

INCEPTION IMPACT ASSESSMENT			
TITLE OF THE INITIATIVE	Regulation of professions: proportionality test		
LEAD DG – RESPONSIBLE UNIT – AP NUMBER	DG GROW E5	DATE OF ROADMAP	16/06/2016
LIKELY TYPE OF INITIATIVE	Proposal for a Directive of the EP and of the Council		
INDICATIVE PLANNING	December 2016		
ADDITIONAL INFORMATION	N/A		
<p style="text-align: center;"><b>This Inception Impact Assessment is provided for information purposes only and can be subject to change. It does not prejudice the final decision of the Commission on whether this initiative will be pursued or on its final content and structure.</b></p>			

A. Context, Subsidiarity Check and Objectives
<p><b>Context</b></p> <p><b>Regulated professions account for about 22% of the European labour force</b>, representing around 50 million citizens. As part of the value chain and their role as input to production processes as well as their output, services provided by professionals, such as engineers, architects, accountants, lawyers, are crucial to the functioning of the European economy more broadly and across sectors. Excessive regulatory barriers to professional entry have negative consequences for job creation, productivity, mobility and the consumer who is forced to pay higher prices by a less competitive market.</p> <p>Professional activities are regulated by Member States at national, regional or sometimes at local level. Securing the <b>modernisation of the regulated professions</b> and in particular the review of reserves of activities and the cumulative impact of measures <b>requires that proper proportionality analysis be carried out</b> at national level.</p> <p>Directive 2005/36/EC on the recognition of professional qualifications (the <b>Professional Qualifications Directive</b>) was amended in 2013 by Directive 2013/55/EU<sup>1</sup> with a view to simplifying the rules organising the recognition of professional qualifications. The Directive also introduced a <b>mutual evaluation exercise of regulated professions</b>. Directive 2013/55/EU had to be transposed by 18 January 2016. According to Article 59(5) of the amended Professional Qualifications Directive, Member States have to provide a justification why the regulation is necessary and analyse the proportionality of national measures. Information is transmitted to the Commission through the Regulated Professions Database<sup>2</sup>.</p> <p>This process of a 'mutual evaluation of regulation of professions' was launched already in 2014 in order to facilitate the efforts of national competent authorities to examine, by 18 January 2016, whether existing legal requirements linked to the holders of specific qualifications and restricting access and conduct in a profession were compatible with the principles of non-discrimination; whether they are justified by overriding reasons in the general interest and suitable for securing the attainment of the objective pursued without going beyond what is necessary.</p> <p>Currently, under Article 59 of the Professional Qualifications Directive, Member States have to provide information on the existing requirements and on the new requirements they introduce, within six months of their adoption, together with the reasons for considering that those requirements comply with the principle of proportionality (Article 59(5)). In addition, every two years Member States have to submit a report to the Commission on the requirements which have been removed or made less stringent (Article 59(6)). These obligations were to be implemented at national level by 18 January 2016. On the basis of the information received, pursuant to Article 59(9), the Commission is expected to submit its final findings on the overview of national regulations of professions and on proportionality assessments conducted by Member States to the European Parliament and the Council, accompanied where appropriate by proposals for further initiatives at the latest by 18 January 2017.</p> <p>The issue of proportionality and what the Commission can do to encourage comprehensive proportionality assessments is one that the European Council and Parliament return to repeatedly<sup>3</sup>. For instance, in July 2015 a number of Member States<sup>4</sup> called for a more uniform application of proportionality assessments.</p>

<sup>1</sup> REFIT reference

<sup>2</sup> <https://webgate.ec.europa.eu/regprof/index.cfm?fuseaction=security.login&goto=home.unit>

<sup>3</sup> See for example: Council Conclusions on Single Market Policy 2/3 March 2015

[https://eu2015.lv/images/notikumi/2015\\_03\\_02\\_COMPET\\_conclusions\\_ST\\_6197\\_2015\\_INIT\\_EN.pdf](https://eu2015.lv/images/notikumi/2015_03_02_COMPET_conclusions_ST_6197_2015_INIT_EN.pdf)

as well as Conclusions of 24/25 October 2013, 28/29 June 2012, 1/2 March 2012 European Parliament resolution of 14 June 2012 on 'Single Market Act: The Next Steps to Growth', Competitiveness Council meeting, 30-31 May 2012

In this context, the Commission's **Single Market Strategy (SMS)** for goods and services, released on 28<sup>th</sup> October 2015, **announced further actions to improve the national regulation of professions**, namely the use of an analytical framework for proportionality analysis (“proportionality test”) to support Member States in targeting instances of disproportionate and unnecessary regulatory burdens<sup>5</sup>. This action, announced in the SMS, constitutes one of the initiatives to be presented by the Commission on the basis of Article 59 (9) of the Professional Qualifications Directive.

