



Federation of Veterinarians of Europe Response
To the COM (2011) 367 final GREEN PAPER on
Modernising the Professional Qualifications Directive Dir 2005/36/EC

20 September 2011
FVE/11/Docs/045

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1. INTRODUCTION

FVE's general comment

FVE makes this submission in response to the Commission's Green Paper of 22nd June 2011 titled "Modernising the Professional Qualifications Directive" (hereinafter PQD). FVE has taken and wants to continue to be an active part in the Commission's evaluation of the PQD, and already made submission in response to the Commission's public consultation on the PQD in March 2011¹. FVE has also issued two briefing notes (FVE/10/doc/042² - FVE/11/docs/027³) to the COM and a Joint statement⁴ and a Press Release⁵ together with the sectoral professions who currently benefit from the automatic recognition regime.

In this introduction, FVE hopes it is useful to highlight its major concerns in relation to the Green Paper, before addressing particular questions raised by the Paper.

FVE recognizes that there have been significant levels of unemployment in some Member States (hereinafter MSs) and, in the short term at least, there is the potential for considerable under-employment for veterinary professionals in many other MSs. Further, FVE still sees little impediment within the veterinary sector for those graduates who wish to move cross borders and is not aware that any difficulties have ever been reported to it. FVE has always favored the free movement of equivalently qualified professionals throughout the EU but sees no grounds for major change on the basis of manpower shortages or impediments to free movement.

FVE strongly believes that regulation of professionals is in the public interest throughout a proper provision of safe services of quality. For this reason FVE welcomes the concept of simplified procedures for recognition of qualifications but emphasizes that in the framework of the system of automatic recognition based of harmonized minimum conditions training conditions FVE is of the opinion that for such system to be reliable it needs to be capable of verification. FVE is well aware that some veterinary statutory bodies are prepared to recognize graduates from other member states simply on the basis of a satisfactory evaluation of their veterinary school run by the EAEVE/FVE evaluation system. The accreditation of veterinary education is essential to ensure educational programs meet high standards and strive for continuous quality improvement; accreditation is best accomplished through a process of peer review that is independent, objective, and impartial. The standards of accreditation must be dynamic and consistently applied to ensure they meet the changing needs of society and to guarantee confidence between MSs. With regard to the sectoral professions benefiting from the automatic regime FVE would like to point out that the veterinary profession is a Health Profession⁶ because veterinarians play a critical role in the Public Health sector as well as ensuring the health and welfare of all animals, while working closely with all other medical professions.

¹ Professional qualifications - Brussels, 07 January 2011 MARKT.D.4 D (2010) – FVE response
http://www.fve.org/about_fve/docs_to_download/public%20consultation%20report_2nd%20phase_march_2011_official.pdf

² FVE/10/doc/042
http://www.fve.org/news/position_papers/veterinary_profession/fve_sbwg_briefing%20note_final_version_docs_042.pdf

³ FVE/11/docs/027 - Brussels, May 2011
http://www.fve.org/about_fve/docs_to_download/027%20draft_2nd_briefing%20note_pqd_2011_final.pdf

⁴ Joint statement of the European Sectoral Professions
http://www.fve.org/about_fve/docs_to_download/joint_statement%2011_march_2011.pdf

⁵ Joint Press Release of the European Sectoral Professions
http://www.fve.org/about_fve/docs_to_download/press_release_for%20the%20web.pdf

⁶ The One Health Initiative <http://www.onehealthinitiative.com/>

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2. NEW APPROACHES TO MOBILITY

2.1. The European professional card

FVE regrets that the option of an *electronic "card"* has not been clearly mentioned and considered in the Green Paper. FVE expects that an electronic card would be supplied by the home Competent Authority (hereinafter CA) on the request of the migrant worker immediately prior to the time of travel to a host MS and would therefore contain completely up-to-date information. The Competent Authority of the host MS would then be able to place much greater confidence in the "card". FVE would like to make the COM aware that a full impact assessment and cost benefit analysis has not been carried out yet. Moreover, FVE is of the opinion that CAs and statutory bodies would incur significant costs for additional IT systems which might need to be developed and kept up-to-date in order to support the issuing of e-cards.

FVE is aware that a significant risk of fraudulent application to veterinary statutory bodies has already been demonstrated and, in order to minimize fraud, FVE calls the COM and Competent Authorities and /or statutory bodies to continue to require the original documents when it is necessary. Given that it is not clear how the COM wants to manage the problems arising from data retention and protection and electronic signatures, FVE would rather welcome a more comprehensive use of IMI which is more likely to facilitate the recognition process rather than a new, not widely assessed physical card.

