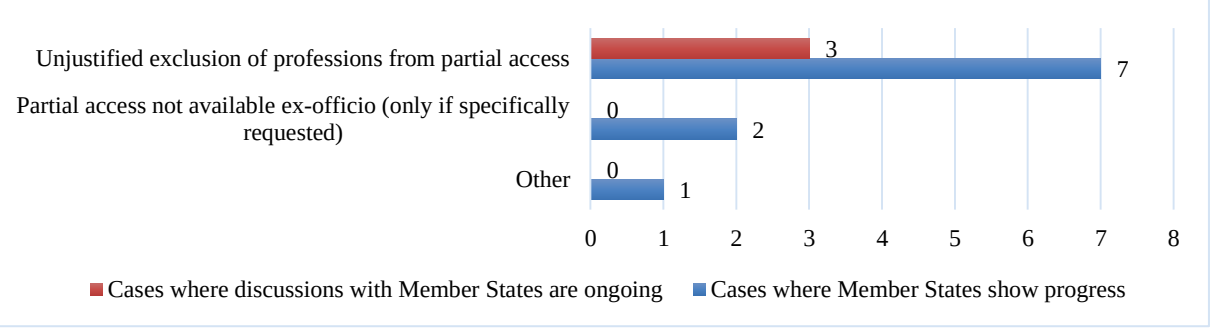
Following the Commission's infringement action, discussions are still ongoing with several Member States on issues such as:

- unjustified enquiries about the services to be provided, or requests of documents going beyond what is permitted under the revised Directive;
- validity of prior declarations in the whole territory of the host Member State;
- registration requirements exceeding what is permitted under Article 6 of the revised Directive;
- or possibilities for service providers to take an aptitude test and provide services within one month of the decision taken.

*Partial access*

Implementation of the new rules on **partial access** raised concerns for 12 Member States. In particular, the Commission's enforcement action tackled the two main issues discussed below (for more details, see Part III of the staff working document, table on 'Partial access').

*Graph 5. Number of Member States concerned by key issues of non-compliance (partial access) (March 2020)*




A first issue concerned excluding certain professions from the principle of partial access. While partial access provisions do not apply to professionals benefiting from automatic recognition of their professional qualifications (such as doctors, nurses, craft/trade professionals, or professionals benefitting from common training principles), the provisions of the revised Directive do not aim to exclude partial access to separable parts of the activities of 'sectoral' professions. Such categorical exclusion from the principle of partial access would not be in line with European Court case law or with the principle of proportionality under the fundamental freedoms[37]. This issue was taken up with ten Member States. While progress was made in many Member States, discussions are still ongoing with others.

Second, the Commission insisted that partial access should be applied as *ex officio* decision and not only at the specific and explicit request of the applicant. Most individuals are unlikely to be fully aware of the possibility to obtain partial access to a profession and will therefore

[37] CJEU of 27.6.2013, Case C-575/11, *Nasiopoulos*, ECLI:EU:C:2013:430.

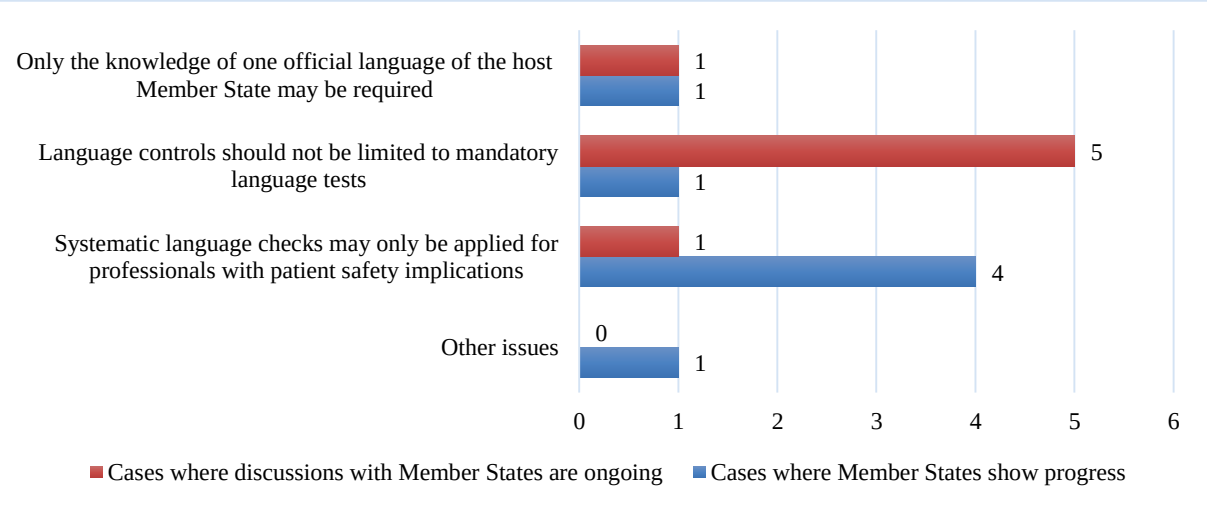
often not be in a position to apply for it after having their request for recognition rejected concerning access to the full profession. Thus, in cases where partial access could be applicable, the competent authorities should either assess the possibility for partial access in that recognition procedure or at least clearly inform the applicant about this possibility. This was taken up with two Member States, which made progress in proposing practical solutions.

