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12.7.2017

AMENDMENTS

4 - 123

Draft opinion
Françoise Grossetête
(PE604.870v01-00)

Proportionality test before adoption of new regulation of professions

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

Amendment 4

Mireille D'Ornano, Jean-François Jalkh, Sylvie Goddyn

Proposal for a directive

Title 1

Text proposed by the Commission

Proposal for a
DIRECTIVE OF THE EUROPEAN
PARLIAMENT AND OF THE COUNCIL
on a proportionality test before adoption of
new regulation of professions
(Text with EEA relevance)

Amendment

Proposal for a
DIRECTIVE OF THE EUROPEAN
PARLIAMENT AND OF THE COUNCIL
on a proportionality **and public interest**
test before adoption of new regulation **or**
deregulation of professions
(Text with EEA relevance)

Or. fr

Amendment 5

Mireille D'Ornano, Jean-François Jalkh, Sylvie Goddyn

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 **and recognises** the freedom to conduct a business **'in accordance with Community law and national laws and practices'**. 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.

Or. fr

Justification

Article 16 of the EU Charter of Fundamental Rights.

Amendment 6

Mireille D'Ornano, Jean-François Jalkh, Sylvie Goddyn

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 its communication of 10 January 2017 on reform recommendations for regulation in professional services^{1a}, the Commission noted that the regulation of professions is a prerogative of the Member States aimed at ensuring the protection of their public interest objectives and that it is not therefore desirable to impose directly or indirectly any particular regulatory model throughout the EU.*

^{1a} COM(2016)0820.

Or. fr

Amendment 7

Mireille D'Ornano, Jean-François Jalkh, Sylvie Goddyn

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.*

Or. fr

Amendment 8

Mireille D'Ornano, Jean-François Jalkh, Sylvie Goddyn

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 and how to regulate a profession within the limits of the principles of ***subsidiarity*** and proportionality.

Or. fr

Amendment 9

Mireille D'Ornano, Jean-François Jalkh, Sylvie Goddyn

Proposal for a directive

Recital 3

Text proposed by the Commission

(3) The principle of proportionality is one of the general principles of Union law. ***It follows from the case-law²³ that national measures liable to hinder or make less attractive the exercise of fundamental freedoms guaranteed by the Treaty should fulfil four conditions: they should be applied in a non-discriminatory manner; they should be justified by public interest objectives; they should be suitable for securing the attainment of the objective which they pursue; and they should not go beyond what is necessary in order to attain it.***

Amendment

(3) The principle of proportionality is one of the general principles of Union law. ***In accordance with Article 5 (4) of the Treaty on European Union, it means that the content and form of Union action must not exceed what is necessary to achieve the objectives of the Treaties.***

²³ *Case C-55/94 Reinhard Gebhard v Consiglio dell'Ordine degli Avvocati e Procuratori di Milano [1995] ECR I-4165.*

Amendment 10

Mireille D'Ornano, Jean-François Jalkh, Sylvie Goddyn

Proposal for a directive

Recital 3 a (new)

Text proposed by the Commission

Amendment

(3 a) In accordance with Article 5 of the Treaty on European Union, the subsidiarity principle aims to protect the Member States' capacity to decide and take action and seeks to ensure that powers are exercised at a level as close as possible to the citizen.

Or. fr

Amendment 11

Mireille D'Ornano, Jean-François Jalkh, Sylvie Goddyn

Proposal for a directive

Recital 4

Text proposed by the Commission

Amendment

(4) Directive 2005/36/EC of the European Parliament and of the Council²⁴ established the obligation for Member States to assess the proportionality of their requirements restricting access to or pursuit of regulated professions and to communicate to the Commission the results of the assessment, launching the so-called mutual evaluation process. That process meant that Member States had to carry out a screening of all their legislation on all professions regulated in their territory.

(4) Directive 2005/36/EC of the European Parliament and of the Council²⁴ established the obligation for Member States to assess the proportionality of their requirements restricting access to or pursuit of regulated professions and to communicate to the Commission the results of the assessment, launching the so-called mutual evaluation process. That process meant that Member States had to carry out a screening of all their legislation on all professions regulated in their territory. ***That directive made specific provision for regulated professions with public health or public security implications.***

²⁴ Directive 2005/36/EC of the European

²⁴ Directive 2005/36/EC of the European

Parliament and of the Council of 7 September 2005 on the recognition of professional qualifications (OJ L 255, 30.9.2005, p.22).

Parliament and of the Council of 7 September 2005 on the recognition of professional qualifications (OJ L 255, 30.9.2005, p.22).

Or. fr

Amendment 12
Stefan Eck

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. 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 ***in an objectively justified manner on the basis of public security or public health, in the public interest.***

Or. en

Amendment 13
Mireille D'Ornano, Jean-François Jalkh, Sylvie Goddyn

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

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. 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.

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, it is therefore necessary to establish a common approach at Union level, preventing *measures that are disproportionate or likely to harm the public interest* from being adopted.

Or. fr

Amendment 14

Mireille D'Ornano, Jean-François Jalkh, Sylvie Goddyn

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. To *ensure that* the internal market *operates more fairly, and to* 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. fr

Amendment 15

Mireille D'Ornano, Jean-François Jalkh, Sylvie Goddyn

Proposal for a directive

Recital 5

PE608.058v01-00

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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. To avoid fragmentation of the internal market and *adjust* 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. fr

Amendment 16
Elena Gentile

Proposal for a directive
Recital 7

Text proposed by the Commission

(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.

Amendment

(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. ***In line with the purposes of this Directive, the term "regulated profession" should refer to all existing regulated professions as defined in Directive 2005/36/EC and professions that Member States will regulate in the future so that they will fall under the definition of "regulated professions" of Directive 2005/36/EC. This Directive should be*** without prejudice to other provisions laid down in a separate Union act concerning access to, and the exercise of a given regulated profession.

Or. en

Amendment 17
Christel Schaldemose, Karin Kadenbach

Proposal for a directive
Recital 7

Text proposed by the Commission

(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.

Amendment

(7) The activities covered by this Directive should concern the regulated professions falling within the scope of Directive 2005/36/EC, ***without prejudice to recital 7a***. 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.

