

(English version)

Question for written answer E-003323/18
to the Commission
Dimitrios Papadimoulis (GUE/NGL)
(19 June 2018)

Subject: Proportionality test before adopting a new regulation on professions

On 14 June 2018, the European Parliament voted on the proposal for a directive of the European Parliament and of the Council on a proportionality test before adopting a new regulation on professions. The draft directive seems to complicate the regulation process with the a priori proportionality test.

This poses the significant danger of creating excessive bureaucratic load, as well as potential legal impediments when adopting the regulation at national level. At the same time, this regulation is likely to breach the principle of subsidiarity, as many responsibilities are transferred from Member States to the European Union.

Furthermore, this particular directive does not provide for a separate regulation on health professions. Health is a social issue and the regulation of health professions should be left exclusively to Member States, based on each country's needs. Through this particular regulation, it may also be possible that the current Directorate General for Health would disappear, thus causing the health sector to fragment into different Commission Directorates General.

In view of the above, can the Commission say:

1. What measures it is willing to take to ensure that public health and health professions are protected?
2. Based on what evidence will the proportionality test be amended for each Member State according to its specific needs?

Answer given by Ms Bieńkowska on behalf of the European Commission
(10 August 2018)

1. The directive on a proportionality test before adoption of new regulation of professions⁽¹⁾ confirms Member States' margin of discretion on whether and how to regulate professions⁽²⁾ and what level of protection they would want to afford in relation to the public interest objectives that regulation seeks to protect (e.g., Recital 18). The directive contains specific references to health professions and their regulation in recitals 19 and 30 and Article 7(5). These provisions confirm beyond any doubt that Member States may seek the attainment of a high level of public health and patient safety protection through their regulation. Nonetheless, such regulation may not be discriminatory or disproportionate to the detriment of patients, health professionals and ultimately the health systems of Member States, a fundamental EC law principle, endorsed by settled case-law. The Proportionality Directive seeks to facilitate the correct application of this principle by the Member States. In that respect, the specificities of each profession and sector and the public interests to be protected are duly to be taken into account.
2. As mentioned in Recital 13, there is no specific type of evidence, e.g. specific scientific studies, which would be required to justify regulation. The type of evidence will depend on the extent and effect of the newly introduced regulation. In any event, evidence has to be sufficiently detailed to make appraisal of compliance with the principle of proportionality possible (Article 4(3)).

⁽¹⁾ Directive (EU) 2018/958 of the European Parliament and of the Council of 28 June 2018 on a proportionality test before adoption of new regulation of professions, OJ L 173, 9.7.2018, p. 25.

⁽²⁾ Article 1.