It is also interesting to observe that in bi-annual reports, some Member States raised the problem of application of partial access where the regulation establishes protected professional titles only (considering that partial access essentially concerns access to professional activities, but not the titles to exercise those professions).

*Language controls*

Implementation of the new rules on **language checks** was addressed in the enforcement for approximately one third of Member States, and concerned specific key issues of non-compliance shown in graph 6 below (see Part III of the staff working document, table 'Language controls').

*Graph 6. Number of Member States concerned by key issues of non-compliance (language checks) (March 2020)*




The Commission's enforcement action aimed to ensure for instance that only knowledge of one official language of the host Member State may be required and that systematic language checks may only be applied for professionals with patient safety implications. Several cases of Member States imposing mandatory language tests proved most problematic to resolve, and discussions with most of the Member States concerned are ongoing. On the basis of established Court of Justice case law[38], the Commission insisted that only where the proof

[38] CJEU of 6.6.2000, C-281/98, *Angonese*, ECLI:EU:C:2000:296, paragraphs 38-44 and 5.2.2015, C-317/14 *Kommission/Belgium*, ECLI:EU:C:2015:63, paragraphs 27-31. The Court of Justice was very clear that it is an unjustified discrimination when linguistic knowledge can only be proven by means of one particular diploma, such as a certificate issued only in one particular (province of a) Member State.

provided by the applicant (e.g. language certificates from a foreign language school) was not conclusive, language knowledge could be tested.

*Traineeships*

The Commission raised issues regarding the new rules on the **recognition of professional traineeships** carried out in other Member States. There were seven cases of the notified national legislation not complying with the rules, due to either a complete lack of transposition, incorrect implementation of the provisions on traineeships or a failure to publish guidelines on the organisation and recognition of professional traineeships undertaken abroad. Although most Member States made progress to address the issues raised, a few require further follow-up with the Member States concerned (see Part III of the staff working document, table on 'Traineeships').

*Internal Market Information System*

The IMI has contributed to the smooth operation of Directive 2005/36/EC since 2008 by allowing national competent authorities to communicate directly, quickly and easily via a secure online platform, and to overcome language barriers as it includes pre-translated sets of standard questions and answers.

Entry into force of amending Directive 2013/55/EU made the use of IMI mandatory both for the administrative exchanges and for notification of qualification titles that meet the harmonised minimum training requirements, as listed in Annex V to the revised Directive.

Section 1 of Part IV of the staff working document provides statistical data on the use of the IMI platform under the Directive. It clearly shows that the use of the IMI for the general administrative cooperation is increasing steadily over time (Chart 1 of Part IV of the staff working document), and has nearly doubled since its use became mandatory in 2016 (Chart 2 of Part IV of the staff working document). However, there are differences in the activities of individual Member States with some being pro-active senders of requests and others being mostly receivers (Chart 3 of Part IV of the staff working document). Although the average response rates remains rather high (over 96%), for a few Member States response rates are visibly lower. The greatest variation among Member States is in their average response times (Chart 4 of Part IV of the staff working document).

Ineffective use of IMI requests for information by several Member States is one of the most reported challenges in Member States' bi-annual reports. According to national authorities, information exchanges could be more effective, response times by some countries are too long, or in some cases no satisfactory answers are received, in particular as regards cases concerning professions that are not regulated in the home Member State, cases concerning regulated education and training, or verification of the professional experience. It was also reported that a few Member States were not consistently using IMI to seek clarification and so create more burden for professionals.

The IMI modules for notifying qualifications listed in Annex V to the revised Directive were introduced in 2014, replacing the previous system of notification via formal correspondence

via Member State permanent representations. The Commission developed profession-specific IMI modules for this purpose, which are available since the entry into force of the revised Directive. Over 70% of changes to qualification titles notified via IMI are already reflected in Annex V to the revised Directive, as updated by recurrent Commission delegated decisions[39]. In this context, timely notification of changes to qualification titles by Member States via IMI is an essential precondition for the Commission to regularly update Annex V.

*European Professional Card and the alert mechanism*

The IMI has become a successful platform for the functioning of the two new instruments brought in by the last revision of the Directive, a **European Professional Card** (EPC) and **the alert mechanism.**

The revised Directive laid down the legal basis for the alert mechanism and for the EPC for certain professions. Subsequently in 2015, the Commission adopted an implementing regulation[40] introducing the EPC for five professions (nurses responsible for general care, pharmacists, physiotherapists, real estate agents and mountain guides) as of 18 January 2016.