Or. en

Amendment 18
Christel Schaldemose, Karin Kadenbach

Proposal for a directive
Recital 7 a (new)

Text proposed by the Commission

Amendment

(7 a) The right to determine the level of protection that Member States wish to provide to public health as well as the means and methods to reach that level lies solely with the Member States. This has been recognised by the Court of Justice as well as the Union legislators. Furthermore, they have also held that health and life of humans come before any other interest protected by the TFEU. Hence, health professions should be excluded from the scope of this Directive. That exclusion should cover professions embracing activities related to the provision of healthcare services. Furthermore, that exclusion would also cover pharmaceutical services and the prescription, dispensation and

provision of medicinal products and medical devices to patients to assess, maintain or restore their state of health.

Or. en

Amendment 19

Ulrike Müller

Proposal for a directive

Recital 7 a (new)

Text proposed by the Commission

Amendment

(7 a) This Directive establishes rules which should be applied before introducing new, or amending existing, legislative, regulatory or administrative provisions restricting access to or pursuit of regulated professions. Provisions which would not restrict access to or pursuit of regulated professions, for instance editorial amendments, or technical adaptations to content of training courses or modernisation of training regulations, should not fall within the scope of this Directive.

Or. en

Amendment 20

Norbert Lins

Proposal for a directive

Recital 7 a (new)

Text proposed by the Commission

Amendment

(7 a) This Directive establishes rules which should only be applied when essential elements of new or amending legislative, regulatory or administrative provisions restricting access to or pursuit of regulated professions are introduced.

Or. en

Justification

In order to respect the principle of subsidiarity, to avoid additional bureaucracy and to be “proportional” the proportionality assessments have to focus on only essential modifications.

Amendment 21

Mireille D'Ornano, Jean-François Jalkh, Sylvie Goddyn

Proposal for a directive

Recital 8

Text proposed by the Commission

(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.

Amendment

(8) Member States should be able to rely on common 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.

Or. fr

Amendment 22

Bas Eickhout, Elena Gentile

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 analysis of the appropriateness and proportionality of the measure adopted by that State and by specific evidence substantiating its arguments. ***This should not prevent Member States from taking immediate***

measures in the field of health care which they consider necessary to protect public health.

Or. en

Amendment 23

Mireille D'Ornano, Jean-François Jalkh, Sylvie Goddyn

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) *Where necessary, it should be for the Commission to prove the disproportionate nature of Member State requirements. In support of its contention it should provide an analysis of the disproportionate nature of the measure adopted by that State and by specific evidence substantiating its arguments.*

Or. fr

Amendment 24

Mireille D'Ornano, Jean-François Jalkh, Sylvie Goddyn

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*

Amendment

(10) *The Member States should review on a regular basis whether their provisions restricting or broadening access to or pursuit of regulated professions are proportionate and in the public interest, based not only on the objective of the legislation at the time of its adoption, but also on the effects of the legislation, and on developments found to have occurred in the area since the legislation was adopted.*

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. fr

Amendment 25

Mireille D'Ornano, Jean-François Jalkh, Sylvie Goddyn

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 *whether* restrictive national legislation in the area of regulated professions *is proportionate and in the public interest* 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 *whether the national legislation is proportionate and in the public interest* should be based on developments found to have occurred in the area since the legislation was adopted.

Or. fr

Amendment 26

Mireille D'Ornano, Jean-François Jalkh, Sylvie Goddyn

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

Amendment

(10) It is appropriate to monitor the proportionality of the provisions restricting *or broadening* access to or pursuit of regulated professions on a regular basis

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.

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.

Or. fr

Amendment 27

Mireille D'Ornano, Jean-François Jalkh, Sylvie Goddyn

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 in an objective and independent manner, including where a profession is regulated indirectly, by giving a particular professional body, ***or an existing institution with a proven ability to work in the public interest, the power to do so. For example,*** local authorities, regulatory bodies or professional organisations ***are often the best placed, owing to their*** greater proximity to local conditions and specialised knowledge, to identify the best way of meeting the public interest objectives.

Or. fr

Amendment 28

Mireille D'Ornano, Jean-François Jalkh, Sylvie Goddyn

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 **and public interest** 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.

Or. fr

Amendment 29
Mireille D'Ornano, Jean-François Jalkh, Sylvie Goddyn

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

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

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.

Or. fr

Amendment 30
Ulrike Müller

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

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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

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

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. ***Where these objectives apply, regulation of professions should be considered as a necessary safeguard of the public interest rather than an obstacle to competition and free movement.*** 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, ***including patients***, 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.

Or. en

Amendment 31

Mireille D'Ornano, Jean-François Jalkh, Sylvie Goddyn

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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; 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

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 **Article 45 of the Treaty on the Functioning of the European Union**, 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 reasons, such as

general interest.

carrying out controls or gathering statistics cannot constitute an overriding reason of general interest.

Or. fr

Amendment 32

Mireille D'Ornano, Jean-François Jalkh, Sylvie Goddyn

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; road safety; the protection of the environment and the urban environment;

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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 **order, public security and public health**, Member States should enjoy a margin of discretion to decide on the degree of protection which they wish to afford **in these areas** 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

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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.

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. fr

Amendment 33 **Luke Ming Flanagan**

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,

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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 ***reasonable and defined*** 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,

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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.

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.

Or. en

Amendment 34

Mireille D'Ornano, Jean-François Jalkh, Sylvie Goddyn

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

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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

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

example, in order to ensure a high level of protection of public health, Member States should enjoy a **broad** 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.

Or. fr

Amendment 35
Bas Eickhout

Proposal for a directive
Recital 12 a (new)

Text proposed by the Commission

Amendment

(12 a) This Directive should seek to strike a balance between securing public interest objectives and quality of services on the one hand, and improving access to, and exercise of, regulated professions, which is in the interests of the professionals themselves, on the other. It is clear from settled case law of the Court of Justice that when one Member State imposes less

strict rules than another Member State, this does not necessarily mean that the latter Member State's rules are disproportionate.

Or. en

Amendment 36
Ulrike Müller

Proposal for a directive
Recital 12 a (new)

Text proposed by the Commission

Amendment

(12 a) Where a regulation of professions is justified by the protection of public health, the special characteristics of health services should be borne in mind. Health services are particularly different from other services, as are patients from other service recipients. Due to this distinct nature it should be assumed that health professions are typically subject to regulation of professions.

