

ROADMAP

Roadmaps aim to inform citizens and stakeholders about the Commission's work in order to allow them to provide feedback and to participate effectively in future consultation activities. Citizens and stakeholders are in particular invited to provide views on the Commission's understanding of the problem and possible solutions and to make available any relevant information that they may have.

TITLE OF THE INITIATIVE	Update of the reform recommendations for regulation in professional services
LEAD DG – RESPONSIBLE UNIT	DG GROW, UNIT E5
LIKELY TYPE OF INITIATIVE	Communication from the Commission to the European Parliament and the Council, accompanied by a staff working document
INDICATIVE PLANNING	Q2 2021
ADDITIONAL INFORMATION	https://ec.europa.eu/growth/single-market/services/free-movement-professionals_en

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A. Context, problem definition and subsidiarity check

Context

Business services, many of which are regulated professional services¹, represent around 13% of EU value added and around 14% of EU employment. These sectors provide intermediate inputs for other economic activities, including manufacturing, both within countries and internationally. This means that a well-functioning professional-services sector can be a significant source of economic growth and welfare, and the smooth functioning of this sector will be important for achieving a robust economic recovery from the COVID-19 crisis.

In January 2017, the Commission addressed [recommendations to Member States for national reforms to regulation in professional services](#). The recommendations mainly focused on business services, namely on services provided by: lawyers, accountants, architects, engineers, patent agents, tourist guides and real-estate agents. The aim of the recommendations was to incentivise and assist Member States in creating a regulatory environment that is conducive to growth, innovation and job creation. The recommendations analyse and benchmark the restrictiveness of barriers imposed on similar professions across Member States to support reforms in Member States by: (i) better monitoring the reform progress; (ii) increasing awareness of burdensome regulation and (iii) identifying areas for reforms with the highest economic potential. The recommendations were therefore backed by a [regulatory-restrictiveness indicator](#), a quantitative tool for assessing and benchmarking national requirements in professional services².

Since the recommendations were adopted in 2017, now is an appropriate time to both look into new developments and successful regulatory reforms, and reaffirm the recommendations that remain unaddressed. Reforms to improve the regulatory environment for these professional services can play an important role in the digital transition and the recovery from the COVID-19 crisis. The restrictiveness indicator and the reform recommendations will be updated to: (i) take into account any new developments in Member States' regulatory frameworks; and (ii) encourage the necessary reforms. Among other developments to be taken into account, innovation and digitalisation are of growing importance in the professional-services sector. An additional profession – notaries – will also be covered. It is included in line with the OECD's similar product-market-regulation indicator (PMR) and due to the importance of this profession, for instance in real estate transactions and company creation. The update of the reform recommendation was announced in the [action plan for better implementation and enforcement of single market rules](#); the Commission's 2021 work programme; and DG GROW's strategic plan 2020-2024.

¹ Regulated professional services are present in different parts of the economy. Importantly, many of them belong to the business-services sector, i.e. services that support businesses with a range of activities such as legal, accounting or engineering services.

² The restrictiveness indicator was developed by the European Commission as part of the 2017 reform recommendations to measure the intensity of restrictiveness of national regulation in professional services. For more details on the indicator, see SWD(2016) 436.

As part of the [European Semester](#), country-specific recommendations are addressed to Member States. These recommendations target major structural issues in all sectors of the economy, including professional services, in line with the policy priorities set out in the annual growth survey. The evidence gathered in the context of this initiative will complement and support the Commission's analysis and the country-specific recommendations under the European Semester.

Problem the initiative aims to tackle

1. There is still significant unlocked economic potential in the professional-services sector.

Professional services remain subject to restrictive regulation at the national level. According to an EU-wide survey, around 22% of the European labour force (almost 50 million people) is directly affected by the regulation of professions. Based on Member State notifications in the [regulated professions database](#), there are over 5 500 regulated professions in the EU. This corresponds to an average of around 200 regulated professions per Member State, with large disparities among countries.