The Commission closely monitored the functioning of these two new instruments. Two years after their launch, the Commission evaluated stakeholder experience in using the EPC and the alert mechanism. It published its findings, along with the supporting statistical data, in a staff working document[41] on 9 April 2018 ('the 2018 staff working document'). The 2018 staff working document shows that the Member States and the stakeholders perceived the EPC and the alert mechanism positively, though it underlined the importance of continuous legal and technical guidance and fine-tuning the platform's functionalities.

This report will not reiterate the findings of the 2018 staff working document, which can be consulted in detail. However, since the supporting statistical data have evolved since its publication, Part IV, section 3, of the staff working document accompanying this report gives an updated overview of the data, including the most recent period 2018-2019.

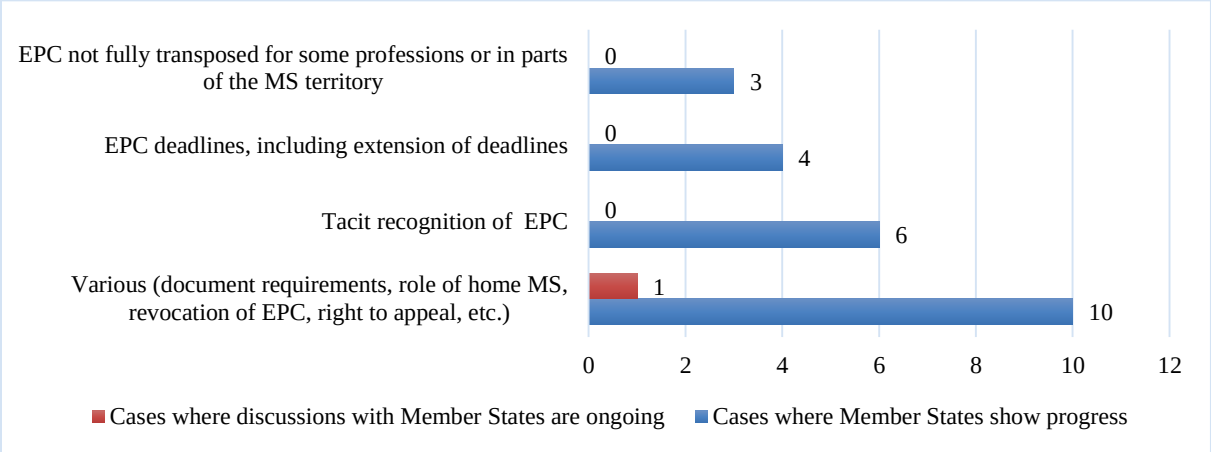
The Commission's ongoing enforcement work tackles problems in two thirds of the Member States (18) concerning compliance with EPC provisions and in more than half of the Member States (15) concerning implementation of the alert mechanism. Graph 7 shows the main key issues of non-compliance.

[39] See footnote 33 above.

[40] Commission Implementing Regulation (EU) 2015/983 of 24 June 2015 on the procedure for issuance of the European Professional Card and the application of the alert mechanism pursuant to Directive 2005/36/EC of the European Parliament and of the Council (Text with EEA relevance), OJ L 159, 25.6.2015, p. 27–42.

[41] European Commission, SWD (2018) 90 final, Assessment of stakeholders' experience with the European Professional Card and the Alert Mechanism procedures.

*Graph 7. Number of Member States concerned by key issues of non-compliance (EPC) (March 2020)*