Or. en

Amendment 37
Ulrike Müller

Proposal for a directive
Recital 12 b (new)

Text proposed by the Commission

Amendment

(12 b) It is for the Member States to determine the level of protection which they wish to afford to the public interest objectives and the proportionate way in which that level is to be achieved. The fact that one Member State imposes less strict rules than another Member State does not mean that the latter Member State's rules are disproportionate and therefore incompatible with the Union law.

Amendment 38

Mireille D'Ornano, Jean-François Jalkh, Sylvie Goddyn

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 ***or deregulate a profession***, 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. ***This asymmetry of information may justify regulating some professions or amending existing rules in order to protect consumers.***

Or. fr

Amendment 39

Mireille D'Ornano, Jean-François Jalkh, Sylvie Goddyn

Proposal for a directive**Recital 14***Text proposed by the Commission*

(14) To meet the requirement of proportionality, the ***measure should be suitable for securing the attainment of the objective pursued. A measure should only be considered suitable for securing the attainment of the objective pursued, if it genuinely reflects a concern to attain that objective in a consistent and systematic***

Amendment

(14) To meet the requirement of proportionality, the ***national*** measure should ***be*** suitable for securing the objective pursued and therefore, where it has no effect on the ground for justification, it should not be considered as suitable.

manner, for instance where similar risks related to certain activities are addressed in a comparable way and where any exceptions to the restrictions involved are applied in line with the stated objective. Furthermore, the national measure should contribute to achieving the objective pursued and therefore, where it has no effect on the ground for justification, it should not be considered as suitable.

Or. fr

Amendment 40

Mireille D'Ornano, Jean-François Jalkh, Sylvie Goddyn

Proposal for a directive

Recital 14

Text proposed by the Commission

(14) To meet the requirement of proportionality, the measure should be suitable for securing the attainment of the objective pursued. A measure should only be considered suitable for securing the attainment of the objective pursued, if it genuinely reflects a concern to attain that objective in a consistent and systematic manner, for instance where similar risks related to certain activities are addressed in a comparable way and where any exceptions to the restrictions involved are applied in line with the stated objective. Furthermore, the national measure should contribute to achieving the objective pursued and therefore, where it has no effect on the ground for justification, it should not be considered as suitable.

Amendment

(14) To meet the requirement of proportionality, the measure should be suitable for securing the attainment of the **public interest** objective pursued. A measure should only be considered suitable for securing the attainment of the objective pursued, if it genuinely reflects a concern to attain that objective in a consistent and systematic manner, for instance where similar risks related to certain activities are addressed in a comparable way and where any exceptions to the restrictions involved are applied in line with the stated objective. Furthermore, the national measure should contribute to achieving the objective pursued and therefore, where it has no effect on the ground for justification, it should not be considered as suitable.

Or. fr

Amendment 41

Mireille D'Ornano, Jean-François Jalkh, Sylvie Goddyn

Proposal for a directive

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Recital 15

Text proposed by the Commission

(15) Requirements linked to professional qualifications should be considered as necessary only where existing measures, such as consumer protection law, cannot be regarded as being suitable or genuinely effective to achieve the aim pursued.

Amendment

(15) Requirements linked to professional qualifications should be considered as necessary only where existing measures, such as consumer protection law, cannot be regarded as being suitable or genuinely effective to achieve the aim pursued, ***or need to be supplemented to optimise their effectiveness.***

Or. fr

Amendment 42

Luke Ming Flanagan

Proposal for a directive

Recital 15

Text proposed by the Commission

(15) Requirements linked to professional qualifications should be considered as necessary only where existing measures, such as consumer protection law, cannot be regarded as being suitable or genuinely effective to achieve the aim pursued.

Amendment

(15) Requirements linked to professional qualifications should be considered as necessary only where existing measures, such as ***- but not confined to -*** consumer protection law, cannot be regarded as being suitable or genuinely effective to achieve the aim pursued.

Or. en

Amendment 43

Mireille D'Ornano, Jean-François Jalkh, Sylvie Goddyn

Proposal for a directive

Recital 15

Text proposed by the Commission

(15) Requirements linked to professional qualifications should be considered as necessary only where existing measures, such as consumer protection law, cannot be regarded as being suitable or genuinely effective to achieve the aim pursued.

Amendment

(15) Requirements linked to professional qualifications should be considered as necessary only where existing measures, such as consumer protection law, cannot be regarded as being suitable or genuinely effective to achieve the ***public interest*** aim

pursued.

Or. fr

Amendment 44
Luke Ming Flanagan

Proposal for a directive
Recital 16

Text proposed by the Commission

(16) Among the elements to be taken into account by national authorities, the following are of most relevance: the link between the scope of professional activities covered by a profession and the professional qualification required; the complexity of the tasks in particular as regards the level, the nature and the duration of the training or experience required; the existence of different routes to obtain the professional qualification; the scope of the professional activities, reserved to holders of a particular professional qualification, and in particular whether the activities reserved to certain professionals can be shared with other professionals; the degree of autonomy in exercising a regulated profession in particular where the activities relating to a regulated profession are pursued under the control and responsibility of a duly qualified professional.

Amendment

(16) Among the elements to be taken into account by national authorities, the following are of most relevance: the link between the scope of professional activities covered by a profession and the professional qualification required; the ***verification process on the origin and standard of those professional qualifications - given the life-and-death effect of many professions (medical, engineering, etc.);*** the complexity of the tasks in particular as regards the level, the nature and the duration of the training or experience required; the existence of different routes to obtain the professional qualification; the scope of the professional activities, reserved to holders of a particular professional qualification, and in particular whether the activities reserved to certain professionals can be shared with other professionals; the degree of autonomy in exercising a regulated profession in particular where the activities relating to a regulated profession are pursued under the control and responsibility of a duly qualified professional.

Or. en

Amendment 45
Mireille D'Ornano, Jean-François Jalkh, Sylvie Goddyn

Proposal for a directive
Recital 16

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Text proposed by the Commission

(16) Among the elements to be taken into account by national authorities, the following are of most relevance: the link between the scope of professional activities covered by a profession and the professional qualification required; the complexity of the tasks in particular as regards the level, the nature and the duration of the training or experience required; the existence of different routes to obtain the professional qualification; the scope of the professional activities, reserved to holders of a particular professional qualification, and in particular whether the activities reserved to certain professionals can be shared with other professionals; the degree of autonomy in exercising a regulated profession in particular where the activities relating to a regulated profession are pursued under the control and responsibility of a duly qualified professional.

