



2016/0404(COD)

1.6.2017

AMENDMENTS

30 - 92

Draft opinion
Gilles Lebreton
(PE599.846v01-00)

on the proposal for a directive of the European Parliament and of the Council
on a proportionality test before adoption of new regulation of professions

Proposal for a directive
(COM(2016)0822 – C8-0012/2017 – 2016/0404(COD))

AM_Com_LegOpinion

Amendment 30
Jiří Maštálka

Proposal for a directive

—

Proposal for a rejection

The Committee on Legal Affairs calls on the Committee on Internal Market and Consumer protection, as the committee responsible, to propose rejection of the Commission proposal.

Or. en

Justification

The proposed notification procedure would impede the exercise of legislative power in such a way that a national provision which could prove more effective in achieving objectives in connection with the regulation of services might not be enforceable. The Commission proposal fails properly to substantiate the argument that updating the notification procedure would make it possible to meet more effectively the objective of deepening the internal services market at EU level; therefore it is to be concluded that the above proposal for a directive does not comply with the principle of subsidiarity.

Amendment 31
Angelika Niebler

Proposal for a directive

—

Proposal for a rejection

The Committee on Legal Affairs calls on the Committee on Internal Market and Consumer protection, as the committee responsible, to propose rejection of the Commission proposal.

Or. en

Amendment 32
Jane Collins

Proposal for a directive
Recital 1

Text proposed by the Commission

(1) The freedom to choose an occupation is a fundamental right. The Charter of Fundamental Rights of the European Union guarantees the freedom to choose an occupation, as well as the freedom to conduct a business. The free movement of workers, freedom of establishment and freedom to provide services are fundamental principles of the internal market enshrined in the Treaty. National rules organising access to regulated professions should therefore not constitute any unjustified and disproportionate obstacle to the exercise of those fundamental rights.

Amendment

(1) The freedom to choose an occupation is a fundamental right. The Charter of Fundamental Rights of the European Union guarantees the freedom to choose an occupation, as well as the freedom to conduct a business. The free movement of workers, freedom of establishment and freedom to provide services are fundamental principles of the internal market enshrined in the Treaty. National rules organising access to regulated professions should therefore not constitute any unjustified and disproportionate obstacle to the exercise of those fundamental rights. ***However, the national rules of a Member State must always be respected and take priority over any EU legislation.***

Or. en

Amendment 33
Daniel Buda

Proposal for a directive
Recital 2

Text proposed by the Commission

(2) In the absence of specific provisions harmonising the requirements on access to a regulated profession or its pursuit laid down in Union law, it is the Member States' prerogative to decide whether and how to regulate a profession within the limits of the principles of non-discrimination and proportionality.

Amendment

(2) In the absence of specific provisions harmonising the requirements on access to a regulated profession or its pursuit laid down in Union law, it is the Member States' prerogative to decide whether ***action needs to be taken*** and how to regulate a profession (***in terms of establishing conditions for access to and pursuit of a profession***) within the limits of the principles of non-discrimination and proportionality.

Amendment 34

Jane Collins

Proposal for a directive

Recital 2

Text proposed by the Commission

(2) *In the absence of specific provisions harmonising the requirements on access to a regulated profession or its pursuit laid down in Union law, it is the Member States' prerogative to decide whether and how to regulate a profession within the limits of the principles of non-discrimination and proportionality.*

Amendment

(2) *It is the Member States' prerogative to decide whether and how to regulate a profession within the limits of the principles of non-discrimination and proportionality. Should specific provisions harmonising the requirements on access to a regulated profession or its pursuit laid down in Union law exist, the legislation of the Member State takes precedence.*

Or. en

Amendment 35

Jane Collins

Proposal for a directive

Recital 5

Text proposed by the Commission

(5) *The results of the mutual evaluation process revealed a lack of clarity as regards the criteria to be used by national competent authorities when assessing the proportionality of requirements restricting access to or pursuit of regulated professions, as well as uneven scrutiny of such measures at all levels of regulation. To avoid fragmentation of the internal market and eliminate barriers to taking-up and pursuit of certain employed or self-employed activities, it is therefore necessary to establish a common approach at Union level, preventing*

Amendment

deleted

disproportionate measures from being adopted.

Or. en

Amendment 36
Daniel Buda

Proposal for a directive
Recital 5

Text proposed by the Commission

(5) The results of the mutual evaluation process revealed a lack of clarity as regards the criteria to be used by national competent authorities when assessing the proportionality of requirements restricting access to or pursuit of regulated professions, as well as uneven scrutiny of such measures at all levels of regulation. To avoid fragmentation of the internal market and eliminate barriers to taking-up and pursuit of certain employed or self-employed activities, it is therefore necessary to establish a common approach at Union level, preventing disproportionate measures from being adopted.

Amendment

(5) The results of the mutual evaluation process revealed a lack of clarity as regards the criteria to be used by national competent authorities when assessing the proportionality of requirements restricting access to or pursuit of regulated professions, as well as uneven scrutiny of such measures at all levels of regulation, ***which adversely affected the provision of services and the mobility of professionals within the EU. At the same time, the evaluation process showed that regulatory decisions are currently not always based on sound and objective analysis or carried out in an open and transparent manner.*** To avoid fragmentation of the internal market and eliminate barriers to taking-up and pursuit of certain employed or self-employed activities, it is therefore necessary to establish a common approach at Union level, preventing disproportionate measures from being adopted.

Or. ro

Amendment 37
Daniel Buda

Proposal for a directive
Recital 5 a (new)

(5a) In a context of frequent changes to professional regulation, without EU action, there is the risk that the gap between those who already apply good regulatory practices and properly assess proportionality before deciding whether to adopt regulation and those who do not will widen, thus increasing divergence in the quality of regulation, which ultimately has a negative effect on access to a profession, with ensuing negative consequences for mobility and economic performance.