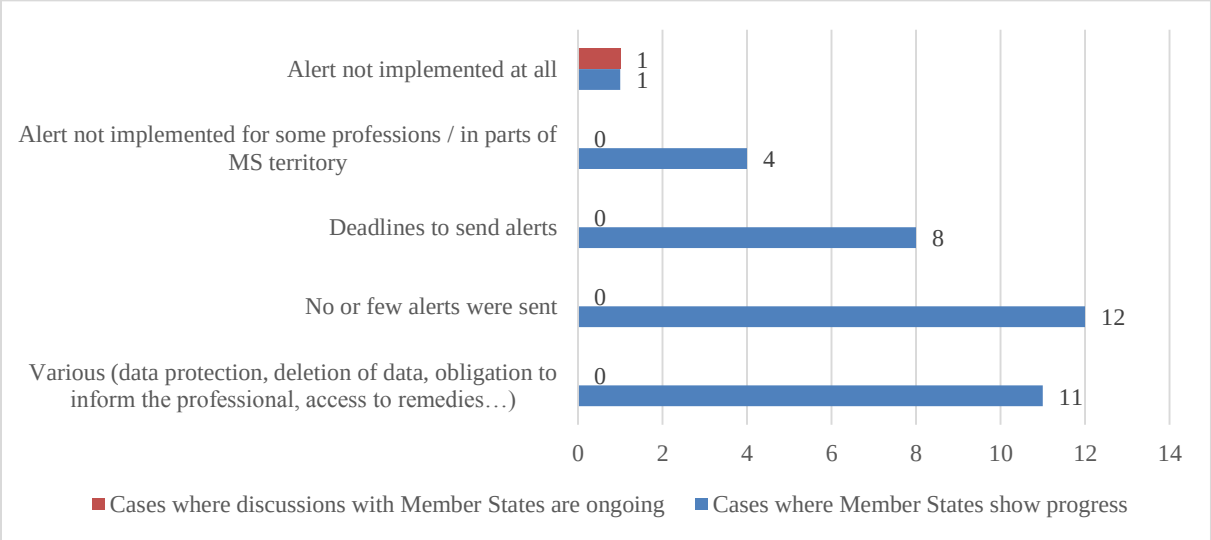



The EPC-related issues identified in the Commission's assessment of transposition measures notified by Member States were mostly technical and related to procedural rules. This included missing or wrong specification of deadlines in legislation, and tacit recognition not provided for in all cases required by the revised Directive. In a few instances, the EPC rules were not transposed for certain professions or in parts of a Member State territory. Following the Commission's infringement letters, Member States have shown progress in resolving all cases of non-compliance (see Part III of the staff working document, table on 'EPC').

According to Member States' bi-annual reports, the EPC document repository in IMI is vital for a good functioning of the EPC procedure. The EPC document repository is a database in IMI where each Member State notifies its document requirements and application fees for EPC procedures. However, according to the feedback from the Member States in the bi-annual reports, some Member States do not report all their document requirements in the EPC repository. Others do not take into account the rules established in the implementing regulation about the document requests which are not permitted. According to the bi-annual reports, in a few instances, there is still a lack of mutual trust between competent authorities (e.g. authorities requesting additional documents even without doubts or without first contacting the other Member State authority).

Regarding the EPC, several Member States also called for a clearer definition of what constitutes temporary and occasional provision of services. It should be noted that, for temporary service provision, the EPC merely replaces the prior declaration under Article 7 of the revised Directive (i.e. a declaration on intended future activities) and therefore should not be treated differently. Accordingly, an EPC for temporary service provision cannot be refused on grounds other than missing accompanying documents, failure to prove legal establishment or other substantive reasons pursuant to Article 7 of the revised Directive. In particular, the duration and nature of the past professional activities in the territory of the host Member State should not be used as the sole reason to justify refusing to issue an EPC. The Member States are free to take other supervisory action to detect and penalise professionals who breach any applicable national rules.

*Graph 8. Number of Member States concerned by key issues of non-compliance (alert mechanism) (March 2020)*




Concerning implementation of the alert mechanism, the infringement procedures aimed to ensure, for instance, that Member States meet the three-day deadline to send alerts and meet their obligations on data protection, data deletion, and information for professionals. The enforcement action taken against a significant number of Member States concerned the alert mechanism. The Member States were requested to provide justification as to why they had sent no or only very few alerts since the alert mechanism was brought in. In a few instances, the Commission found that the alert mechanism was not implemented at all for specific professions (e.g. education of minors, health professions), for specific cases (e.g. falsified diplomas), or only in parts of a Member State's territory (see Part III of the staff working document, table on 'Alert mechanism').

Member States have shown progress in complying with all the alert-related issues (except for one Member State). The Commission is in discussions with the one Member State concerned. It is also worth noting that the number of competent authorities registered in IMI for the different alert modules increased significantly in 2018 and 2019 (see Chart 7 in Part IV of the staff working document). This increase can be explained by the Commission's enforcement work, which started in July 2018.

In their bi-annual reports, Member States reported certain challenges related to the functioning of the alert mechanism. These included difficulties in meeting the deadline to send alerts, technical feasibilities in managing the high volume of alert notifications (to filter substantive/relevant alerts), and differences between Member States as to when alerts need to be sent (due to different penalty mechanisms). One Member State called on the Commission to tackle the legal effects of alerts on the practice of professional activities at EU level.

*Access to online information, procedures and reducing red tape*

The legislative frameworks at national and European level have changed significantly to facilitate, streamline and simplify the submission, storing and processing of documents. Both

the Services Directive and the revised Directive include articles requiring Member States to submit information online via the points of single contact and requiring Member States to offer electronic procedures for service providers and professionals. The EPC also promotes the use of electronic procedures for recognition applications.

Despite the evident benefits of electronic processing of applications, Member States still maintain several requirements that not only undermine the current developments towards a digital framework, but also breach EU law. During the transposition checks, the Commission identified a number of illegal practices or requirements concerning document requests in a number of Member States, such as document requests going beyond the requirements of the directive (e.g. for CVs or photographs that meet a specific standard; requests for original documents; certified translations for proof of Annex V qualifications; certified copies and/or translations of identification cards or passports; information on training in a specific form; documents to be authenticated by one specific body or type of body in the home or the host Member State).

The Commission raised these clearly illegal practises or requirements with the 15 Member States concerned. Following the Commission's infringement action, Member States have demonstrated progress in finding practical solutions in most of the identified cases (11 out of 15). However, discussions are still ongoing with the remaining four Member States on document requirements (see Part III of the staff working document, table on 'Access to online information, procedures and reduction of red tape').