Amendment

(16) Among the elements to be taken into account by national authorities, the following are of most relevance: the link between the scope of professional activities covered by a profession and the professional qualification required; the complexity of the tasks in particular as regards the level, the nature and the duration of the training or experience required; the existence of different routes to obtain the professional qualification; the scope of the professional activities, reserved to holders of a particular professional qualification, and in particular whether the activities reserved to certain professionals can be shared with other professionals; the degree of autonomy in exercising a regulated profession in particular where the activities relating to a regulated profession are pursued under the control and responsibility of a duly qualified professional; ***and the implications of the professional activities for public order, public health or public security.***

Or. fr

Amendment 46

Mireille D'Ornano, Jean-François Jalkh, Sylvie Goddyn

Proposal for a directive

Recital 16

Text proposed by the Commission

(16) Among the elements *to* be taken into account by national authorities, the following are of most relevance: the link between the scope of professional activities covered by a profession and the professional qualification required; the complexity of the tasks in particular as regards the level, the nature and the duration of the training or experience required; the existence of different routes

Amendment

(16) Among the elements ***which may*** be taken into account by national authorities, the following are of most relevance: the link between the scope of professional activities covered by a profession and the professional qualification required; the complexity of the tasks in particular as regards the level, the nature and the duration of the training or experience required; the existence of different routes

to obtain the professional qualification; the scope of the professional activities, reserved to holders of a particular professional qualification, and in particular whether the activities reserved to certain professionals can be shared with other professionals; the degree of autonomy in exercising a regulated profession in particular where the activities relating to a regulated profession are pursued under the control and responsibility of a duly qualified professional.

to obtain the professional qualification; the scope of the professional activities, reserved to holders of a particular professional qualification, and in particular whether the activities reserved to certain professionals can be shared with other professionals; the degree of autonomy in exercising a regulated profession in particular where the activities relating to a regulated profession are pursued under the control and responsibility of a duly qualified professional.

Or. fr

Amendment 47

Mireille D'Ornano, Jean-François Jalkh, Sylvie Goddyn

Proposal for a directive

Recital 17

Text proposed by the Commission

(17) Where a Member State regulates a profession, account should be taken of the fact that technological developments may reduce the asymmetry of information between consumers and professionals. In view of the speed of technological change and scientific progress, up-dates in access requirements may be of particular importance for a number of professions.

Amendment

(17) Where a Member State regulates a profession, account should be taken of the fact that technological developments may **increase or** reduce the asymmetry of information between consumers and professionals. In view of the speed of technological change and scientific progress, up-dates in access requirements may be of particular importance for a number of professions.

Or. fr

Amendment 48

Luke Ming Flanagan

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, including a cost-benefit analysis with particular regard to the degree of

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 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;***however, none of those prerogatives should supersede public safety, which has to remain paramount.*** 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.

Or. en

Amendment 49

Mireille D'Ornano, Jean-François Jalkh, Sylvie Goddyn

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 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.

Amendment

(18) The economic impact of the measure, including a cost-benefit analysis with particular regard to the degree of competition in the market, the quality of the service provided ***and the protection of consumers***, as well as the impact on the right to work and on the free movement of persons and services within the Union, should be ***considered*** 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.

Or. fr

Amendment 50

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. ***For example***, the objective ***can sometimes*** be attained by less restrictive means than reserving activities to professionals, such as protection of the professional title or enrolment on a professional register. ***However, where measures are justified by interests of consumer protection or of preventing a risk of serious harm to public interest objectives, regulation should take place by way of reserved activities.***

Or. fr

Amendment 51

Ulrike Müller

Proposal for a directive

Recital 20 a (new)

Text proposed by the Commission

Amendment

(20 a) The introduction of additional requirements may provide an added value to the public interest objective and the fact that their combined effect should be assessed does not mean that those requirements are disproportionate. For instance, continuous professional development requirements may be suitable to ensure that professionals keep abreast of developments in their respective areas, while contributing to safe practice

in professions with particular risks, and where it covers technical, scientific, regulatory and ethical developments, and motivates professionals to participate in lifelong learning relevant to their profession; where it is necessary and suitable to achieve the public interest objective, compulsory chamber membership may be considered to be appropriate, in particular where chambers have a public mandate.

Or. en

Amendment 52
Bas Eickhout, Elena Gentile

Proposal for a directive
Recital 20 a (new)

Text proposed by the Commission

Amendment

(20 a) According to Article 168(1) TFEU) a high level of human health protection shall be ensured in the definition and implementation of all Union policies and activities. This also implies that a high level of human health protection is to be ensured when the Union adopts acts under other Treaty provisions.

Or. en

Amendment 53
Elena Gentile

Proposal for a directive
Recital 20 a (new)

Text proposed by the Commission

Amendment

(20 a) The proportionality criteria as set out in this Directive may be applied to the appropriate extent and degree of 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 should be proportionate to the content of the provision being introduced and to its impact.

Or. en

Amendment 54
Bas Eickhout, Elena Gentile

Proposal for a directive
Recital 20 b (new)

Text proposed by the Commission

Amendment

(20 b) This Directive should respect Member States' competence to regulate professions in the field of health care based on Article 168(7) TFEU as well as Member States' intention to provide and guarantee a high level of health care and patient safety. For this purpose, Member States should be able to decide on the degree of importance of economic considerations in relation to the other relevant proportionality criteria.

Or. en

Amendment 55
Ulrike Müller

Proposal for a directive
Recital 20 b (new)

Text proposed by the Commission

Amendment

(20 b) The proportionality criteria as set out in this Directive should be applied to the appropriate extent and degree of 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

should be proportionate to the content of the provision being introduced and to its impact.

Or. en

Amendment 56

Mireille D'Ornano, Jean-François Jalkh, Sylvie Goddyn

Proposal for a directive

Recital 21

Text proposed by the Commission

(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.