Or. ro

Amendment 38

Daniel Buda

Proposal for a directive

Recital 7

(7) The activities covered by this Directive should concern the regulated professions falling within the scope of Directive 2005/36/EC. This Directive should ***apply in addition to Directive 2005/36/EC and*** without prejudice to other provisions laid down in a separate Union act concerning access to, and the exercise of a given regulated profession.

(7) The activities covered by this Directive should concern the regulated professions falling within the scope of Directive 2005/36/EC. This Directive should ***regulate the manner of assessing the proportionality of the requirements restricting access to or pursuit of those professions,*** without prejudice to other provisions laid down in a separate Union act concerning access to, and the exercise of a given regulated profession.

Or. ro

Amendment 39

Daniel Buda

Proposal for a directive
Recital 7 a (new)

Text proposed by the Commission

Amendment

(7a) This Directive lays down rules that must be applied before introducing new legislative, regulatory or administrative provisions restricting access to or pursuit of regulated professions, or amending existing ones.

Or. ro

Amendment 40
Jane Collins

Proposal for a directive
Recital 8

Text proposed by the Commission

Amendment

(8) Member States should be able to rely on **a common** regulatory framework based on clearly defined legal concepts concerning the different ways to regulate a profession **across the Union**. There are several ways to regulate a profession, for instance by reserving access to or the pursuit of a particular activity to holders of a professional qualification. National provisions may also regulate one of the modes of pursuit of a profession in laying down conditions for the use of professional titles.

(8) Member States should be able to rely on **their own** regulatory framework based on clearly defined legal concepts concerning the different ways to regulate a profession **within their own Member State**. There are several ways to regulate a profession, for instance by reserving access to or the pursuit of a particular activity to holders of a professional qualification. National provisions may also regulate one of the modes of pursuit of a profession in laying down conditions for the use of professional titles.

Or. en

Amendment 41
Daniel Buda

Proposal for a directive
Recital 9

Text proposed by the Commission

(9) The burden of proof of justification and proportionality lies on the Member States. The reasons for regulation invoked by a Member State by way of justification should thus be accompanied by an analysis of the appropriateness and proportionality of the measure adopted by that State and by specific evidence substantiating its arguments.

Amendment

(9) The burden of proof of justification and proportionality lies on the Member States. The reasons for regulation invoked by a Member State by way of justification should thus be accompanied by an ***objective and reliable*** analysis of the appropriateness and proportionality of the measure adopted by that State, ***based on an objective, transparent and stringent assessment***, and by specific evidence substantiating its arguments, ***taking into account the specific circumstances in that Member State***.

Or. ro

Amendment 42

Daniel Buda

Proposal for a directive

Recital 10

Text proposed by the Commission

(10) It is appropriate to monitor the proportionality of the provisions restricting access to or pursuit of regulated professions on a regular basis and with a frequency appropriate to the regulation concerned. A review of the proportionality of restrictive national legislation in the area of regulated professions should be based not only on the objective of that legislation at the time of its adoption, but also on the effects of the legislation, assessed after its adoption. The assessment of the proportionality of the national legislation should be based on developments found to have occurred in the area since the legislation was adopted.

Amendment

(10) It is appropriate to monitor the proportionality of the provisions restricting access to or pursuit of regulated professions on a regular basis and with a frequency appropriate to the regulation concerned. A review of the proportionality of restrictive national legislation in the area of regulated professions should be based not only on the objective of that legislation at the time of its adoption, but also on the ***analysis of the whole regulatory framework for the profession concerned and on the*** effects of the legislation, assessed after its adoption. The assessment of the proportionality of the national legislation should be based on developments found to have occurred in the area since the legislation was adopted.

Or. ro

Amendment 43
Daniel Buda

Proposal for a directive
Recital 11

Text proposed by the Commission

(11) Member States should carry out proportionality assessments ***in an objective and independent manner***, including where a profession is regulated indirectly, by giving a particular professional body the power to do so. ***In particular, while*** the assessment ***of the*** local authorities, regulatory bodies or professional organisations, ***whose*** greater proximity to local conditions and specialised knowledge could in certain cases make them better placed to identify the best way of meeting the public interest objectives, ***there is particular reason for concern*** in cases where the policy choice made by those authorities or bodies provides benefits to established operators at the expense of new market entrants.

Amendment

(11) Member States should carry out proportionality assessments, including where a profession is regulated indirectly, by giving a particular professional body the power to do so, ***in an objective and independent manner, taking into consideration objective observations***. ***Member States may obtain such views from any body they consider relevant and which is capable of providing such views, including existing bodies that are part of the national legislative process. This is particularly important in cases where*** the assessment ***is made by*** local authorities, regulatory bodies or professional organisations, ***which are in*** greater proximity to local conditions and ***have*** specialised knowledge ***which*** could in certain cases make them better placed to identify the best way of meeting the public interest objectives, ***and*** in cases where the policy choice made by those authorities or bodies provides benefits to established operators at the expense of new market entrants. ***Inappropriate regulatory arrangements are liable to distort competition by restricting market entry and thus may result in substantial lost employment opportunities, higher prices for consumers and hinder free-movement.***