The obligations for Member States concerning online information and e-government requirements for citizens are not new, since the amendments introduced by Directive 2013/55/EU merely complemented the Services Directive[42]. Member States are obliged to set up PSCs and ensure that the PSCs give access to information and e-procedures to service providers. In practice this means that any service provider (whether or not they are already established in a Member State, wish to set up their services or simply provide cross-border services temporarily and occasionally), should be able, online and through the PSC, to:

- obtain all relevant information on the applicable rules governing access to and the provision of services;

- complete all procedures and formalities needed to access and provide services;

- receive assistance from the competent authorities, consisting of information on how the specific requirements are generally interpreted and applied.

[42] Article 57(1) of the revised Directive requires Member States to provide a number of specific pieces of information (like a list of regulated professions or a list of professions for which the Member State applies a prior check of professional qualifications in case of temporary cross border provision of services as provided for in Article 7(4) of Directive 2005/36/EC). The revised Directive also extended the obligations of the Services Directive to professions not covered by the Services Directive, like health professions, and to recognition procedures for employees.

To check whether citizens and business can actually find the relevant information and complete administrative procedures online, in 2018/2019 the Commission ran a cross-EU assessment of national PSC services, focusing on a sample of services and professions. The assessment checked the online availability of information and online procedures via the PSCs on registering an architectural firm, an engineering firm and a tax consultancy firm and applications for specific permits for construction. As regards the recognition of qualifications, the assessment focused on doctors (medical practitioners), architects, civil/building engineers, tourist guides, mountain guides and secondary school teachers.

The assessment found that there was room for improvement in all Member States to a varying degree. Therefore, the Commission decided on 6 June 2019 to send letters of formal notice to all Member States regarding the availability of online information and procedures[43]. The main gaps identified were related to a lack of the required information via the PSCs, problems with the quality of information, lack of online procedures, and more generally problems encountered by users who want to access or complete a procedure across borders. This includes lack of posibility for cross-border users to access an online procedure or lack of online payments. The Commission is currently assessing the replies from the Member States to the letters of formal notice and the necessary follow-up with the Member States.

In view of the above, despite the benefits of electronic procedures and well-developed administrative cooperation, some Member States still maintain procedural requirements that create difficulties for e-government services or that even go beyond the practices allowed by the revised Directive. The functioning of national PSCs, in terms of making available information and online procedures, needs to be improved in most Member States, to a varying degree.

*Transparency obligations*

Article 59 of the revised Directive focused on transparency measures, obliging all Member States to report information on the professions they regulate, including regulation at regional level.

In particular, by 18 January 2016, Member States were required to provide the following information via the database of regulated professions[44] (and to keep this information updated):

- a list of existing regulated professions, specifying the activities covered by each profession, a list of regulated education and training, and training with a special structure[45];

- a list of professions for which a check of qualifications is deemed necessary prior to the first provision of services under Article 7(4) of the revised Directive, together with justification for the inclusion of professions on that list;

[43]COM press release MEMO/19/2772.

[44] https://ec.europa.eu/growth/tools-databases/regprof/.

[45] Training with a special structure referred to in Article 11(c)(ii) of the revised Directive.

- information on the requirements restricting access to or the pursuit of regulated professions, and the reasons for considering that those requirements comply with the principles of non-discrimination and proportionality.

Article 59(3) & (5) of the revised Directive formed the legal basis for a mutual evaluation exercise that took place over 2014-2016. It allowed Member States to compare their regulatory approaches and committed them to simplify, where necessary, their national legal frameworks governing regulated professions. On the basis of this process, by 18 January 2016, Member States were required to submit national action plans ('NAPs') presenting the outcomes of proportionality assessments and identifying the need for reforms. The plans demonstrated very different levels of ambition across the Member States and the proportionality assessments conducted during the mutual evaluation exercise were often very poor.