Finally, FVE welcomes the setting up of an "Alert mechanism" linked to the IMI system which might help Competent Authorities (hereinafter CAs) and statutory bodies protecting the general public, clients and patients (see also FVE reply to Q12)

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?

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

FVE supports option n. 2 and believes that the current system is working properly. In addition, and at least until a secure system of data transfer (including the electronic card) has been developed to its full potential CAs shall in any case retain the right to check original paper documents if they consider it necessary (See also Q6)

b) The card holder seeks automatic recognition of his qualifications: presentation of the card would accelerate the recognition procedure

FVE is of the opinion that the recognition process could probably be shortened from 4 months to 2 months which would be a pragmatic estimate. With a fully secure and developed system of data transfer the timescale could be reduced even further.

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).

Not applicable

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.)

FVE seeks to persuade the COM that health professions (including veterinarians) shall be exempt from "Partial access". Such a principle could allow professionals to practice a limited range of tasks posing a serious risk to clients and patients and Society. Since automatic recognition and minimum training conditions apply to the veterinary profession the principle of "partial access" might be in conflict with the provisions set up in the Directive. The PQD recognizes a fully qualified veterinarian as a professional who is able to carry out a full range of tasks in the interest of the society. Integrity of education and of the whole profession is already provided by the Directive thus FVE strongly opposes to the inclusion of this principle into the Directive. FVE would also like to draw your attention on the European Code of Conduct⁷ and Veterinary Act for the veterinary profession which is fully in line with the World Organization for Animal Health (OIE).

⁷ http://www.fve.org/news/publications/pdf/coc_vet_act_fve_2009_final.pdf

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.)

As acknowledged above, common platforms are not relevant where minimum training conditions and automatic recognition apply.

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.

The number and variation of 'professions' emphasizes the difficulty of legislating for them all in the same way. The true professions need to maintain their separate identity with legislation tailored to their training and responsibilities as self regulating professions; FVE supports the current system of mutual recognition within the veterinary profession and is not aware of any impediment to a qualified individual in one country being fully recognized in another MS, subject to that individual acting within his/her technical competence.

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).

FVE supports the concept of a central access point on a profession by profession basis. A national on-line access point could direct all enquirers to the relevant professional website. On-line completion of procedures is acceptable but MSs should retain the right to check original documents at some point in the procedure in order to inhibit already proven cases of fraudulent access to the professions; FVE also encourages the COM to put clarity on the large number of information points that are already in place such as National Contact Points, NARIC centers in order to avoid any misleading and overlapping provision of information.

3.2. Temporary mobility

There is a difference between mutual recognition of qualifications and variations between the disciplinary regulations of professionals from MS to MS. MSs already recognize the professional qualification but should legitimately be able to retain the right to regulate providers of services according to national rules. FVE supports the prior declaration regime within the 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.)

There is a similar scenario in the veterinary profession where a veterinarian from one member state may travel with nationals and animals of the home member state to provide services in the host state (e.g. racehorses, eventing). Because the professional should be subject to the disciplinary rules and legal statutes of the host state, the host state is entitled to know that the professional is providing services in the host state. FVE is in favour of keeping the prior notification active while the two years' professional experience does apply for veterinary nurses.

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.)

FVE believes that there should be flexible provision for updating the minimum training conditions from time to time without the need for further legislation. The notion of "regulated education" shall encompass any education and training "relevant to the profession". The relevance of the training programme to exercise a particular profession should be assessed by Competent Authorities responsible for the recognition of the qualifications in the home and host Member State.

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).

FVE considers completely inappropriate the removal of article 11 without first agreeing an alternative and addressing all related issues before replacement. Such removal might accelerate the adoption of an improved system, but it would be disastrous from the perspective of implementing the Directive in a fair, efficient and cost effective fashion. This would make it worse for prospective applicants who would have no clear guidance on where the benchmarks lie and impossible for CAs to implement. FVE does not see the opportunity to replace the art 11 with the current EQF (European Qualification Framework) system which is not perceived as a reliable and suitable tool at the moment. A proper impact assessment would be desirable.

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).

Any developments to the Code of Conduct should involve genuine and active engagement of the CAs and European professional organizations.