## Issue

By January 2016, Member States have notified **nearly 6000 regulated professions** via the European Regulated Professions Database. Across the European Union, between 72 and 409 professions are regulated according to a Member State<sup>6</sup> and evidencing broad variations in appreciation of what is proportionate and necessary in the proper pursuit of public interests. Recent experience with the **proportionality assessments** and National Action Plans submitted by Member States for the Mutual Evaluation revealed a **lack of robust examination, relying often on opinion rather than evidence and often citing that requests from the professionals themselves, is the motivating factor for some of the barriers erected**. This is due to the lack of clarity of Art. 59(3) as regards which criteria should be examined when carrying out proportionality assessment.

The **effects of unjustified regulatory burdens** have been well documented in the economic literature. Not only does restricting entry into a profession affect prices, which the consumer must bear, but it also has ramifications on productivity and job creation thus impacting national as well as wider European growth considerations. Unnecessary regulatory protections close markets between Member States and may have an impact on the ability of professionals to exercise their right to free movement and to providing their services abroad. Such limited competition discourages the innovations that could improve customer choice and boost Europe's competitiveness. Such issues were at the heart of the revision of the Professional Qualifications Directive in 2013. However, recent stakeholder feedback shows that the differences in the scope and intensity of regulation of professions are still perceived as a significant barrier to free movement of services and contribute to the process of recognition of qualifications being often lengthy and costly, as documented in the Staff Working Document on the Single Market Strategy<sup>7</sup>.

The **wider regulatory environment** applicable to the services provided by a profession needs to be taken into account when assessing whether the specific regulation of the profession is proportionate as such. On top of qualification requirements and reserves of activities, requirements closely linked to the qualification are often reported, such as on legal form and shareholding or membership in professional bodies. For example, when it comes to architects, many Member States apply several of the regulatory barriers listed above whilst others do not regulate the profession in any form since the safeguards necessary to protect the public interests are rather built into the planning application and construction processes instead of around the professional. Using civil engineers as an example, a key profession in a priority sector, regulatory variations, such as reserves on activities, have resulted in a highly fragmented professional landscape of 99 separate categories of civil engineer and which figures on low mobility suggest may be acting as a barrier. However, in reviewing the proportionality of their requirements many arguments and conclusions put forward by the Member States are not based on solid evidence or factual assessment.

Given the **wide range of regulatory approaches** and the evolution of markets, including new technologies and the increased possibility for accessing and exchanging information which may alter the need for regulation as originally devised, this lack of ability to identify areas requiring reform further suggests that Member States and ultimately the overall quality of regulation would benefit from further support in assessing the impact and proportionality when devising regulation. Entering the stage of final findings from the Commission regarding the Mutual Evaluation exercise and given the renewed emphasis to complete the Single Market, it is a timely opportunity to develop structures that will support Member States to devise modern and evidence based regulation and which supports the realisation of wider shared economic goals. Possible synergies with other Commission initiatives addressing regulatory barriers in services will also be considered when designing this proposal.

## Subsidiarity check

According to Article 59(3) of the Professional Qualifications Directive, Member States have to assess the proportionality of national measures. On the basis of the information received, pursuant to Article 59(9) of the

<sup>4</sup> Estonia, Denmark, Lithuania, the Netherlands, Norway, Portugal, Sweden and the UK

<sup>5</sup> “This framework will contain a methodology for comprehensive proportionality assessments of professional regulations. Member States will need to demonstrate that public interest objectives cannot be achieved through means other than limiting access to, or conduct in, the professional activities in question”

<sup>6</sup> It is important to note that the number of regulated professions is not in itself an indicator of regulatory intensity (the type of regulation is) but it does illustrate the diversity and multitude of activities covered or reserved to different professions, access to which is conditional upon recognition of the professional qualification by the relevant Member State.