Or. ro

Amendment 44
Jane Collins

Proposal for a directive
Recital 12

Text proposed by the Commission

Amendment

(12) Where the taking-up and pursuit of certain employed or self-employed activities are conditional on complying with certain provisions relating to specific professional qualifications, laid down directly or indirectly by the Member States, it is necessary to ensure that such provisions are justified by public interest objectives, such as those within the meaning of the Treaty, namely public policy, public security and public health or by overriding reasons of general interest, recognised as such in the case-law of the Court of Justice. It is important to ensure that public interest objectives are adequately identified in order to determine the intensity of the regulation. For example, in order to ensure a high level of protection of public health, Member States should enjoy a margin of discretion to decide on the degree of protection which they wish to afford to public health and on the way in which that protection is to be achieved. It is also necessary to clarify that among the overriding reasons of general interest, recognised by the Court of Justice, are preserving the financial equilibrium of the social security system; the protection of consumers, recipients of services and workers; the safeguarding of the proper administration of justice; fairness of trade transactions; combating fraud and prevention of tax evasion and avoidance; road safety; the protection of the environment and the urban environment; the health of animals; intellectual property; the safeguarding and conservation of the national historic and artistic heritage, social policy objectives and cultural policy objectives. According to settled case-law, purely economic reasons, having essentially protectionist aims, as well as purely administrative

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reasons, such as carrying out controls or gathering statistics cannot constitute an overriding reason of general interest.

Or. en

Amendment 45
Viktor Uspaskich

Proposal for a directive
Recital 12

Text proposed by the Commission

(12) Where the taking-up and pursuit of certain employed or self-employed activities are conditional on complying with certain provisions relating to specific professional qualifications, laid down directly or indirectly by the Member States, it is necessary to ensure that such provisions are justified by public interest objectives, such as those within the meaning of the Treaty, namely public policy, public security and public health or by overriding reasons of general interest, recognised as such in the case-law of the Court of Justice. It is important to ensure that public interest objectives are adequately identified in order to determine the intensity of the regulation. For example, in order to ensure a high level of protection of public health, Member States should enjoy a margin of discretion to decide on the degree of protection which they wish to afford to public health and on the way in which that protection is to be achieved. It is also necessary to clarify that among the overriding reasons of general interest, recognised by the Court of Justice, are preserving the financial equilibrium of the social security system; the protection of consumers, recipients of services and workers; the safeguarding of the proper administration of justice; fairness of trade transactions; combating fraud and prevention of tax evasion and avoidance;

Amendment

(12) Where the taking-up and pursuit of certain employed or self-employed activities are conditional on complying with certain provisions relating to specific professional qualifications, laid down directly or indirectly by the Member States, it is necessary to ensure that such provisions are justified by public interest objectives, such as those within the meaning of the Treaty, namely public policy, public security and public health or by overriding reasons of general interest, recognised as such in the case-law of the Court of Justice. It is important to ensure that public interest objectives are adequately identified in order to determine the intensity of the regulation. For example, in order to ensure a high level of protection of public health, Member States should enjoy a margin of discretion to decide on the degree of protection which they wish to afford to public health and on the way in which that protection is to be achieved. It is also necessary to clarify that among the overriding reasons of general interest, recognised by the Court of Justice, are preserving the financial equilibrium of the social security system; the protection of consumers, recipients of services, ***creditors*** and workers, ***including the social protection of workers***; the safeguarding of the proper administration of justice; fairness of trade transactions; ***fight against***

road safety; the protection of the environment and the urban environment; ***the health of animals***; intellectual property; the safeguarding and conservation of the national historic and artistic heritage, social policy objectives and cultural policy objectives. According to settled case-law, purely economic reasons, having essentially protectionist aims, as well as purely administrative reasons, such as carrying out controls or gathering statistics cannot constitute an overriding reason of general interest.

unfair competition; combating fraud and prevention of tax evasion and ***tax*** avoidance; road safety; the protection of the environment and the urban environment; ***including land-use planning; animal welfare and veterinary policy***; intellectual property; the safeguarding and conservation of the national historic and artistic heritage, social policy objectives and cultural policy objectives, ***including the safeguarding of freedom of expression***. According to settled case-law, purely economic reasons, having essentially protectionist aims, as well as purely administrative reasons, such as carrying out controls or gathering statistics cannot constitute an overriding reason of general interest.

Or. en

Amendment 46 **Daniel Buda**

Proposal for a directive **Recital 12**

Text proposed by the Commission

(12) Where the taking-up ***and*** pursuit of certain employed or self-employed activities ***are*** conditional on complying with certain provisions relating to specific professional qualifications, laid down directly or indirectly by the Member States, it is necessary to ensure that such provisions are justified by public interest objectives, such as those within the meaning of the Treaty, namely public policy, public security and public health or by overriding reasons of general interest, recognised as such in the case-law of the Court of Justice. It is important to ensure that public interest objectives are adequately identified in order to determine the intensity of the regulation. For example, in order to ensure a high level of

Amendment

(12) Where the taking-up ***or*** pursuit of certain employed or self-employed activities ***is*** conditional on complying with certain provisions relating to specific professional qualifications, laid down directly or indirectly by the Member States, it is necessary to ensure that such provisions are justified by public interest objectives, such as those within the meaning of the Treaty, namely public policy, public security and public health or by overriding reasons of general interest, recognised as such in the case-law of the Court of Justice ***and which may continue to evolve***. It is important to ensure that public interest objectives are adequately identified in order to determine the intensity of the regulation. For example, in

protection of public health, Member States should enjoy a margin of discretion to decide on the degree of protection which they wish to afford to public health and on the way in which that protection is to be achieved. It is also necessary to clarify that among the overriding reasons of general interest, recognised by the Court of Justice, are preserving the financial equilibrium of the social security system; the protection of consumers, recipients of services and workers; the safeguarding of the proper administration of justice; fairness of trade transactions; combating fraud and prevention of tax evasion and avoidance; **road** safety; the protection of the environment and the urban environment; the health of animals; intellectual property; the safeguarding and conservation of the national historic and artistic heritage, social policy objectives and cultural policy objectives. According to settled case-law, purely economic reasons, having essentially protectionist aims, as well as purely administrative reasons, such as carrying out controls or gathering statistics cannot constitute an overriding reason of general interest.