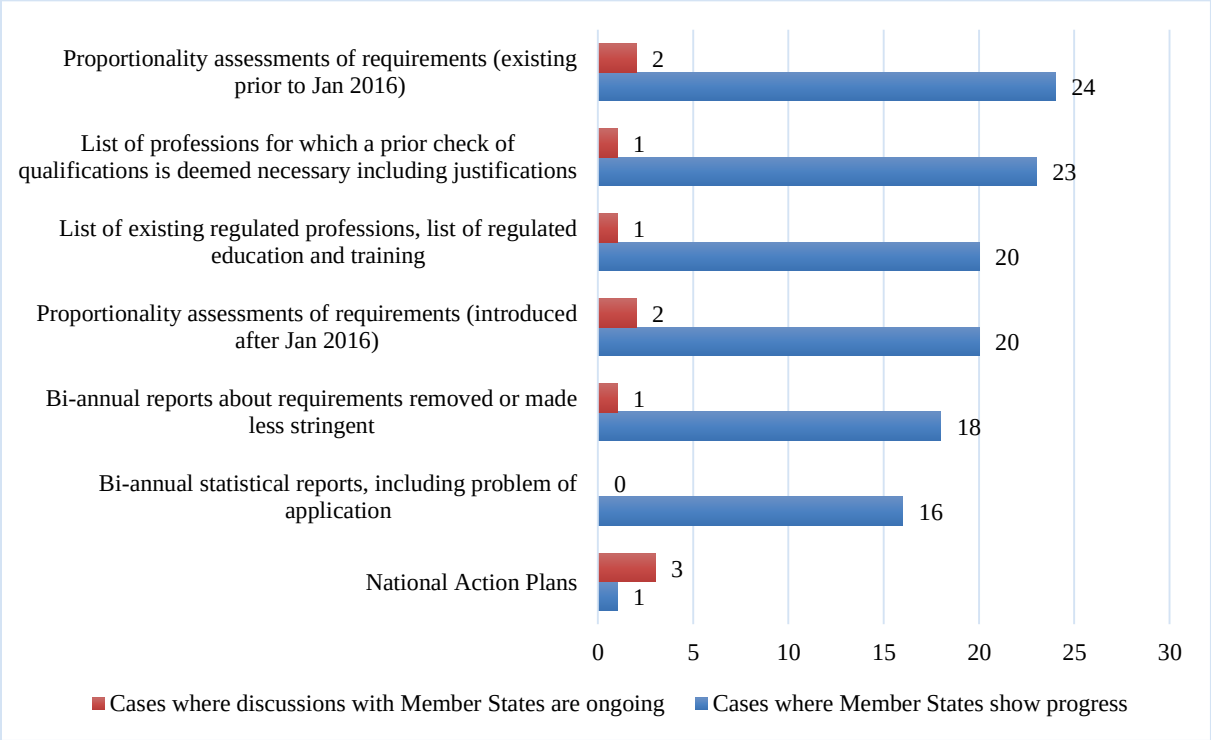
Lastly, under Article 59(5) of the revised Directive, within six months of adoption, Member States were required provide to the Commission information on any requirements introduced after 18 January 2016 and the reasons for considering that those requirements comply with the principles of non-discrimination and proportionality.

By 18 January 2016, and every two years thereafter, Member States must also report on any requirements which have been removed or made less stringent.

To this end, the Commission has continuously updated the database on regulated professions to hold all the information communicated to it under Article 59 of the Directive. For instance, it developed a new screening form with specific questions in 2018 to help Member States assess the proportionality of regulation. Alongside the new screening form, the Commission issued informal guidance, which was discussed at the expert group meetings. The aim of these measures was to increase the quality and depth of the analyses provided by the Member States. Furthermore, proportionality assessments are now publicly available on the website of the database, which is currently in the process of migration to the IMI to further streamline reporting obligations. However, despite continuous efforts, in many instances proportionality assessments by Member States remain of inadequate quality.

The Commission assessed Member States' compliance with the transparency and reporting obligations under the revised Directive. It tackled cases of non-compliance in 27 Member States who failed to comply with the transparency obligations with a reasonable degree of diligence (for more details, see Part III of the staff working document, table 'Transparency obligations').

*Graph 9. Number of Member States concerned by key issues of non-compliance (transparency) (March 2020)*




Many Member States failed to list all their regulated professions, regulated education and training, and/or all professions subject to prior check of qualifications under Article 7(4) of the revised Directive with adequate justifications. In addition, some countries did not report professions regulated on the basis of specific EU laws that leave discretion to the Member States on how to implement them. As regards professions subject to a prior check of qualifications, it should be underlined that the Commission's assessment was limited to the transparency obligations and is without prejudice to any assessment of the appropriateness of justifications for reasons of public health and safety. A few Member States had still failed to provide national action plans.

The Commission also found that for some existing professions, proportionality assessments were completely lacking in the database of regulated professions. This was the case for over 20 Member States. In some Member States, proportionality assessments were missing for over 80% of the professions they had notified. Moreover, for some professions, many Member States did not provide information on existing or newly introduced entry or conduct requirements. A high number of Member States also failed to provide reports on the requirements they had removed or made less stringent within a required deadline.

The Commission reviewed the follow-up on Member States' obligation to provide biennial reports under Article 60(1) of the revised Directive, including statistical summaries and a description of the main problems arising from application of the revised Directive. Nearly one third of Member States were subject to enforcement action and had since provided the missing reports.

Following the Commission's infringement action, most Member States considerably stepped up their efforts to complete the database, as illustrated in graph 8 above. This is an important achievement, given the importance of the database of regulated professions as a source of information for EU citizens seeking to exercise a profession abroad. However, a continuous effort by Member States is needed to ensure compliance with the transparency and reporting obligations. It remains the Member States' responsibility to ensure the accuracy of that information. The Commission will continue to closely monitor compliance with these obligations.

## 4. RESULTS OF THE SPECIAL UPGRADING PROGRAMME FOR ROMANIAN NURSES

Romania has set up an upgrading programme for general care nurses whose qualifications did not meet the minimum training requirements under Directive 2005/36/EC, following the recommendation introduced via recital 36 of the amending Directive 2013/55/EU. The goal was to enable professionals who acquired their qualifications prior to Romanian's accession to the EU to upgrade their qualifications to meet these EU-level minimum requirements.