<sup>7</sup> [Staff Working Document: A Single Market Strategy for Europe](#). Analysis and Evidence, section 2.3.2 Modernising regulation of professions

Directive, by 18 January 2017 at the latest the Commission is expected to analyse the results and to submit its findings to the European Parliament and the Council, accompanied where appropriate by proposals for further initiatives.

The legal basis for such an initiative is established in Articles 46, 53(1) and 62 of the Treaty. Article 46 TFEU provides for specific provisions to be adopted in the area of free movement of workers. Article 53(1) TFEU provides for issuing Directives concerning the taking-up and pursuit of activities as self-employed persons. Article 62 of the TFEU is the basis for legal acts on the exercise of the freedom to provide services.

The principle of subsidiarity applies since this is an **area of shared competence**. For this reason, any measure proposed will have to strike the right balance between the competence of the Member States to organise national decision-making and legislative procedures and the obligation to carry out proportionality tests.

#### **Necessity and European added value**

Action by individual Member States alone will not ensure a coherent EU legal framework for assessing the proportionality of the national regulation and address the existing problems faced by national authorities. As evidenced by the information obtained in the mutual evaluation (see above) the criteria used and the intensity of the assessments vary significantly between Member States.

An EU approach would enable national authorities to perform comprehensive and comparable proportionality checks by creating a transparent and predictable legal framework to assess barriers to regulated professions.

The objectives of the action, namely the **reliability and comparability of proportionality assessments** could be achieved more successfully at the Union level through the introduction of a common EU-wide assessment mechanism, enacted by all Member States in a similar way by virtue of its scale and effects.

The **current uneven scrutiny of the regulation of professions** across the EU has a substantial impact on the provision of services and the mobility of professionals. Thus, by providing a common set of criteria as to the method that Member States need to use to carry out proportionality assessments, the proportionality framework would ensure that the rules are applied in an equal manner by all national authorities. At the same time, the initiative will reinforce the quality of the assessment of envisaged national legislation from which national governments should be in a position to examine alternative mechanisms, draw conclusions and propose appropriate actions to modernise their national legislation.

#### **Main policy objectives**

The overall objective is to improve the single market for professional services providers and citizens by ensuring unjustified regulation is not creating unnecessary barriers for professionals or restricting the choice for service recipients.

The specific objective of this initiative is to **improve the quality of the proportionality assessments** required by Article 59(3) of Directive 2005/36/EC. It should apply to newly proposed requirements and in case of a revision or modification of existing ones.

### **B. Option Mapping**

#### **Baseline scenario – no EU policy change**

##### **No EU action**

No policy change at EU level would mean that the existing diverse national approaches to perform proportionality checks would remain and would continue to be used in diverse ways across the EU, which will result in differences of quality and intensity of proportionality assessment conducted by Member States.

Maintaining the current baseline scenario is unlikely to drive any constructive change. The Mutual Evaluation exercise has highlighted the difficulties for Member States in coherently applying the principle of proportionality and, as a consequence, how challenging it is to identify sensible revisions. Currently there are almost 6000 regulations of professions across the EU, often implemented through multiple layers of regulation. Whereas in extreme cases enforcement through challenging disproportionate and unjustified regulation is possible by launching legal proceedings against Member States, infringement proceedings cannot be seen as either the most efficient or optimum way of introducing good regulatory practices or achieving the most beneficial outcome for citizens.

#### **Options of improving implementation and enforcement of existing legislation or doing less/simplifying**

## **existing legislation**

Simplifying existing legislation will not address the underlying problems and challenges faced by Member States in conducting proportionality assessments.

Enforcement through challenging disproportionate and unjustified regulation is possible by launching legal proceedings against Member States. However, infringement proceedings cannot be seen as either the most efficient or optimum way of introducing good regulatory practices or achieving the most beneficial outcome for citizens, as currently there are more than 6000 regulated professions across the EU, often implemented through multiple layers of regulation. In addition, the proper application of proportionality should assist in halting the progress of problematic proposals before they develop into an issue requiring legal response. Infringements intervene only after regulation is adopted and cannot prevent unjustified or disproportionate regulation from being introduced.

Other initiatives could include increased communication and cooperation at the EU level, such as workshops or assistance by the Commission.