order to ensure a high level of protection of public health, Member States should enjoy a margin of discretion to decide on the degree of protection which they wish to afford to public health and on the way in which that protection is to be achieved. It is also necessary to clarify that among the overriding reasons of general interest, recognised by the Court of Justice, are preserving the financial equilibrium of the social security system; the protection of consumers, recipients of services and workers; the safeguarding of the proper administration of justice; fairness of trade transactions; combating fraud and prevention of tax evasion and avoidance; **transport** safety; the protection of the environment and the urban environment; the health of animals; intellectual property; the safeguarding and conservation of the national historic and artistic heritage, social policy objectives and cultural policy objectives. According to settled case-law, purely economic reasons, having essentially protectionist aims, as well as purely administrative reasons, such as carrying out controls or gathering statistics cannot constitute an overriding reason of general interest.

Or. ro

Amendment 47
Daniel Buda

Proposal for a directive
Recital 12 a (new)

Text proposed by the Commission

Amendment

(12a) It is for the Member States to determine the level of protection which they wish to grant to the public or general interest objectives and the proportionate manner in which that level should be achieved.

Amendment 48**Daniel Buda****Proposal for a directive****Recital 13***Text proposed by the Commission*

(13) Where a Member State intends to regulate a profession or to amend existing rules, account should be taken of the nature of the risks related to the public interest objectives pursued, in particular the risks to consumers, to professionals or third parties. It should also be borne in mind that, in the field of professional services, there is usually an asymmetry of information between consumers and professionals. Professionals display a high level of technical knowledge which consumers may not have and consumers therefore find it difficult to judge the quality of the services provided to them.

Amendment

(13) Where a Member State intends to regulate a profession or to amend existing rules, account should be taken, *inter alia*, of the nature of the risks related to the public interest objectives pursued, in particular the risks to consumers, to professionals or third parties. It should also be borne in mind that, in the field of professional services, there is usually an asymmetry of information between consumers and professionals. Professionals **have** a high level of technical knowledge which consumers may not have and consumers therefore find it difficult to judge the quality of the services provided to them, ***which may continue to happen despite the potential reduction in the asymmetry of information between professionals and service recipients as a result of scientific and technological developments.***

Or. ro

Amendment 49**Daniel Buda****Proposal for a directive****Recital 18***Text proposed by the Commission*

(18) The economic impact of the measure, ***including a cost-benefit analysis*** with particular regard to ***the degree of***

Amendment

(18) The economic impact of the measure, with particular regard to ***the quality of the service provided,***

competition in the market **and the quality of the service provided, as well as** the impact on the right to work and on the free movement of persons and services within the Union should be duly taken into account by the **competent authorities**. Based on this analysis, Member States should ascertain, in particular, whether the extent of the restriction of access to or pursuit of regulated professions **within the Union** is proportionate to the importance of the objectives pursued and the expected gains.

competition in the market, **and** the impact on the right to work and on the free movement of persons and services within the Union should be duly taken into account by the **Member States**. Based on this analysis, Member States should ascertain, in particular, whether the extent of the restriction of access to or pursuit of regulated professions is proportionate to the importance of the objectives pursued and the expected gains.

Or. ro

Amendment 50

Daniel Buda

Proposal for a directive

Recital 19

Text proposed by the Commission

(19) Member States should carry out a comparison between the national measure at issue and the alternative and less restrictive solutions that would allow the same objective to be attained but would impose fewer restrictions. Where the measures are justified by consumer protection and where the risks identified are limited to the relationship between the professional and the consumer without negatively affecting third parties, the objective could be attained by less restrictive means than reserving activities to professionals, **such as protection of the professional title or enrolment on a professional register. Regulation by way of reserved activities should be used only in cases where the measures aim at preventing a risk of serious harm to public interest objectives.**

Amendment

(19) Member States should carry out a comparison between the national measure at issue and the alternative and less restrictive solutions that would allow the same objective to be attained but would impose fewer restrictions. Where the measures are justified by consumer protection and where the risks identified are limited to the relationship between the professional and the consumer without negatively affecting third parties, the objective could be attained by less restrictive means than reserving activities to professionals.

Or. ro

Amendment 51

Daniel Buda

Proposal for a directive

Recital 20

Text proposed by the Commission

(20) The ***national authorities*** should carry out a ***global*** assessment of the circumstances in which the ***restrictive measure*** is adopted and implemented and examine in particular the cumulative effect of imposing several requirements in addition to the specific professional qualification. The taking-up and pursuit of certain activities may be conditional on complying with certain provisions such as rules relating to the organisation of the profession, compulsory membership of a professional body, professional ethics, supervision and liability. Therefore, when assessing the ***cumulative effect of the measures, the competent authorities*** should also take into account other existing requirements, such as continuous professional development, compulsory chamber membership, registration or authorisation schemes, quantitative restrictions, specific legal form requirements and shareholding requirements, territorial restrictions, multidisciplinary restrictions and incompatibility rules, requirements concerning insurance cover as well as language knowledge requirements, to the extent necessary to practise the profession. A measure introduced by a Member State cannot be regarded as necessary to achieve the objective pursued if it essentially duplicates requirements which have already been introduced in the context of other rules or procedures.