3.3.3. Partially qualified professionals

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

As far as FVE is aware, there are no countries where full qualification as a veterinary professional depends on a post-graduate period of remunerated supervised practical experience at home or abroad. FVE encourages students to undertake any unremunerated or remunerated experience abroad before qualification and encourages educational systems which permit such experience. Given that it is not clear what "extending Directive benefits" refer to FVE recognizes that the full access to market can be granted only to those professional who are fully qualified according to the established minimum standards and in order to provide highest level of consumer protection.

3.4. Exploiting the potential of IMI

3.4.1. Mandatory use of IMI for all 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 practice due to a disciplinary sanction? The initiating Member State would be obliged to address each alert to all other Member States.)

In the interests of public health, as well as animal health and welfare, option n. 2 should be the method of choice for the veterinary profession since we are considered by the world community a health profession. FVE strongly urges the COM to include the veterinary profession in any such requirement. Further clarity is necessary in terms of those professionals still pending an investigation procedure.

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.

There are two issues for FVE. One is the issue of language skills and FVE believes that it is legitimate to ensure language skills before direct contact with patients and clients. A working knowledge of the language of the host country is critical to communication in general, understanding and applying disease surveillance and notification, code of conduct, medicines rules and understanding national legislation and professional rules. The other is the status of the veterinary profession because language skills are of equal importance in its dealings with the public and with legislation and protocols relating to public health and safety.

4. MODERNISING AUTOMATIC RECOGNITION

4.1. A three-phase approach to modernisation

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?

FVE favors a single or 2-step-phase since no decision can be taken on minimum training conditions without considering contents; the ECTS consideration would probably need further investigation and an independent assessment. In addition FVE would like to point out that the existing COMITOLGY procedure is not sufficiently transparent and does not formally involve CAs; nevertheless there is a lack of clarity and details also regarding the use of the new post legislative tools namely Implementing & Delegating Acts: FVE welcomes that any new procedure must be clearly defined and objectively organized and with a formal involvement of CAs and European Professional Associations. FVE is aware of and supports the development of training conditions geared to "Day One Competences" throughout European veterinary training establishments. This is an evolutionary process which may be of benefit to other professions. FVE encourages the COM not to inhibit further development for the veterinary profession in any future legislation.

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?

The existing EAEVE/FVE evaluation system gives considerable added confidence to mutual recognition and should be supported and perhaps extended. All migrating professionals should be required to declare that they are not barred from exercising their profession in any MS. There do seem to be loopholes whereby a veterinarian barred in one MS is able to practice unhindered in others. "Continuing Professional Development" (CPD), revalidation and fitness to practice will become greater issues in the future. The revision to the Directive offers the opportunity for adding validity to the concept of CPD.

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.)

FVE supports a similar concept in terms of veterinary training. FVE highly supports the establishment of a pan European body responsible for confirming that the training fulfils the Directive Minimum Training Conditions and COM should require MSs to make quality assurance reports available on a regular basis. FVE truly believes that this would provide better assurance on the quality of education without undermining MSs Flexibility.

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.)

Yes, it is essential that notifications happen quickly and that there is a named authority with competence to recommend on a proposal making a decision before the notification goes to the COM. CAs are best placed for this role, in the case of the sectoral professions at the very least.

4.5. Pharmacists

Question 21: Do you agree that the list of pharmacists' activities should be expanded? Do you support the suggestion to add the requirement of six months training, as outlined above? Do you

support the deletion of Article 21(4) of the Directive? (Please give specific arguments for or against this approach.)

FVE is concerned about the extension of pharmacists' tasks in the field of examination, diagnosis and prescription. Such tasks do belong to the veterinary profession since only veterinarians have a full training and understanding of what causes a disease how to prevent it and how to treat it.

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 Neighborhood Policy, who benefit from an equal treatment clause under relevant European legislation? (Please give specific arguments for or against this approach.)

The three year rule is essential and should be maintained. It is a key mechanism for the avoidance of cherry picking/forum shopping.

The Federation of Veterinarians of Europe is an umbrella organisation of veterinary organisations from 38 European countries. FVE also represent 4 vibrant sections, each of which representing key groups within our profession: practitioners (UEVP), hygienists (UEVH), Veterinary State Officers (EASVO) and veterinarians in education, research and industry (EVERI). FVE strives to promote animal health, animal welfare and public health across Europe. Together with its members, FVE aims to support veterinarians in delivering their professional responsibilities at the best possible level, recognised and valued by society.

For more information, go to www.fve.org or contact us at info@fve.org