## **Alternative policy approaches**

### ***Option 1 Non-legislative initiative***

Under Option 1 the initiative could lay down a practical guide that would clarify the existing obligations on how to properly analyse the proportionality of national regulations and would propose guidance for carrying out the proportionality test.

Such a flexible soft-law instrument would encourage Member States to carry out comprehensive proportionality assessments. Compliance by some Member States may compel others to take into account the suggested methodology. The main achievement of such a non-legislative instrument would be to play an explanatory role in supporting those national authorities having difficulties performing proportionality checks.

The following aspects could be included under this option:

- Concrete examples and principles, stemming from the case-law of the Court of Justice;
- A range of best practices and national experiences gathered during the mutual evaluation exercise, setting up a methodology of a voluntary nature.

### ***Option 2 Legally binding instrument***

Option 2 represents a comprehensive legislative solution at EU level that would achieve the policy objectives by setting up an EU-wide methodology for assessing the necessity and proportionality of national regulations in the professions. It would introduce rules on aspects to be addressed in the assessments of the proportionality of proposed legislation or modifications of the existing one and setting out concrete obligations, mainly by incorporating the case-law of the Court of Justice in this area.

More specifically, the methodology to be used by Member States when assessing the necessity and proportionality of national regulations restricting the access to a profession or its pursuit to the holders of a specific professional qualification could cover the following aspects:

- Identification of the overriding reasons relating to the general interest which justify the measure;
- Identification and assessment of the nature of the risks to consumers, to professionals or third parties, including in particular whether and why the existing rules (such as consumer protection law) are inadequate to protect the public interest;
- Assessment of the necessity of requiring possession of specialised skills and training and assess specifically the level, the nature and the duration of the training required as well as the existence of different routes to obtain the qualification;
- Analysis of the scope of practice and the reserves of activities and assessment of the effects on the public interest objectives pursued;
- Estimating the economic impact of the proposed regulation including a consideration of market impacts on such variables as e.g. wages, employment, competition and demand;
- Analysis of the alternatives to regulation or less restrictive regulation (such as protected title, voluntary certification schemes, etc.);
- Assessment of the cumulative effect of restrictions to both access to and exercise of the professional activities.

The aspects/criteria set out in the instrument, suggested in option 2 would have to be considered by the national authorities in a structured way. Member States would have to demonstrate, on the basis of solid evidence, whether and why the current rules are considered inadequate to protect the relevant public interest objectives. The reasons for concluding that an objective cannot be better achieved by less restrictive means would have to be substantiated by qualitative and, wherever possible, quantitative indicators (cost-benefit analysis).

Member States would apply the proportionality test when reviewing or modifying existing legislation or during the process of adoption of new legislation, i.e. prior to adoption. However, in line with the subsidiarity principle, it would be left to them to decide how to organise this process.

The requirements restricting access to a profession or its pursuit to certain professionals and the information on the proportionality of national regulations would continue to be notified according to the relevant provisions of Article 59 of the Professional Qualifications Directive, whereas the proportionality assessment of those requirements would be carried out according to the proportionality test.

### **Option 3 Additional measures to improve the effectiveness of the proportionality tests**

In addition to the elements, indicated under Option 2, the following aspects could be envisaged under this option:

- Imposing a formal consultation of all interested parties at national level prior to the introduction of new measures;
- An obligation to perform periodic review of existing national legislation.

Procedural elements, such as the organisation of wider public consultations will enable the national authorities to obtain views and evidence from all interested parties (e.g. professional organisations, individual professionals, consumers), on the potential impact of regulation. Periodic reviews of regulations of professions will enable national competent authorities to reflect any changes in the business environment, such as for example new technological developments in order to modernise the existing regulatory frameworks.

This initiative will clarify and systematise the minimum criteria to be used for proportionality analysis. In so doing, options 2 and 3 will facilitate fulfilment of the existing legal obligations to perform proportionality tests. The assessment of the proportionality of national measures, as well as the justification for such measures would ultimately become more comparable and transparent.

### **Alternative policy instruments**

The options described above could consist of non-regulatory or regulatory instruments. Whereas the appropriate instrument for option 1 would be a Communication or a Recommendation, options 2 and 3 would require adoption of a binding legal instrument (a Directive).

### **Alternative/differentiated scope**

Currently, the scope of the proportionality test corresponds to the scope of the Professional Qualifications Directive. According to Article 59 of the Directive 2005/36/EC, Member States have to examine whether requirements restricting the access to a profession or its pursuit are justified and proportionate.