Amendment

(20) The ***Member States*** should carry out a ***general*** assessment of the circumstances in which the ***requirement*** is adopted and implemented and examine in particular the cumulative effect of imposing several requirements in addition to the specific professional qualification. The taking-up and pursuit of certain activities may be conditional on complying with certain provisions such as rules relating to the organisation of the profession, compulsory membership of a professional body, professional ethics, supervision and liability. Therefore, when assessing the effect ***of the new or amended measures, the Member States*** should also take into account ***the combined effect of those measures with*** other existing requirements, such as continuous professional development, compulsory chamber membership, registration or authorisation schemes, quantitative restrictions, specific legal form requirements and shareholding requirements, territorial restrictions, multidisciplinary restrictions and incompatibility rules, requirements concerning insurance cover as well as language knowledge requirements, to the extent necessary to practise the profession. A measure introduced by a Member State cannot be regarded as necessary to achieve the objective pursued if it essentially duplicates requirements which have already been introduced in the context of other rules or procedures.

Or. ro

Amendment 52

Daniel Buda

Proposal for a directive

Recital 20 a (new)

Text proposed by the Commission

Amendment

(20a) The proportionality criteria as established in this Directive may be applied to the relevant extent and intensity during an assessment of proportionality undertaken before introducing new provisions, or amending existing ones. The extent and degree of intensity applied during the assessment must be proportional to the content of the provisions introduced and their impact.

Or. ro

Amendment 53

Daniel Buda

Proposal for a directive

Recital 21

Text proposed by the Commission

Amendment

(21) It is essential for the proper functioning of the internal market to ensure that Member States provide information to citizens, representative associations or other relevant stakeholders before introducing new measures restricting access to or pursuit of regulated professions and give them the opportunity to make known their views.

(21) It is essential for the proper functioning of the internal market to ensure that Member States provide information to citizens, ***recipients of services***, representative associations or other relevant stakeholders before introducing new, ***or amending existing***, measures restricting access to or pursuit of regulated professions and give them the opportunity to make known their views.

Or. ro

Amendment 54
Daniel Buda

Proposal for a directive
Recital 23

Text proposed by the Commission

(23) In order to increase transparency and promote proportionality assessments based on comparable criteria, it is important that the information submitted by Member States be easily accessible in the database of regulated professions to allow all *interested parties* to submit comments.

Amendment

(23) In order to increase transparency and promote proportionality assessments based on comparable criteria, it is important that the information submitted by Member States be easily accessible in the database of regulated professions to allow all **Member States** to submit comments.

Or. ro

Amendment 55
Daniel Buda

Proposal for a directive
Recital 24

Text proposed by the Commission

(24) *Since* the objectives of this Directive, namely the removal of disproportionate restrictions on access to or pursuit of regulated professions cannot be sufficiently achieved by the Member States but can rather, by reason of the scale of the action, be better achieved at Union level, the Union may adopt measures, in accordance with the principle of subsidiarity as set out in Article 5 of the Treaty on European Union. In accordance with the principle of proportionality, as set out in that Article, this Directive does not go beyond what is necessary in order to achieve those objectives,

Amendment

(24) The objectives of this Directive, namely the removal of disproportionate restrictions on access to or pursuit of regulated professions cannot be sufficiently achieved by the Member States but can rather, by reason of the scale of the action, be better achieved at Union level, the Union may adopt measures, in accordance with the principle of subsidiarity as set out in Article 5 of the Treaty on European Union. In accordance with the principle of proportionality, as set out in that Article, this Directive does not go beyond what is necessary in order to achieve those objectives. This Directive seeks to strike the right balance between securing public interest objectives and the quality of services on the one hand alongside improving the access to and exercise of regulated professions for the professionals

themselves, whilst ensuring a wider choice for consumers on the other, ***but takes into account the fact that the regulation of professional services of general interest remains a prerogative of the Member States.***

Or. ro

Amendment 56
Daniel Buda

Proposal for a directive
Article 2 – paragraph 1

Text proposed by the Commission

1. This Directive shall apply to ***requirements under the legal systems*** of the Member States restricting access to a regulated profession or its pursuit, or one of its modes of pursuit, including the use of professional titles and the professional activities allowed under such title, ***falling within the scope of Directive 2005/36/EC.***

Amendment

1. This Directive shall apply to ***legislative, regulatory and administrative provisions*** of the Member States restricting access to a regulated profession ***coming under the scope of Directive 2005/36/EC,*** or its pursuit, or one of its modes of pursuit, including the use of professional titles and the professional activities allowed under such title, ***falling within the scope of Directive 2005/36/EC.***

Or. ro

Amendment 57
Daniel Buda

Proposal for a directive
Article 3 – paragraph 2 – point a

Text proposed by the Commission

(a) "protected professional title" means a form of regulating a profession where the use of the title in a professional activity or group of professional activities is subject to a particular professional qualification in the relevant field by virtue of legislative, regulatory or administrative provisions,

Amendment

(a) "protected professional title" means a form of regulating a profession where the use of the title in a professional activity or group of professional activities is subject to a particular professional qualification in the relevant field by virtue of legislative, regulatory or administrative provisions,

either directly, or indirectly, and where the improper use of this title is subject to sanctions *or other measures*.

either directly, or indirectly, and where the improper use of this title is subject to sanctions.

Or. ro

Amendment 58

Daniel Buda

Proposal for a directive

Article 4 – title

Text proposed by the Commission

Ex ante assessment of new measures

Amendment

Ex ante assessment of new measures *and monitoring*

Or. ro

Amendment 59

Daniel Buda

Proposal for a directive

Article 4 – paragraph 1

Text proposed by the Commission

1. Member States shall ensure that *before introducing new legislative, regulatory or administrative provisions restricting access to or pursuit of regulated professions*, or amending existing *ones*, *the relevant competent authorities undertake an assessment of their proportionality in accordance with the rules laid down in this Directive*.