The content of the programme was discussed over 2012-2014 with the European Commission and with experts from Member States (BE, DE, ES, FR, IE, MT, PL, IT, and UK). The experts analysed in detail the training courses that Romania had delivered in the past at post-secondary and at higher education level to establish the extent to which they met the minimum requirements under Directive 2005/36/EC (number of hours, years of study, training subjects, skills, knowledge and competences to be acquired). Upgrading courses were designed to bridge the gaps identified. Following an assessment by Member State experts and further exchanges, the draft programme was adapted to take into account the feedback, e.g. on admission requirements, number of training hours and supervision during clinical training.

Romania rolled out the final programme for nurses via Joint Order of the Minister of National Education and of the Minister of Health No 4317/943/2014, endorsed by the Romanian Order of Nurses, Midwives and Medical Assistants and by Order of the Ministry of National Education No 5114/2014.

To implement the upgrading programme at post-secondary level, eight 'train the trainers' sessions with experts from five Member States (BE, DK, IE, PL and UK) were organised between 2013 and 2014 by the Romanian Ministry of National Education, the Ministry of Health, the Romanian Order of Nurses, Midwives and Medical Assistants and the National Commission of Hospitals Accreditation.

The programme started in the academic year 2014/2015 and and according to information provided by the Romanian Ministry of Education and Research, more than 3000 graduates at post-secondary level and 23 graduates at higher-education level completed it by the end of academic year 2018/2019.

Romania presented the programme to the Member States in the Group of Coordinators for the Recognition of Professional Qualifications in March and May 2018.

Member State experts analysed the information and documents provided by Romania and sent feedback on the results of the programme to the Commission. Romania replied to all the questions and comments from Member States to their satisfaction. No Member State objected to Romania's proposal that the graduates benefit from automatic recognition in the future.

To conclude, Romania implemented the upgrading programme negotiated beforehand with the Member States to enable its participants to upgrade their qualifications to meet the minimum requirements set out in Directive 2005/36/EC. A substantial number of students have since successfully completed the programme.

For more details, see Part V of the staff working document accompanying this report.

## 5. RECENT DEVELOPMENTS

Due to very different levels of ambition expressed in the national action plans and in view of the often poor quality of the proportionality assessments conducted during the mutual evaluation exercise, the Commission published two initiatives aimed at unlocking the full potential of the single market in the areas covered by the revised Directive, as part of the 2017 Single Market Strategy. The Commission published a Communication on reform recommendations for regulation in selected professional services[46] and a proposal for a directive of the European Parliament and the Council introducing a proportionality test before adoption of new regulation of professions.

The Communication on reform recommendations for regulation in selected professional services looks at how seven professional services are regulated in the Member States. It includes recommendations addressed to the Member States where regulation appears particularly heavy in view of the goals it is designed to achieve (such as protecting the health or safety of service recipients) and when compared across Member States. The guidance relies on a quantitative and qualitative assessment of the level of restriction ('restrictiveness indicator'). This is an additional tool to assist Member States' reform efforts by identifying instances of potential overregulation.

Directive (EU) 2018/958[47] on a proportionality test was adopted on 28 June 2018 and should be implemented in all Member States by 30 July 2020. It lays down clear obligations and a legal framework for conducting prior proportionality assessments before bringing in new legislation or amending existing legislative, regulatory or administrative provisions restricting access to or the pursuit of regulated professions. Once implemented, the directive should become instrumental in preventing disproportionate regulation from coming into place. The Commission is currently following up on the progress made in the Member States with implementation via the Group of Coordinators and bilaterally with the Member States.

In 2018, the co-legislators adopted the Single Digital Gateway Regulation (SDG)[48] to provide access to online information and procedures, assistance and problem-solving services to individuals and companies. It is to be noted that compliance by Member States with their information obligations under the Services Directive and the revised Directive on the recognition of professional qualifications will facilitate compliance with the information requirements brought in by the SDG Regulation. Discussions are ongoing in parallel in the SDG Coordination group to calibrate the scope and quality of information and to ensure cross-border access to online procedures.

[46] Communication on reform recommendations for regulation in selected professional services, 10 January 2017, COM/2016/0820 final.

[47] OJ L 173, 9.7.2018, p. 24-35.

[48] Regulation (EU) 2018/1724 of the European Parliament and of the Council of 2 October 2018 establishing a single digital gateway to provide access to information, to procedures and to assistance and problem-solving services and amending Regulation (EU) No 1024/2012 (Text with EEA relevance).