In principle, this obligation covers all regulated professions in a Member State, which are pursued on either a self-employed or employed basis, except those which are explicitly excluded from its scope (e.g. the notaries).

The most straightforward approach would seem to have the same scope for the proportionality test and the Professional Qualifications Directive.

The possibility and opportunity of including additional sectors or professions could also be explored. The possibility to focus only on certain categories of professions in priority sectors might be considered as well.

None of these options will affect notification obligations under the Services Directive or other sector-specific instruments on regulated professions.

### **Options that take account of new technological developments**

The platform of the Regulated Professions Database (used for the mutual evaluation exercise) could be used to support a more constant application of a proportionality test. Member States are familiar with using the Regulated Professions Database and it has the advantage of being able to both share information publically, privately with the Commission or between the Member States. The Regulated Professions Database is due for upgrading in the near future, including as regards its interoperability with IMI. The Commission will ensure that notification requirements as regards regulated professions are as simplified as possible.

### **Preliminary proportionality check**

All options that foresee EU action respect the principle of proportionality as they only address issues that have been identified as indispensable for a coherent approach at EU level and will not go beyond what is necessary to achieve the objective pursued in the context of EU policies on regulated professions.

**Member States already have an obligation to perform proportionality checks** under the Professional Qualifications Directive and the Treaty. Whereas the proportionality test is expected to facilitate the fulfilment of the existing obligations and to set up a comprehensive methodology for the assessment of the proportionality of

national regulations, it does not imply additional financial or administrative burden for the national administrations. The proportionality test does not imply additional financial or administrative burden for the Commission either.

## C. Data Collection and Better Regulation Instruments

### Data collection

The current proposal aims at improving the quality of proportionality assessments in view of improving the quality of national regulation of professions and achieving a modernised, simplified and improved access to professions across the EU. Member States will need to demonstrate that public interest objectives cannot be achieved through less restrictive means than those limiting access to or conduct in the professional activities in question. The proposal is based on data already gathered through the mutual evaluation process and on selected countries and selected professions which shows that more flexible regulatory frameworks lead to markets opening, better choice for consumers and lower prices.

The Commission has in the last two years worked together with the Member States in the mutual evaluation process to gather data on the proportionality of regulation of different aspects of access to and conduct of professional activities. As a result, over 3500 proportionality assessments have so far been submitted by the Member States (deadline 18 January 2016), over 2000 are still missing and the quality of those submitted is low. In most cases the justification is based on common sense (e.g. regulation helps ensuring services quality) or historical considerations without actual underpinning evidence. The links between the reasons for regulating and the effects of such regulation should be properly assessed when analysing proportionality in regulation.

To support evidence-lead policy design, the Commission has recently contracted several targeted academic studies at a country level (DE, EL, IT, UK) to assess the economic effect of changes in the regulatory requirements to access professions. This was done to support the mutual evaluation process and to underpin with empirical evidence the follow-up actions on regulated professions presented in the Single Market Strategy.

A similar approach to gathering evidence will be used and more economic studies are planned in the course of 2016 (e.g. case studies on the effects of reforms in Poland and Austria; an analysis of the results of the EU-wide survey on the prevalence and impacts of occupational regulation on the labour markets).

An on-line open public consultation on the national action plans submitted by Member States as well as on proportionality assessment will also be carried out in the first half of 2016.

Critical analysis of available evidence showing how current provisions on proportionality assessment are functioning will be carried out and will be presented by the Commission in its final findings to the European Parliament and the Council as required by Article 59(9).

### Consultation approach

Consultation of stakeholders in the framework of the mutual evaluation exercise, of which proportionality assessment is an inherent part, has already started. In 2014 two seminars have been organised within the Single Market Forum to discuss with the stakeholders the process, first findings and the way forward<sup>8</sup>.

Another major stakeholder conference to discuss the national action plans and the results of the on-going economic study on the prevalence and impacts of occupational regulation in the EU took place on 18 May 2016<sup>9</sup>.

On top of these actions, an online public consultation (in 24 EU official languages) on the national action plans and on the proportionality assessments was launched on 27 May 2016; the questionnaire was published on the 'Your voice in Europe' portal: [http://ec.europa.eu/yourvoice/consultations/index\\_en.htm](http://ec.europa.eu/yourvoice/consultations/index_en.htm) and will close on 19 August 2016<sup>10</sup>. The results will feed into this initiative and its Impact Assessment as well as the accompanying final findings pursuant to Article 59(9).