Amendment

1. Member States shall ensure that *they undertake an assessment of proportionality in accordance with the rules laid down in this Directive before introducing new legislative provisions*, or amending existing *regulatory or administrative provisions, restricting access to or pursuit of regulated professions*.

Or. ro

Amendment 60

Daniel Buda

Proposal for a directive
Article 4 – paragraph 2

Text proposed by the Commission

2. Any provision referred to in paragraph 1 shall be accompanied by a detailed statement making it possible to appraise compliance with the principle of proportionality.

Amendment

2. Any provision referred to in paragraph 1 shall be accompanied by a detailed statement making it possible to appraise compliance with the principle of proportionality, ***taking full account of the specific nature of each profession and the regulatory framework for professions.***

Or. ro

Amendment 61
Daniel Buda

Proposal for a directive
Article 4 – paragraph 3

Text proposed by the Commission

3. The reasons for considering that a provision is justified, necessary and proportionate shall be substantiated by qualitative and, wherever possible, quantitative ***evidence***.

Amendment

3. The reasons for considering that a provision is justified, necessary and proportionate shall be substantiated by qualitative and, wherever possible ***and relevant, quantitative means, taking account of the specific circumstances of that Member State.***

Or. ro

Amendment 62
Daniel Buda

Proposal for a directive
Article 4 – paragraph 4

Text proposed by the Commission

4. Member States shall monitor the proportionality of legislative, regulatory or administrative provisions restricting access to or pursuit of regulated professions ***on a***

Amendment

4. Member States shall monitor the proportionality of ***new or amended*** legislative, regulatory or administrative provisions restricting access to or pursuit

regular basis and with a frequency appropriate to the regulation concerned, having due regard to any developments that have occurred since the measure concerned was adopted.

of regulated professions, having due regard ***to the analysis of the whole regulatory framework for the profession concerned, as well as*** to any developments that have occurred since the measure concerned was adopted.

Or. ro

Amendment 63
Daniel Buda

Proposal for a directive
Article 4 – paragraph 5

Text proposed by the Commission

5. Member States shall take the necessary measures to ensure that the assessment of proportionality referred to in paragraph 1 is carried out in an objective and independent manner including through involvement of independent scrutiny bodies.

Amendment

5. Member States shall take the necessary measures, ***openly and transparently,*** to ensure that the assessment of proportionality referred to in paragraph 1 is carried out in an objective and independent manner, ***taking objective comments into consideration,*** including through involvement of independent scrutiny bodies.

Or. ro

Amendment 64
Viktor Uspaskich

Proposal for a directive
Article 5 – paragraph 2

Text proposed by the Commission

2. The relevant competent authorities shall consider in particular whether those provisions are objectively justified on the basis of public policy, public security or public health, or by overriding reasons in the public interest, such as preserving the financial equilibrium of the social security system, the protection of consumers,

Amendment

2. The relevant competent authorities shall consider in particular whether those provisions are objectively justified on the basis of public policy, public security or public health, or by overriding reasons in the public interest, such as preserving the financial equilibrium of the social security system, the protection of consumers,

recipients of services and workers, the safeguarding of the proper administration of justice, fairness of trade transactions, combating fraud and prevention of tax evasion and avoidance, road safety, the protection of the environment and the urban environment, ***the health of animals***, intellectual property, the safeguarding and conservation of the national historic and artistic heritage, social policy objectives and cultural policy objectives.

recipients of services, ***creditors*** and workers, ***including the social protection of workers***, the safeguarding of the proper administration of justice, fairness of trade transactions, ***fight against unfair competition***, combating fraud and prevention of tax evasion and ***tax*** avoidance, road safety, the protection of the environment and the urban environment, ***including land - use planning, animal welfare and veterinary policy***, intellectual property, the safeguarding and conservation of the national historic and artistic heritage, social policy objectives and cultural policy objectives, ***including the safeguarding of freedom of expression***.

Or. en

Amendment 65

Jiří Maštálka

Proposal for a directive

Article 5 – paragraph 2

Text proposed by the Commission

2. The relevant competent authorities shall consider in particular whether those provisions are objectively justified on the basis of public policy, public security or public health, or by overriding reasons in the public interest, such as preserving the financial equilibrium of the social security system, the protection of consumers, recipients of services and workers, the safeguarding of the proper administration of justice, fairness of trade transactions, combating fraud and prevention of tax evasion and avoidance, road safety, the protection of the environment and the urban environment, the health of animals, intellectual property, the safeguarding and conservation of the national historic and artistic heritage, social policy objectives

Amendment

2. The relevant competent authorities shall consider in particular whether those provisions are objectively justified on the basis of public policy, public security or public health, or by overriding reasons in the public interest, such as preserving the financial equilibrium of the social security system, the protection of consumers, recipients of services and workers, the safeguarding of the proper administration of justice, fairness of trade transactions, combating fraud and prevention of tax evasion and avoidance, road safety, the protection of the environment and the urban environment, the health of animals, intellectual property, the safeguarding and conservation of the national historic and artistic heritage, social policy objectives and cultural policy objectives, ***as well as***

and cultural policy objectives.

the maintenance of a good system of professional and vocational training following the system of the Member State concerned.

Or. en

Amendment 66
Daniel Buda

Proposal for a directive
Article 5 – paragraph 2

Text proposed by the Commission

2. The **relevant competent authorities** shall consider in particular whether those provisions are objectively justified on the basis of public policy, public security or public health, or by overriding reasons in the public interest, such as preserving the financial equilibrium of the social security system, the protection of consumers, recipients of services and workers, the safeguarding of the proper administration of justice, fairness of trade transactions, combating fraud and prevention of tax evasion and avoidance, **road** safety, the protection of the environment and the urban environment, the health of animals, intellectual property, the safeguarding and conservation of the national historic and artistic heritage, social policy objectives and cultural policy objectives.

