



**Address of the First Vice-president of CEPLIS, Gaetano Stella, to the participants of the breakfast meeting we are hosting in the premises of the EP, the 5<sup>th</sup> of this month of September**

Esteemed Members of the Parliament, Dear colleagues,

It is a pleasure to be here with you today to discuss the issues around the Commission's Services Package regarding the Liberal Professions in the context of works of this House's SME Intergroup and more precisely the Directive on a proportionality test before adoption of new regulation of professions.

I bring you greetings from the President of CEPLIS, Mr.Kolbe, who unfortunately couldn't attend today's breakfast. I will outline the position of CEPLIS, the confederation representing and defending the interests of the Liberal Professions, we welcome the Commission's attempt to revitalize the services sector to benefit consumers, job seekers and businesses to foster economic growth across the continent.

Cutting red tape and simplifying procedures and administrative formalities in the context of the provision of services within the Single Market is, in our view, vital. Professionals wanting to carry out their activities should be able to refer to a single interlocutor in their own country of origin and in their own language; this indispensable in order for them to benefit from the opportunities offered by the Single Market to European professionals.

With that being said, I'd like to bring to your attention certain issues related to the Commission's Services Package that we believe need to be highlighted.

First, the distinction between the Services e-card and the European professional card needs to be further clarified to avoid any overlap between. This should not create confusion and administrative complications.

Second, we believe the loss of authority of the State of destination to regulate and provide services within its territory is a critical issue. The State of destination should retain the power to deny the provision of e-cards for reasons of public interest and guarantee the quality and safety of professional services offered. Avoiding the "State of origin" principle is critical in this respect.

Concerning the proportionality test, our confederation agrees with the basic goal of the directive, which aims to harmonize professional regulations to further facilitate the cross-



border mobility of professionals with the Union. Currently, the level of cross-border mobility is not satisfactory.

However, this Directive proposal, along with the assessment of national rules on professional services, should be accompanied by clear guidelines that aid Member States in their implementation within their legislative systems. We believe that the adoption of a new legislation that would require Member States to abide with the proportionality test would cause considerable confusion amongst national administrations and professional bodies, bringing about negative consequences for the Internal Market. It is important to remember that the services sector is already the object of two Directives, which have both been adopted with extensive consultation with the relevant stakeholders and enjoying a broad consensus. Therefore, introducing further legislation runs the risk of complicating and protracting the very procedures we wish to simplify.

With respect to the criteria of merit...the proposal appears to overlap with the requirements already laid down in the Qualification Directive, regarding the proportional, necessary and non-discriminatory character of any regulation. Moreover, as is the case with the codification of case-law, there might be an excessive crystallization of principles which, in European jurisprudence, are constantly changing.

Finally, it is noticed that the list of criteria relating to the proportionality test reflects the fundamental reasons for the traditional regulations of the professions governed by professional orders, while different may be the impact on so-called new professions or on regulated professions existing in different fields, which often have no justification based on the contents of art. 5 and 6 of the proposal.

I'd also like to point out that the possible weakening of the Member States' decision-making power in relation to regulations, particularly when it comes to the procedure and to the monitoring mechanism on the proportionality test, to be carried out by an independent scrutiny body.

In most cases, restrictions on access to professions derive from legislative measures at national or regional level, therefore the test should be articulated in the course of legislative procedures of States and regions, as a constraint to the legislative function.

This expectation is certainly limited by constitutional provisions since no proportionality-testing mechanism involving authority that are external or independent from national or regional legislators with binding effect on the legislative process, can be considered eligible. In this respect, we agree with the amendment 22 proposed by the Legal Affairs Committee of the European Parliament, which tends to abolish the reference to the "independent supervisory authority", as set out in the Commission proposal.



In this context CEPLIS notes the need for the application of the Subsidiary Principle in the spirit of the EU Treaties and in the light of the several times expressed wish of the European citizens for EU rules designed to be efficient and fair.

We must point out that for the professional associations represented by CEPLIS, the provision of art. 7 of the proposal for a Directive, which binds in any case the early procedure for testing the proportionality test while transposing the Directive in the sense of providing means that establish the involvement of concerned professional associations. We therefore oppose the Amendment 26 of the Legal Affairs Committee of the European Parliament, proposing to abolish this reference to associations. We believe that such involvement of the “professional organizations” is necessary, appropriate and binding, as also EESC referred to in his opinion.

Another critical issue to be eliminated is that the harmonization of the proportionality test may tends to an over-generalization of the criteria with the consequent risk of not meeting the specificities of certain professional regulations and of being incompatible with the principle of self-regulation of the professions.

The notification procedure does not appear to ensure any effective utility and that on the contrary, it risks entailing an excessive influence/ interference of the European Commission on the decisions of Member States when it comes to new measures and changes to regulations, which are their own exclusive prerogative.

The introduction of a three-months consultation on notified measures, as stated by the proposal, appears to be excessively intrusive in decisions on matters which are the prerogative of the Member States. Finally, the measures included in the proposal could create additional administrative obligations for Member States.

CEPLIS believes it must point out that some of the reform recommendations for regulation in professional services, contained in the Communication from the Commission, don't seem to adequately take into consideration the specificity of liberal professions, in particularly when it comes to the recommendations about the reserves of activities and the existence of different regulatory models within EU.

While welcoming the efforts made by the Commission, we consider that for the liberal professions, the adoption of new indicators should be accompanied with the need to guarantee the high quality of the professional services, to best protect the public interest. The “restrictiveness indicator” introduced by the Commission will therefore have to avoid excessive generalization.



Therefore, possible regulatory actions required to the Member States and aiming to reduce or eliminate the restrictiveness of their regulations in the key economic sectors identified by the Commission, will nevertheless have to guarantee that the professional performances keep high quality and safety standards in the overriding public interest.

Thank you for your attention. We hope that these remarks were useful and constructive.