### Will an Implementation plan be established?

Yes

## D. Information on the Impact Assessment Process

The Inter-service Steering Group has been established to coordinate the work on IA and includes Directorate-

<sup>8</sup> [http://ec.europa.eu/internal\\_market/forum/2014/events/professional-qualifications/index\\_en.htm](http://ec.europa.eu/internal_market/forum/2014/events/professional-qualifications/index_en.htm)

<sup>9</sup> [http://ec.europa.eu/growth/tools-databases/newsroom/cf/itemdetail.cfm?item\\_id=8592](http://ec.europa.eu/growth/tools-databases/newsroom/cf/itemdetail.cfm?item_id=8592)

<sup>10</sup> [http://ec.europa.eu/growth/tools-databases/newsroom/cf/itemdetail.cfm?item\\_id=8827](http://ec.europa.eu/growth/tools-databases/newsroom/cf/itemdetail.cfm?item_id=8827)

General for Internal Market, Industry, Entrepreneurship and SMEs, the Secretary General, the Legal Service, the Directorate General for Justice, the Directorate General for Employment, Social Affairs and Inclusion and the Directorate General for Competition.

## E. Preliminary Assessment of Expected Impacts

### Likely economic impacts

Given the specific objective of this initiative, notably to improve the quality of regulation of professions by setting up a common methodology to conduct a proportionality test which would improve the quality of the assessments, the economic impacts of this initiative is expected to materialise in a mid to longer term perspective.

Any change in regulation, which this initiative aims at bringing about, brings effects with lag as market participants need time to react. However, as a number of studies recently contracted by the Commission show, making regulation more proportionate and adapted to market reality by e.g. relaxing the most restrictive requirements resulted in increased market dynamics in terms of market opening, more start-ups and new innovative services brought to market by new entrants<sup>11</sup>. In macroeconomic terms, this translates into a better allocation of resources, as shown in e.g. a recent study by DG ECFIN<sup>12</sup>. Moreover, the analysis presented by some Member States points to an increase in GDP to be gained from reforming the regulation of professions<sup>13</sup> – confirming that the modernisation of the regulated professions can significantly contribute to growth and job creation.

The **empirical case studies** commissioned with academic experts during the mutual evaluation exercise provide useful examples of how the assessment of impacts of regulation or a change thereof can be done and what the effects can be.<sup>14</sup> Obviously, the precise effects of liberalisation changes will differ depending on the countries and the professions targeted by the reforms. For example, reforms in some countries resulted in lower prices for consumers of services of the professions access to which was liberalised. The analysis provides indications of positive effects of some reforms on employment for the regulated professions as a whole. Authors also show that the number of new entrants into a number of professions for which requirements based on qualifications were made less stringent has increased much more rapidly than before the reform. These studies have also been used as evidence base to propose the actions on regulated professions in the Single Market Strategy<sup>15</sup>.

Impacts will be expected to differ between measures of a voluntary or mandatory nature, mostly as regards the level of implementation. New regulation which will be either better designed or avoided as a result of an upfront streamlined/ harmonised across the EU assessment of its proportionality will contribute to the better mobility of professionals across the board and will keep access to jobs open inasmuch as protection of public interests is ensured, hence without compromising on the quality of services provided.

### Likely social impacts

Social impacts are intertwined with the economic impacts. The "proportionality test" is likely to bring about changes in the regulation of professions, which would impact employment in the professions affected by the change in regulation, as well as in similar professions and on employment in general (in terms of numbers, age structure, quality of contracts, etc.), which includes the mobility of professionals across the board and between professions. Likely social impacts also include social inclusion considerations. More studies are being contracted to gather further evidence from other countries.

### Likely environmental impacts

The proposed initiative will not have major impacts on environment. The work done on the mutual evaluation is also made entirely paperless, notifications of regulated professions and proportionality assessments are made via an on-line EU Regulated Professions Database.