Amendment

2. The **Member States** shall consider in particular whether those provisions are objectively justified on the basis of public policy, public security or public health, or by overriding reasons in the public interest, such as preserving the financial equilibrium of the social security system, the protection of consumers, recipients of services and workers, the safeguarding of the proper administration of justice, fairness of trade transactions, combating fraud and prevention of tax evasion and avoidance, **transport** safety, the protection of the environment and the urban environment, the health of animals, intellectual property, the safeguarding and conservation of the national historic and artistic heritage, social policy objectives and cultural policy objectives.

Or. ro

Amendment 67
Daniel Buda

Proposal for a directive
Article 5 – paragraph 3

Text proposed by the Commission

3. Grounds of a purely economic nature ***having essentially protectionist aim or effects*** or purely administrative reasons shall not constitute overriding reasons in the public interest, justifying a restriction on access to or pursuit of regulated professions.

Amendment

3. Grounds of a purely economic nature or purely administrative reasons shall not constitute overriding reasons in the public interest, justifying a restriction on access to or pursuit of regulated professions.

Or. ro

Amendment 68

Daniel Buda

Proposal for a directive

Article 6 – paragraph 2 – introductory part

Text proposed by the Commission

2. When ***assessing*** the necessity and the proportionality of the provisions, ***the relevant competent authorities shall consider in particular:***

Amendment

2. When ***Member States assess*** the necessity and the proportionality of the provisions, ***the extent of the assessment must be proportionate to the content and the impact of the provision. Member States should take into consideration:***

Or. ro

Amendment 69

Daniel Buda

Proposal for a directive

Article 6 – paragraph 2 – point a

Text proposed by the Commission

(a) the nature of the risks related to the public interest objectives pursued, in particular the risks to consumers, to professionals or third parties;

Amendment

(a) the nature of the risks related to the public interest objectives pursued, in particular the risks to ***service recipients, including*** consumers, to professionals or ***to*** third parties;

Or. ro

Amendment 70

Daniel Buda

Proposal for a directive

Article 6 – paragraph 2 – point b

Text proposed by the Commission

(b) the suitability of the provision ***namely as regards its appropriateness*** to attain the objective pursued ***and whether it genuinely reflects that objective in a consistent and systematic manner and thus, addresses the risks identified in a similar way as in comparable activities;***

Amendment

(b) the suitability of the provision to attain the objective pursued;

Or. ro

Amendment 71

Daniel Buda

Proposal for a directive

Article 6 – paragraph 2 – point b a (new)

Text proposed by the Commission

(ba) ***whether the provision genuinely reflects that objective in a consistent and systematic manner;***

Amendment

Or. ro

Amendment 72

Daniel Buda

Proposal for a directive

Article 6 – paragraph 2 – point c a (new)

Text proposed by the Commission

(ca) ***the effect of the new or amended provisions when combined with other requirements restricting access to, or***

Amendment

pursuit of, the profession, and in particular how the new or amended provisions, combined with other requirements, contribute to and are necessary to achieve the same public interest objective;

Or. ro

Amendment 73

Daniel Buda

Proposal for a directive

Article 6 – paragraph 2 – point d

Text proposed by the Commission

(d) the **link** between the scope of activities covered by a profession or reserved to it and the professional qualification required;

Amendment

(d) the **connection** between the scope of activities covered by a profession or reserved to it and the professional qualification required;

Or. ro

Amendment 74

Daniel Buda

Proposal for a directive

Article 6 – paragraph 2 – point e

Text proposed by the Commission

(e) the **link** between the complexity of the tasks and the necessary possession of specific professional qualifications, in particular as regards the level, the nature and the duration of the training or experience required, ***as well as the existence of different routes to obtain the professional qualification;***

Amendment

(e) the **connection** between the complexity of the tasks and the necessary possession of specific professional qualifications, in particular as regards the level, the nature and the duration of the training or experience required;

Or. ro

Amendment 75
Daniel Buda

Proposal for a directive
Article 6 – paragraph 2 – point f

Text proposed by the Commission

(f) *the scope of the professional activities reserved to holders of a particular professional qualification, namely* whether and why the activities reserved to certain professions can or cannot be shared with other professions;

Amendment

(f) whether and why the activities reserved to certain professions can or cannot be shared with other professions;

Or. ro

Amendment 76
Daniel Buda

Proposal for a directive
Article 6 – paragraph 2 – point h

Text proposed by the Commission

(h) the scientific and technological developments which may reduce the asymmetry of information between professionals and consumers;

Amendment

(h) the scientific and technological developments which may *effectively* reduce the asymmetry of information between professionals and consumers;

Or. ro

Amendment 77
Daniel Buda

Proposal for a directive
Article 6 – paragraph 2 – point j

Text proposed by the Commission

(j) *the possibility to use less restrictive means to achieve the public interest objective;*

Amendment

deleted

Or. ro

Amendment 78

Daniel Buda

Proposal for a directive

Article 6 – paragraph 2 – point k

Text proposed by the Commission

Amendment

(k) the cumulative effect of restrictions to both access to and pursuit of the profession, and in particular how each of those requirements contributes to and whether it is necessary to achieve the same public interest objective.

deleted

Or. ro

Amendment 79

Daniel Buda

Proposal for a directive

Article 6 – paragraph 3

Text proposed by the Commission

Amendment

3. For the purposes of paragraph 2(j), where the measures are justified by consumer protection and where the risks identified are limited to the relationship between the professional and the consumer without negatively affecting third parties, the relevant competent authorities shall assess in particular whether the objective can be attained by protected professional title without reserving activities.