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. *Similarly, it is essential for the proper functioning of the Member States' economies that the EU provides information to citizens, professionals, consumers and other relevant stakeholders before introducing new measures encouraging the deregulation of access to or pursuit of certain professions, and gives them the opportunity to make known their views.*

Or. fr

Amendment 57

Stefan Eck

Proposal for a directive

Recital 21

Text proposed by the Commission

(21) It is essential for the proper functioning of the internal market to ensure that Member States provide information to citizens, representative associations or

Amendment

(21) It is essential for the proper functioning of the internal market *and in the public interest* to ensure that Member States provide information to citizens,

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.

social partners, 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.

Or. en

Amendment 58

Mireille D'Ornano, Jean-François Jalkh, Sylvie Goddyn

Proposal for a directive

Recital 21

Text proposed by the Commission

(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.

Amendment

(21) It is essential for the proper functioning of the *Member States's economies that the EU provides* information to citizens, *professionals, consumers and* other relevant stakeholders before introducing new measures *encouraging the regulation or deregulation of* access to or pursuit of *certain* professions and *gives* them the opportunity to make known their views.

Or. fr

Amendment 59

Mireille D'Ornano, Jean-François Jalkh, Sylvie Goddyn

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

Amendment

(24) Since the objectives of this Directive, namely *to improve the proportionality, and compliance with public interest objectives, of* 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

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,

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,

Or. fr

Amendment 60
Elena Gentile

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) 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 ***non-discrimination, and 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,

Or. en

Amendment 61
Ulrike Müller

Proposal for a directive
Article 1 – paragraph 1

Text proposed by the Commission

This Directive lays down rules on a
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Amendment

This Directive lays down rules on a

common framework for conducting proportionality assessments before introducing new legislative, regulatory or administrative provisions restricting access to or pursuit of regulated professions, or amending existing ones, with a view to ensuring the proper functioning of the internal market.

common framework for conducting proportionality assessments before introducing new legislative, regulatory or administrative provisions restricting access to or pursuit of regulated professions, or amending existing ones, with a view to ensuring the proper functioning of the internal market. ***It does not affect the Member States' prerogative and margin of discretion to decide whether and how to regulate a profession within the limits of the principles of non-discrimination and proportionality.***

Or. en

Amendment 62
Luke Ming Flanagan

Proposal for a directive
Article 1 – paragraph 1

Text proposed by the Commission

This Directive lays down rules on a common framework for conducting proportionality assessments before introducing new legislative, regulatory or administrative provisions restricting access to or pursuit of regulated professions, or amending existing ones, with a view to ensuring the proper functioning of the internal market.

Amendment

This Directive lays down rules on a common framework for conducting proportionality assessments before introducing new legislative, regulatory or administrative provisions restricting access to or pursuit of regulated professions, or amending existing ones, with a view to ensuring the proper functioning of the internal market, ***while also ensuring that the protection of citizens vis-à-vis the verified standards and qualifications of all those regulated professions and professionals, remains of paramount importance.***

Or. en

Amendment 63
Bas Eickhout

Proposal for a directive
Article 1 – paragraph 1

Text proposed by the Commission

This Directive lays down rules on a common framework for conducting proportionality assessments before introducing new legislative, regulatory or administrative provisions restricting access to or pursuit of regulated professions, or amending existing ones, with a view to ensuring the proper functioning of the internal market.

Amendment

This Directive lays down rules on a common framework for conducting proportionality assessments before introducing new legislative, regulatory or administrative provisions restricting access to or pursuit of regulated professions, or amending existing ones, with a view to ensuring the proper functioning of the internal market. ***It does not affect Member States' competence to decide whether and how, in accordance with the principles of non-discrimination and proportionality, to regulate a profession.***

Or. en

Amendment 64

Mireille D'Ornano, Jean-François Jalkh, Sylvie Goddyn

**Proposal for a directive
Article 1 – paragraph 1**

Text proposed by the Commission

This Directive lays down rules on a common framework for conducting proportionality assessments before introducing new legislative, regulatory or administrative provisions restricting access to or pursuit of regulated professions, or amending existing ones, with a view to ensuring the proper functioning of the *internal market*.

Amendment

This Directive lays down rules on a common framework for conducting proportionality assessments before introducing new legislative, regulatory or administrative provisions restricting access to or pursuit of regulated professions, or amending existing ones, with a view to ensuring the proper functioning of the ***economies of the Member States and the protection of the public interest***.

Or. fr

Amendment 65

Mireille D'Ornano, Jean-François Jalkh, Sylvie Goddyn

**Proposal for a directive
Article 1 – paragraph 1**

Text proposed by the Commission

Amendment

This Directive lays down rules on a common framework for conducting proportionality assessments before introducing new legislative, regulatory or administrative provisions restricting access to or pursuit of regulated professions, or amending existing ones, with a view to ensuring the proper functioning of the internal market.

This Directive lays down rules on a common framework for conducting proportionality assessments before introducing new legislative, regulatory or administrative provisions restricting *or broadening* access to or pursuit of regulated professions, or amending existing ones, with a view to ensuring the proper functioning of the internal market.

Or. fr

Amendment 66
Norbert Lins

Proposal for a directive
Article 1 – paragraph 1

Text proposed by the Commission

This Directive lays down rules on a common framework for conducting proportionality assessments before introducing new legislative, regulatory or administrative provisions restricting access to or pursuit of regulated professions, or amending existing ones, with a view to ensuring the proper functioning of the internal market.

Amendment

This Directive lays down rules on a common framework for conducting proportionality assessments before introducing new *essential* legislative, regulatory or administrative provisions restricting access to or pursuit of regulated professions, or amending existing ones, with a view to ensuring the proper functioning of the internal market.

Or. en

Justification

In order to respect the principle of subsidiarity, to avoid additional bureaucracy and to be “proportional” the proportionality assessments have to focus on only essential modifications.

Amendment 67
Christel Schaldemose, Karin Kadenbach

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

Amendment

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.

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, ***without prejudice to paragraph 1a.***

Or. en

Amendment 68
Elena Gentile

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 ***the legislative, regulatory or administrative provisions*** 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.