### Likely impacts on simplification and/or administrative burden

The new EU legislative framework will aim at improving proportionality assessments, carried out by Member States, by creating more transparent rules on the methodology used. In the short term, costs due to provision of information will increase for those administrations which have so far not or engaged in a limited way in the proportionality assessment of their legislative proposals. Given that most EU countries already prepare impact assessments, the additional initial effort would flow from a streamlined methodology for all the EU Member States, which may mean providing stronger evidence of benefits and based on EU case law.

<sup>11</sup> The effects of reforms of regulatory requirements to access professions: country-based case studies [http://ec.europa.eu/growth/tools-databases/newsroom/cf/itemdetail.cfm?item\\_id=8525&lang=en](http://ec.europa.eu/growth/tools-databases/newsroom/cf/itemdetail.cfm?item_id=8525&lang=en)

<sup>12</sup> [http://ec.europa.eu/economy\\_finance/publications/economic\\_paper/2014/pdf/ecp533\\_en.pdf](http://ec.europa.eu/economy_finance/publications/economic_paper/2014/pdf/ecp533_en.pdf)

<sup>13</sup> Ecorys for NL government, 2015 (Frontrunners project)

<sup>14</sup> The effects of reforms of regulatory requirements to access professions: country-based case studies [http://ec.europa.eu/growth/tools-databases/newsroom/cf/itemdetail.cfm?item\\_id=8525&lang=en](http://ec.europa.eu/growth/tools-databases/newsroom/cf/itemdetail.cfm?item_id=8525&lang=en)

<sup>15</sup> COM(2015) 550 final, SWD(2015) 202 final, [http://ec.europa.eu/growth/single-market/index\\_en.htm](http://ec.europa.eu/growth/single-market/index_en.htm)

<b>Likely impacts on SMEs</b>
<p>The impacts of this proposal on SMEs and micro-enterprises are likely to be positive as it will mitigate the possibilities of low quality, burdensome regulation from being enacted. This should in the long term improve market access and mobility across the EU countries.</p> <p>As described in the section under economic impact, the liberalisation of certain requirements increases market dynamics in so far as it brings new players into the market.</p>
<b>Likely impacts on competitiveness and innovation</b>
<p>As studies show, if regulation is not appropriately designed and implemented, it can effectively create market restrictions, limit innovation and therefore consumer choice. Impediments to competition lead to a reduced market performance, e.g. in ineffective resource allocation and excessive rents.</p> <p>Reducing regulatory barriers in selected professional services (legal, accounting, architecture, engineering) by 1 point, based on an OECD indicator that ranges between 1-6, increases churn rates (entry and exit) on average by 1.75% leading to a better allocation of resources and a reduction in (excessive) profits by 5.36%. The full impact of reforms is expected to be significantly higher when one considers that these four professions have a large multiplier effect on the rest of the economy both as users of other sectors' inputs and as inputs into the production process of other sectors</p> <p>However, standards of quality in services can be difficult to define and measure as there is very little empirical evidence. Given that safeguarding quality is one of the main reasons for regulating access to and the conduct of professionals, the Commission is engaging in studies measuring, for example, the quality before and after reforms as well as checking the validity of on-line quality ratings.</p>
<b>Likely impacts on public administrations</b>
<p>The new EU legislative framework will aim to improve the proportionality assessments carried out by Member States by creating more transparent rules on the methodology and evidence used. The requirement of solid evidence will also help shaping the involvement of stakeholders in policy making.</p> <p>This proposal may imply imminent effort in capacity building for those administrations where a system which allows assessing ex-ante legislative proposals is not in place yet. Some resources will indeed have to be employed or shifted towards complying with an obligation to conduct a thorough proportionality analysis. This is nevertheless already a reality in several Member States: some use an analytical toolkit; many others use impact assessments or an ex-ante evaluation of legislative proposals. For those where requirements already exist, the biggest change will be to adapt them to this proposal so as to make it consistent across the board and to use evidence to check the validity of the arguments put forward. A straightforward methodology will empower administrations to analyse the proposed regulation from the angle of compelling evidence. This may entail more short term costs as resources will need to be used and people trained to carry out assessments and provide evidence on the actual effects of the regulation as compared to what it was originally designed for, such as for example; protecting health and safety of services providers and / or recipients, ensuring quality, protecting cultural heritage, and others.</p>
<b>Likely impacts on third countries, international trade or investment</b>
<p>Improving the proportionality assessment of regulation of professions would benefit service providers active in the Single Market including service providers from third countries.</p>