deleted

Or. ro

Amendment 80

Daniel Buda

Proposal for a directive
Article 6 – paragraph 4 – introductory part

Text proposed by the Commission

4. For the purposes of paragraph 2(*k*), *the relevant competent authorities* shall assess *in particular the cumulative effect of imposing any of the following* requirements:

Amendment

4. For the purposes of paragraph 2(cc), *Member States* shall assess *the effect of the new or amended provisions when combined with one or more* requirements, *in particular the following*:

Or. ro

Amendment 81
Daniel Buda

Proposal for a directive
Article 6 – paragraph 4 – point a

Text proposed by the Commission

(a) reserved activities, *existing alongside protected professional title*;

Amendment

(a) reserved activities;

Or. ro

Amendment 82
Daniel Buda

Proposal for a directive
Article 6 – paragraph 4 – point a a (new)

Text proposed by the Commission

Amendment

(aa) *protected professional title*;

Or. ro

Amendment 83
Daniel Buda

Proposal for a directive
Article 6 – paragraph 4 – point b

Text proposed by the Commission

(b) continuous professional development requirements;

Amendment

(b) ***obligations to comply with*** continuous professional development requirements, ***pursuant to recital 9 of the Preamble and Articles 22 and 53 of the revised Directive 2005/36;***

Or. ro

Amendment 84

Daniel Buda

Proposal for a directive

Article 6 – paragraph 4 – point i

Text proposed by the Commission

(i) requirements concerning insurance cover or other means of personal or collective with regard to professional liability;

Amendment

(i) requirements concerning insurance cover or other means of personal or collective with regard to professional liability, ***pursuant to recital 9 of the Preamble and Articles 22 and 53 of the revised Directive 2005/36;***

Or. ro

Amendment 85

Daniel Buda

Proposal for a directive

Article 6 – paragraph 4 – point j

Text proposed by the Commission

(j) language knowledge requirements, to the extent necessary to practise the profession.

Amendment

(j) language knowledge requirements, to the extent necessary to practise the profession, ***pursuant to recital 9 of the Preamble and Articles 22 and 53 of the revised Directive 2005/36;***

Or. ro

Amendment 86
Daniel Buda

Proposal for a directive
Article 7 – paragraph 1

Text proposed by the Commission

Member States shall, by appropriate means, ***inform citizens***, service recipients, ***representative associations*** and relevant stakeholders ***other than the*** members of the profession before introducing new legislative, regulatory or administrative provisions restricting access to or pursuit of regulated professions, ***or amending existing ones***, and give them the opportunity to make known their views.

Amendment

Member States shall, by appropriate means, ***make information available to*** service recipients and other relevant stakeholders, ***including those who are not*** members of the profession before introducing new, ***or amending existing***, legislative, regulatory or administrative provisions restricting access to or pursuit of regulated professions, and give them the opportunity to make known their views. ***Member States may use national procedures to this end.***

Or. ro

Amendment 87
Daniel Buda

Proposal for a directive
Article 8 – title

Text proposed by the Commission

Exchange of information between ***competent authorities***

Amendment

Exchange of information between ***Member States***

Or. ro

Amendment 88
Jane Collins

Proposal for a directive
Article 8 – paragraph 2

Text proposed by the Commission

2. ***Member States shall inform the***

Amendment

deleted

Commission of the competent authorities responsible for transmitting and receiving information for the purposes of applying paragraph 1.

Or. en

Amendment 89

Daniel Buda

Proposal for a directive

Article 8 – paragraph 2

Text proposed by the Commission

2. Member States shall inform the Commission of the **competent** authorities responsible for transmitting and receiving information for the purposes of applying paragraph 1.

Amendment

2. Member States shall inform the Commission of the **public** authorities responsible for transmitting and receiving information for the purposes of applying paragraph 1.

Or. ro

Amendment 90

Daniel Buda

Proposal for a directive

Article 9 – paragraph 1

Text proposed by the Commission

1. The reasons for considering that provisions, assessed in accordance with this Directive, are justified, **necessary** and proportionate, and which are communicated to the Commission pursuant to paragraphs 5 **and 6** of Article 59 of Directive 2005/36/EC, shall be recorded by the **relevant competent authorities** in the database of regulated professions, referred to in Article 59 paragraph 1 of Directive 2005/36/EC and thereafter made publicly available by the Commission.

Amendment

1. The reasons for considering that provisions, assessed in accordance with this Directive, are justified and proportionate, and which are communicated to the Commission pursuant to paragraph 5 of Article 59 of Directive 2005/36/EC, shall be recorded by the **Member States** in the database of regulated professions, referred to in Article 59 paragraph 1 of Directive 2005/36/EC, and thereafter made publicly available by the Commission, **except at the express request of the Member State concerned not to make those reasons publicly available. Any such request must be duly**

substantiated.

Or. ro

Amendment 91
Daniel Buda

Proposal for a directive
Article 9 – paragraph 2

Text proposed by the Commission

2. Member States *and other interested parties may submit comments* to the Commission or to the Member State which has *notified* the provisions.

Amendment

2. Member States *may submit comments on the provisions and the reasons for considering that those provisions are justified and proportionate* to the Commission or to the Member State which has *communicated* the provisions.

Or. ro

Amendment 92
Daniel Buda

Proposal for a directive
Article 11 – paragraph 1 – subparagraph 1

Text proposed by the Commission

1. Member States shall bring into force the laws, regulations and administrative provisions necessary to comply with this Directive *by* at the latest. They shall forthwith communicate to the Commission the text of those provisions.

Amendment

1. Member States shall bring into force the laws, regulations and administrative provisions necessary to comply with this Directive *within 24 months at the latest*. They shall forthwith communicate to the Commission the text of those provisions.

Or. ro