Regulation, while instrumental in certain professional-services markets, can often be associated with significant economic costs because it limits market entry and competition. Evidence for the EU suggests that unnecessarily restrictive regulation in services can be associated with subdued economic outcomes such as lower productivity, lower employment, and inefficient allocation of resources³. For instance, [it was shown](#) that, depending on the profession and under certain assumptions, there could be between 3% and 9% more people working in some professions if access requirements were less stringent.

The economic potential that remains unrealised due to excessively restrictive regulation for professional services has been estimated at EUR 85 billion over 2010-2018 by [a study for the European Parliament](#). This unrealised economic potential is especially relevant in the aftermath of the COVID-19 crisis.

2. Professions are regulated in different ways across the EU, which may create barriers to the free provision of cross-border services and restrict the free movement of professionals within the single market.

The analysis of regulatory restrictiveness conducted in 2017 showed a wide variety of regulatory approaches across Member States. For example, there were differences in: (i) the scope of activities reserved to qualified professionals (i.e. activities which can only be performed by qualified professionals); (ii) restrictions imposed on corporate forms and shareholdings; (iii) mandatory membership in professional associations; or (iv) insurance requirements.

A recent report, [Business Journey on the Single Market: Practical Obstacles and Barriers](#) (SWD(2020) 54), mentions access to regulated professions as one of the most significant obstacles for businesses in the single market. The problem therefore needs to be tackled at European level.

3. There has so far been limited progress in regulatory reforms of professional services undertaken or announced by Member States.

Since the adoption of the recommendations in 2017, the progress in national regulatory reforms of professional services has been limited and uneven. In some cases, reforms even resulted in an increase in regulatory restrictiveness. The proposed initiative will take stock of any regulatory changes in Member States so far. An update of the restrictiveness indicator for national regulation in professional services will take into account any new developments in Member States' regulatory frameworks in a comprehensive way. This will also have the benefit of keeping the restrictiveness indicator consistent with the [OECD's product-market-regulation indicators](#).

4. Digital automation is of growing importance in professional services.

The ongoing COVID-19 crisis demonstrated the crucial importance of digital channels of service provision. The emergence of new digital services requires new regulatory approaches. This is because some of the existing regulations may be outdated and too restrictive to allow innovative services to develop. The initiative will thus take into account these developments and the role of regulation in digitalising professional services. It will also take into account the emergence of innovative services more generally.

Basis for EU intervention (legal basis and subsidiarity check)

The guidance on reforms in Member States' regulation of professional services is enshrined in areas of EU policy that deal with the free movement of professionals. These areas are covered by: (i) [Directive 2005/36/EC](#); (ii) Article 49 TFEU on the freedom of establishment; and (iii) Article 56 TFEU on the freedom to provide services. An EU action in this area is necessary and justified, because national regulations restricting access to a professional activity or its pursuit not only have an impact at regional or national level, they also have significant cross-border implications. Intra-EU trade in business services, having significantly increased in recent years, remains modest in absolute terms at around 2% of EU GDP in 2018. In all services sectors, the level of

³ See, for example: https://ec.europa.eu/economy_finance/publications/economic_paper/2014/pdf/ecp533_en.pdf.

integration via cross-border establishment is also lower than the level of integration in the manufacturing sector.

This problem cannot be exclusively addressed by an action of an individual Member State, because part of the problem concerns the different regulatory landscapes prevailing in Member States. The impact of the initiative would be significantly strengthened through a more strategic and better coordinated approach.

B. What does the initiative aim to achieve and how

The general objectives of the initiative are to ensure and safeguard the freedom of establishment and the freedom to provide services. There are two reasons for this: (i) to guarantee the mobility of businesses and professionals within the EU in accordance with Articles 49 and 56 TFEU; and (ii) to support Member State efforts to improve their business environments and successfully progress in the digital transition.

The specific objectives aim at supporting further reforms in Member States that would address unsuitable regulations. Such regulations impede competition in professional services and create unnecessary obstacles to the mobility of professionals and the provision of cross-border services.