In March 2019, the European Council called on the EU and the Member States to remove remaining unjustified obstacles to the single market, while stressing that no new barriers should be created.[49] Building on this initial request, the May 2019 Competitiveness Council called on the Commission to "complete, by March 2020, the assessment of the remaining regulatory and non-regulatory obstacles and opportunities within the single market, with a special focus on services … taking the perspective of businesses and consumers…"[50]. In response, the Commission adopted a report identifying the obstacles most often reported by businesses themselves.[51] On the basis of this business perspective as well as the consumers' experience as reflected in the EU Consumer Conditions Scoreboard[52], published in November 2019, the Commission adopted in March 2020 a Communication on obstacles and barriers to the single market. In this Communication, the Commission analysed concerns raised most frequently by consumers and businesses, in order to identity the most relevant areas where the single market needs further deepening and strengthening.[53]

On invitation of the European Council and accompanying the Communication on obstacles and barriers to the single market, the Commission also developed in close coordination with the Member States a long-term action plan for better implementation and enforcement of Single Market rules[54]. The Commission welcomed the call by the European Council and developed a range of actions that aim at improving the enforcement of and compliance with Single Market rules. Actions that are particularly relevant for the regulation of professions are:

- The publication of updated reform recommendations for regulation of professional services on the basis of the Commission Communication of 17 January 2017; and

- Assistance and guidance by the Commission for the Member States to improve the ex-ante assessments of restrictive regulation under the Proportionality Test Directive.

[49] European Council conclusions of 22 March 2019 (EUCO 1/19).
[50] Competitiveness Council conclusions on "A new level of ambition for a competitive Single Market" of 27 May 2019 (COMPET 437, 9743/19).
[51] "Business Journey on the Single Market: Practical Obstacles and Barriers", SWD(2020) 54 final.
[52] European Commission "Consumer conditions scoreboard: consumers at home in the single market - 2019 edition" of 28 November 2019.
[53] Communication on identifying and addressing barriers to the Single Market, 10 March 2020, COM(2020) 93 final.
[54] Communication on a long term action plan for better implementation and enforcement of single market rules, 10 March 2020, COM(2020) 94 final.

## 6. CONCLUSIONS

On the basis of the information provided in this report, the Commission can draw some conclusions regarding implementation of the changes brought in by the revised Directive and regarding the areas that merit further work or improvement. In general, the legal framework under the revised Directive is effective in boosting the mobility of professionals across the Member States[55]. Although the use of modern technologies in the procedure to recognise professional qualifications can be considered a success, Member States must make continued efforts to ensure compliance with the requirements to provide information and e-government via the points of single contact.

The Member States made progress in addressing various issues raised in the ongoing infringement proceedings, though some areas of concern remain. Several specific issues remain pending and may require sustained cooperation to resolve them in the Member States concerned.

**a) Areas of concern**

Despite the benefits of electronic procedures and well-developed administrative cooperation, some Member States still maintain procedural requirements that create significant burden and cost for applicants. Difficulties remain too regarding e-government facilities and the use of procedures that go beyond the practices allowed by the Directive.

The functioning of national points of single contact, in terms of them making available information and online procedures, needs to be improved in most Member States.

The mutual evaluation exercise that run over 2014-2016 did not lead to significant reforms of the rules on regulated professions. The quality of proportionality assessments by Member States was often poor and guided by an interest to maintain existing regulation. The Commission's recent enforcement action confirmed that many Member States still fail to meet their obligations regarding the transparency of information on regulated professions and the proportionality of regulation with a reasonable degree of diligence. This corroborates the need for a timely implementation of the Proportionality Test Directive and a robust application.

**b) Open issues**

Several cases of non-compliance with the revised Directive in specific Member States are still pending resolution in the context of ongoing infringement procedures. The cases relate to incorrect implementation of the provisions on language checks, cross-border service provision and partial access.

[55] The assessment of performance in terms of recognition rates across EU can be consulted in the Single Market Scoreboard, available at: https://ec.europa.eu/internal_market/scoreboard/performance_per_policy_area/professional_qualifications/index_en.htm

Further studies are needed to assess the need for and the scope of possible adaptations to scientific and technical progress of the knowledge and skills requirements, and of the minimum lists of training subjects for 'sectoral' professions, which can be done by means of Commission delegated acts.

Only one agreement on common training principles (a common training test for ski instructors) could be reached. It has proven to be difficult to reach agreement on minimum training standards, even by taking a bottom-up approach. Suggestions from a number of professions could not reach the required thresholds of regulation in Member States, and might lead to not only harmonising but also extending regulation at national level.

The functioning of the alert mechanism raises some practical difficulties for Member States, in particular in managing high volumes of alert notifications and in filtering the relevant alerts.

**c) Positive developments**

Implementation of the revised Directive was effectively improved by the action taken by the Commission on enforcement.

The IMI system aids the smooth operation of the Directive by providing a secure online platform for administrative exchanges, for handling applications for the European Professional Card, and for the functioning of the proactive alert mechanism. Continued cooperation by the Member States, legal and technical support, and further fine-tuning are essential to ensure the system continues to work effectively.

The procedure to update Annex V to the Directive has worked well. The Commission has regularly used its delegated powers to make the updates on the basis of notifications made by the Member States via the IMI system.

The Proportionality Test Directive complements the transparency obligations enshrined in the Directive and will serve as a tool to prevent future disproportionate regulation in professional services.

With this report, the Commission meets the reporting requirement under Article 60(2) of Directive 2005/36/EC, as amended by Directive 2013/55/EU.

The Commission invites the European Parliament, the Council, the European Economic and Social Committee and the Committee of the Regions to take note of this report.