Or. en

Amendment 69
Mireille D'Ornano, Jean-François Jalkh, Sylvie Goddyn

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 ***measures*** under the legal systems of the Member States restricting ***or broadening*** 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 70
Christel Schaldemose, Karin Kadenbach

Proposal for a directive
Article 2 – paragraph 1 a (new)

Text proposed by the Commission

Amendment

1 a. This Directive shall not apply to any requirements restricting access to, or the pursuit of regulated health professions in relation to the provision of healthcare services, including pharmaceutical services and the prescription, dispensation and provision of medicinal products and medical devices, whether or not they are provided via healthcare facilities, and regardless of the ways in which they are organised and financed at national level or whether they are public or private.

Or. en

Amendment 71
José Inácio Faria

Proposal for a directive
Article 2 – paragraph 1 a (new)

Text proposed by the Commission

Amendment

1 a. Without prejudice to the application of Directive 2005/36/EC, this Directive does not apply to professions providing healthcare, including pharmaceutical services, whether or not these are provided via healthcare facilities and regardless of the way in which they are organised and financed at national level, or whether they are public or private.

Or. en

Justification

In order to ensure consistency with the Services Directive, the exclusion of healthcare from the scope of this Directive should cover both healthcare and pharmaceutical services provided by health professionals (Recital 22 and Article 2 §2(f) of Directive 2006/123/EC). This is also in line with the definition of healthcare by Directive 2011/24/UE on patients' rights, which specifically refers to prescription, dispensation and provision of medicinal products and medical devices, and it is also in accordance with the Court of Justice ruling in Case C-57/12.

Amendment 72 **Gesine Meissner**

Proposal for a directive **Article 2 – paragraph 2 a (new)**

Text proposed by the Commission

Amendment

2a. *Without prejudice to the application of Directive 2005/36/EC, the present directive does not apply to professions providing healthcare services, including pharmaceutical services, whether or not these are provided via healthcare facilities and regardless of the way in which they are organised and financed at national level, or whether they are public or private.*

Or. de

Amendment 73 **Elena Gentile**

Proposal for a directive **Article 3 – paragraph 1**

Text proposed by the Commission

Amendment

For the purpose of this Directive, the definitions of Directive 2005/36/EC shall apply.

For the purpose of this Directive, the definitions of Directive 2005/36/EC shall apply ***with the understanding that the term "regulated profession" shall refer to both existing regulated professions and professions that Member States will regulate in the future.***

Amendment 74

Mireille D'Ornano, Jean-François Jalkh, Sylvie Goddyn

Proposal for a directive

Article 3 – paragraph 2 – point b a (new)

Text proposed by the Commission

Amendment

(ba) 'deregulation' means broadening access to or pursuit of a profession by the repeal or amendment of existing legislative, regulatory or administrative provisions.

Or. fr

Amendment 75

Luke Ming Flanagan

Proposal for a directive

Article 4 – paragraph 1

Text proposed by the Commission

Amendment

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.

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, **including in particular any possible impact on health and safety.**

Or. en

Amendment 76

Bas Eickhout, Elena Gentile

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 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, ***taking full account of the specific nature of each profession.***

Or. en

Amendment 77

Mireille D'Ornano, Jean-François Jalkh, Sylvie Goddyn

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 before introducing new legislative, regulatory or administrative provisions restricting ***or broadening*** access to or pursuit of regulated professions, or amending existing ones, the relevant competent authorities undertake an assessment of ***whether these measures are proportionate and in the public interest*** in accordance with the rules laid down in this Directive.

Or. fr

Amendment 78

Elena Gentile

Proposal for a directive

Article 4 – paragraph 1

Text proposed by the Commission

1. Member States shall ensure that before introducing new legislative,

Amendment

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.

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, ***taking into account the precautionary principle***, in accordance with the rules laid down in this Directive.

Or. en

Amendment 79

Mireille D'Ornano, Jean-François Jalkh, Sylvie Goddyn

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 ***and with the public interest***.

Or. fr

Amendment 80

Ulrike Müller

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 ***an explanation*** making it possible to appraise compliance with the principle of proportionality.

Or. en

Amendment 81

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Mireille D'Ornano, Jean-François Jalkh, Sylvie Goddyn

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, **proportionate and in the public interest** shall be substantiated by qualitative and, wherever possible, quantitative evidence.

Or. fr

Amendment 82
Ulrike Müller

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 evidence.

Or. en

Amendment 83
Mireille D'Ornano, Jean-François Jalkh, Sylvie Goddyn

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

Amendment

4. Member States shall monitor **whether** legislative, regulatory or administrative provisions restricting **or broadening** access to or pursuit of regulated professions **are proportionate and in the public interest**, on a regular basis and with a frequency appropriate to the regulation concerned, having due

concerned was adopted.

regard to any developments that have occurred since the measure concerned was adopted.

Or. fr

Amendment 84

Elena Gentile

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 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.

Amendment

4. Member States shall monitor the proportionality of legislative, regulatory or administrative provisions restricting access to or pursuit of regulated professions, having due regard to any developments that have occurred since the measure concerned was adopted.

Or. en

Amendment 85

Mireille D'Ornano, Jean-François Jalkh, Sylvie Goddyn

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 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 ***or existing institutions with a proven ability to work in the public interest. For example, local authorities, regulatory bodies or professional organisations are often the best placed to identify the best way of meeting the public interest objectives thanks to their greater***

proximity to local conditions and specialised knowledge.

Or. fr

Amendment 86

Mireille D'Ornano, Jean-François Jalkh, Sylvie Goddyn

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 to ensure that the *proportionality and public interest assessment* referred to in paragraph 1 is carried out in an objective and independent manner including through involvement of independent scrutiny bodies.

Or. fr

Amendment 87

Luke Ming Flanagan

Proposal for a directive

Article 5 – paragraph 1

Text proposed by the Commission

1. Member States shall ensure that legislative, regulatory or administrative provisions restricting access to or pursuit of regulated professions they intend to introduce and amendments they intend to make to existing provisions are justified by public interest objectives.

Amendment

1. Member States shall ensure that legislative, regulatory or administrative provisions restricting access to or pursuit of regulated professions they intend to introduce and amendments they intend to make to existing provisions are justified by public interest objectives, *including the objective of public health and safety.*

Or. en

Amendment 88

Mireille D'Ornano, Jean-François Jalkh, Sylvie Goddyn

Proposal for a directive
Article 5 – paragraph 1

Text proposed by the Commission

1. Member States shall ensure that legislative, regulatory or administrative provisions restricting access to or pursuit of regulated professions they intend to introduce and amendments they intend to make to existing provisions are justified by public interest objectives.