The update proposed by this initiative will take into account: (i) new developments in markets and services; and (ii) developments in Member States' regulatory frameworks. It will also take account of the potential impact of regulation on both digitalisation and the economic recovery from the COVID-19 crisis. The Commission hopes that the updated recommendations will: (i) increase economic growth and employment in professional services; (ii) develop further the single market for professional services by facilitating the mobility of professionals and the provision of professional services across borders; (iii) improve access to professions at the national and EU level; (iv) offer consumers greater choice, higher quality and more competitive prices; and (v) enable professional services to contribute more generally to the overall growth and competitiveness of national and EU economies.

The modest progress observed by the Commission so far indicates limited ambition among Member States to reform the national regulation of professional services. A comprehensive stock-taking of – and follow-up to – the 2017 recommendations to Member States for national reforms to the regulation of professional services is therefore appropriate.

The Commission will issue an update of the guidance on specific professions to certain Member States. These professions will belong to priority sectors selected based on their economic significance and potential for economic gains from reforming regulation: civil engineers, architects, accountants, lawyers, real-estate agents, tourist guides and patent agents. There will also be an additional profession that did not feature in 2017: notaries. This additional profession will be included because of its economic significance (for instance, in real-estate transactions and company-creation processes) and to bring the Commission's restrictiveness indicator more in line with the OECD's product-market-regulation indicators for professional services.

The recommendations will be addressed to Member States that, based on the Commission's analysis, impose unnecessarily high requirements for access to and/or conduct of a regulated profession. This guidance will follow the reasoning of the recommendations made in 2017. The guidance will not necessarily be issued to all Member States for a specific profession (it could be the case, for example, that a country does not receive any guidance). The guidance will indicate, for specific professions in given Member States, which access and/or exercise requirements will need to be reviewed. It will be based on a quantitative, as well as qualitative, assessment of the specific situation in the Member State and compared with the situation in other Member States for similar professions. For this purpose, the 2017 indicator measuring the restrictiveness of national regulation will be updated. The guidance will be accompanied by an updated analysis of the regulatory context applying to the professions in focus in every Member State.

Issuing up-to-date guidance on specific reform needs for Member States is considered to be an appropriate instrument for reaching the set objectives. Proportionality is ensured through the fact that this would be a non-binding instrument and the flexibility that comes with this, which guarantees that the initiative does not go beyond what is necessary to achieve its objectives.

C. Better regulation

Consultation of stakeholders and the public

Member States' competent authorities dealing with the respective professional services will be thoroughly consulted throughout the process of the update, both on the restrictiveness indicator and on the relevant regulatory analysis. In particular, consultations will take place via the Group of Coordinators for recognition of professional qualifications, which represents such authorities and where the discussions have already started. There is no formal public consultation planned for this initiative.

Evidence base and data collection

The restrictiveness indicator and reform recommendations for national regulation in professional services will be updated to take into account any new developments in Member States' regulatory frameworks in a comprehensive way. The update of the indicator and the analysis underpinning the guidance will be conducted

internally. This update and analysis will be primarily based on the information presented in: (i) the regulated professions database (where Member States are obliged to notify any regulatory changes); (ii) reports and notifications required under Article 59 of the Professional Qualifications Directive; (iii) internal research; and (iv) consultation and validation with Member States.

The initiative will also take into account any other relevant developments, such as innovation and digitalisation in the professional-services sector. To this end, an ongoing study is being conducted by an external consultancy on the impact of the regulatory environment on digital automation in professional services. The study will provide additional empirical evidence to support the assessment of these developments.

No impact assessment will be carried out for this initiative. The initiative concerns an economic governance instrument – recommendations on removing specific barriers for particular professions in individual Member States. It will therefore not have direct and clearly ex-ante identifiable impacts, since the impacts will depend on the degree and manner of implementation of the guidance by the Member States. The initiative will be accompanied by a staff working document presenting the detailed policy approach, in a similar format to the reform recommendations of 2017, for which no impact assessment was performed either.