Amendment

1. Member States shall ensure that legislative, regulatory or administrative provisions restricting **or broadening** access to or pursuit of regulated professions they intend to introduce and amendments they intend to make to existing provisions are justified by public interest objectives.

Or. fr

Amendment 89
Stefan Eck

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 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 **viability of national publicly funded health systems, 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.

Or. en

Amendment 90

Ulrike Müller

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 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, ***including patients***, 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.

Or. en

Amendment 91

Mireille D'Ornano, Jean-François Jalkh, Sylvie Goddyn

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

deleted

Or. fr

Amendment 92

Mireille D'Ornano, Jean-François Jalkh, Sylvie Goddyn

Proposal for a directive

Article 6 – title

Text proposed by the Commission

Amendment

Proportionality

Proportionality **and public interest**

Or. fr

Amendment 93

Mireille D'Ornano, Jean-François Jalkh, Sylvie Goddyn

Proposal for a directive

Article 6 – paragraph 1

Text proposed by the Commission

Amendment

1. Before introducing new legislative, regulatory or administrative provisions restricting access to or pursuit of regulated professions, or amending existing ones, Member States shall assess whether those provisions are necessary and suitable for securing the attainment of the objective pursued and do not go beyond what is necessary to attain that objective.

1. Before introducing new legislative, regulatory or administrative provisions restricting access to or pursuit of regulated professions, or amending existing ones, Member States shall assess whether those provisions are necessary and suitable for securing the attainment of the **public interest** objective pursued and do not go beyond what is necessary to attain that objective.

Or. fr

Amendment 94

Mireille D'Ornano, Jean-François Jalkh, Sylvie Goddyn

Proposal for a directive

Article 6 – paragraph 1

Text proposed by the Commission

Amendment

1. Before introducing new legislative, regulatory or administrative provisions restricting access to or pursuit of regulated professions, or amending existing ones,

1. Before introducing new legislative, regulatory or administrative provisions restricting **or broadening** access to or pursuit of regulated professions, or

Member States shall assess whether those provisions are necessary and suitable for securing the attainment of the objective pursued and do not go beyond what is necessary to attain that objective.

amending existing ones, Member States shall assess whether those provisions are necessary and suitable for securing the attainment of the objective pursued and do not go beyond what is necessary to attain that objective.

Or. fr

Amendment 95

Bas Eickhout

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 assessing the necessity and the proportionality of the provisions, the ***competent authorities shall apply the criteria listed in this paragraph having regard to the particular circumstances of the profession concerned, the nature of the provision and the pursued public interest objective. The relevance of any individual criterion may therefore depend upon the importance of the pursued public interest objectives.*** The relevant competent authorities shall consider in particular:

Or. en

Amendment 96

Ulrike Müller

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 assessing the necessity and the proportionality of the provisions, the ***extent of the assessment shall be proportionate to the content and the impact of the provision.*** The relevant competent authorities shall consider ***the***

following criteria where applicable to the respective provision:

Or. en

Amendment 97

Mireille D'Ornano, Jean-François Jalkh, Sylvie Goddyn

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 assessing the necessity and the proportionality of the provisions, the relevant competent authorities *may* consider in particular:

Or. fr

Amendment 98

Luke Ming Flanagan

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 consumers, to professionals or third parties, *and the risk to public health and safety*;

Or. en

Amendment 99

Ulrike Müller

Proposal for a directive

Article 6 – paragraph 2 – point a

Text proposed by the Commission

(a) the nature of the risks related to the

Amendment

(a) the nature of the risks related to the

public interest objectives pursued, in particular the risks to consumers, *to* professionals or third parties;

public interest objectives pursued, in particular the risks to consumers, *service recipients, including patients,* professionals or third parties;

Or. en

Amendment 100
Bas Eickhout

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

Text proposed by the Commission

Amendment

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

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

Or. en

Amendment 101
Elena Gentile

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

Text proposed by the Commission

Amendment

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

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

Or. en

Amendment 102
Mireille D'Ornano, Jean-François Jalkh, Sylvie Goddyn

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

Text proposed by the Commission

Amendment

(c) the necessity of the provision and in particular whether existing rules of a specific or more general nature, such as product safety legislation or consumer protection law, are insufficient to protect the objective pursued;

(c) *in the case of new regulation*, the necessity of the provision and in particular whether existing rules of a specific or more general nature, such as product safety legislation or consumer protection law, are insufficient to protect the objective pursued;

Or. fr

Amendment 103
Stefan Eck

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

Text proposed by the Commission

(c) the necessity of the provision and in particular whether existing rules of a specific or more general nature, such as product safety legislation or consumer protection law, are insufficient to protect the objective pursued;

Amendment

(c) the necessity of the provision and in particular whether existing rules of a specific or more general nature, such as product safety legislation, *patients' rights laws* or consumer protection law, are insufficient to protect the objective pursued;

Or. en

Amendment 104
Mireille D'Ornano, Jean-François Jalkh, Sylvie Goddyn

Proposal for a directive
Article 6 – paragraph 2 – point c a (new)

Text proposed by the Commission

Amendment

(ca) in the case of deregulation, whether specific or more general rules remaining in force, such as product safety or consumer protection legislation, are sufficient to protect the public interest;

Or. fr

Amendment 105

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Stefan Eck

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

Text proposed by the Commission

Amendment

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

Or. en

Justification

Any decisions in this field should remain political and not be taken on scientific and technical grounds.

Amendment 106

Mireille D'Ornano, Jean-François Jalkh, Sylvie Goddyn

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

Text proposed by the Commission

Amendment

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

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

Or. fr

Amendment 107

Ulrike Müller

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

Text proposed by the Commission

Amendment

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

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

Amendment 108

Mireille D'Ornano, Jean-François Jalkh, Sylvie Goddyn

Proposal for a directive

Article 6 – paragraph 2 – point i

Text proposed by the Commission

(i) the economic impact of the measure, with particular regard to the degree of competition in the market **and** the quality of the service provided, as well as the impact on the free movement of persons and services within the Union;

Amendment

(i) the economic impact of the measure, with particular regard to the degree of competition in the market, the quality of the service provided **and consumer protection**, as well as the impact on the free movement of persons and services within the Union;

Or. fr

Amendment 109

Mireille D'Ornano, Jean-François Jalkh, Sylvie Goddyn

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

(j) the possibility to use less restrictive means to achieve the public interest objective **pursued, particularly where there is no threat to consumer protection and there is no risk of serious harm to the public interest:**

Or. fr

Amendment 110

Mireille D'Ornano, Jean-François Jalkh, Sylvie Goddyn

Proposal for a directive

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

Text proposed by the Commission

Amendment

(ka) the implications of the professional activities for public order, public health or public security;

Or. fr

Amendment 111

Mireille D'Ornano, Jean-François Jalkh, Sylvie Goddyn

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. fr

Amendment 112

Mireille D'Ornano, Jean-François Jalkh, Sylvie Goddyn

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.

3. For the purposes of paragraph 2(j), the objective can sometimes be attained by less restrictive means than reserving activities to professionals, such as protection of the professional title or enrolment on a professional register. However, where measures are justified by interests of consumer protection or of preventing a risk of serious harm to public interest objectives, regulation shall take place by way of reserved activities.

Amendment 113

Mireille D'Ornano, Jean-François Jalkh, Sylvie Goddyn

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, 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 ***or broadening access to or pursuit of regulated professions, or amending existing ones, and give them the opportunity to make known their views. Similarly, the Union shall, by appropriate means, inform citizens, professionals, consumers and other relevant stakeholders before introducing new legislative, regulatory or administrative provisions restricting or broadening*** access to or pursuit of regulated professions, or amending existing ones, and give them the opportunity to make known their views.

Or. fr

Amendment 114

Bas Eickhout

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

Amendment

Member States shall, by appropriate means ***and in addition to members of the profession, inform all*** relevant stakeholders ***including citizens, service recipients and representative associations*** before ***proposing*** new legislative,

provisions restricting access to or pursuit of regulated professions, or amending existing ones, **and give** them the opportunity to make known their views.

regulatory or administrative provisions restricting access to or pursuit of regulated professions, or amending existing ones, **giving** them the opportunity to make known their views ***which shall then be given due consideration. This process may take place, for example, by means of a public consultation whose results inform the content of the adopted provisions.***

Or. en

Amendment 115

Mireille D'Ornano, Jean-François Jalkh, Sylvie Goddyn

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

The Union shall, by appropriate means, inform citizens, ***professionals, consumers and other relevant stakeholders*** before introducing new legislative, regulatory or administrative provisions restricting ***or broadening*** access to or pursuit of regulated professions, or amending existing ones, and give them the opportunity to make known their views.

Or. fr

Amendment 116

Elena Gentile

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

Amendment

Member States shall, by appropriate means, inform citizens, service recipients, ***social partners***, representative associations and ***all*** relevant stakeholders other than the members of the profession before introducing new legislative, regulatory or

provisions restricting access to or pursuit of regulated professions, or amending existing ones, and give them the opportunity to make known their views.

administrative provisions restricting access to or pursuit of regulated professions, or amending existing ones, and give them the opportunity to make known their views.

Or. en

Amendment 117
Stefan Eck

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, inform citizens, **social partners**, 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.

Or. en

Amendment 118
Mireille D'Ornano, Jean-François Jalkh, Sylvie Goddyn

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, 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 **or broadening** access to or pursuit of regulated professions, or amending existing ones, and give them the opportunity to make known their views.

Amendment 119

Mireille D'Ornano, Jean-François Jalkh, Sylvie Goddyn

Proposal for a directive**Article 8 – paragraph 1***Text proposed by the Commission*

1. For the purposes of the efficient application of this Directive, before introducing new legislative, regulatory or administrative provisions restricting access to or pursuit of regulated professions, or amending existing ones, Member States shall encourage the exchange of information with competent authorities of other Member States on matters covered by this Directive, such as the particular way they regulate a profession or the effects of regulation identified in similar sectors of activities, on a regular basis, or, where appropriate, on an ad hoc basis.

Amendment

1. For the purposes of the efficient application of this Directive, before introducing new legislative, regulatory or administrative provisions restricting **or broadening** access to or pursuit of regulated professions, or amending existing ones, Member States shall encourage the exchange of information with competent authorities of other Member States on matters covered by this Directive, such as the particular way they regulate a profession or the effects of regulation identified in similar sectors of activities, on a regular basis, or, where appropriate, on an ad hoc basis.

Amendment 120

Elena Gentile

Proposal for a directive**Article 8 – paragraph 1***Text proposed by the Commission*

1. For the purposes of the efficient application of this Directive, **before** introducing new legislative, regulatory or administrative provisions restricting access to or pursuit of regulated professions, or amending existing ones, **Member States** shall encourage the exchange of information **with competent authorities of other** Member States on matters covered by this Directive, such as the particular way they regulate a profession or the

Amendment

1. For the purposes of the efficient application of this Directive, **when** introducing new legislative, regulatory or administrative provisions restricting access to or pursuit of regulated professions, or amending existing ones, **the Commission** shall encourage the exchange of information **between** Member States on matters covered by this Directive, such as the particular way they regulate a profession or the effects of regulation

effects of regulation identified in similar sectors of activities, on a regular basis, or, where appropriate, on an ad hoc basis.

identified in similar sectors of activities, on a regular basis, or, where appropriate, on an ad hoc basis.

Or. en

Amendment 121

Bas Eickhout

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, 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 ***expeditiously*** 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 ***as soon as possible*** by the Commission.

Or. en

Amendment 122

Mireille D'Ornano, Jean-François Jalkh, Sylvie Goddyn

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

Amendment

1. The reasons for considering that provisions, assessed in accordance with this Directive, are justified, necessary, ***proportionate and in the public interest***, 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

to in Article 59 paragraph 1 of Directive 2005/36/EC and thereafter made publicly available by the Commission.

professions, referred to in Article 59 paragraph 1 of Directive 2005/36/EC and thereafter made publicly available by the Commission.

Or. fr

Amendment 123

Mireille D'Ornano, Jean-François Jalkh, Sylvie Goddyn

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, necessary. **sufficient** 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.

Or. fr