EUROPEAN
COMMISSION

Strasbourg, 15.9.2026
SWD(2026) 995 final

# COMMISSION STAFF WORKING DOCUMENT

## Subsidiarity Grid

*Accompanying the document*

**Proposal for a DIRECTIVE OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL**

**amending Directive 2005/36/EC as regards the digitalisation of procedures and recognition of professional qualifications issued outside the Union and the Regulation (EU) No 1024/2012**

{COM(2026) 995 final} - {SEC(2026) 995 final} - {SWD(2026) 996 final} - {SWD(2026) 997 final}

# Subsidiarity Grid

- **As proposed by the Committee of the Regions with guidance in blue**
- **Obviously, the answers to the questions below, the explanatory memorandum and – if applicable – the impact assessment should be consistent. This may require some iterations.**
- **Please try to stay under 10 pages.**

| **1. Can the Union act? What is the legal basis and competence of the Unions' intended action?** |
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| **1.1 Which article(s) of the Treaty are used to support the legislative proposal or policy initiative?** |
| The proposal is based on the same legal basis as Directive 2005/36/EC, namely Articles 46, 53(1) and 62 of the Treaty on the Functioning of the European Union (TFEU). These provisions empower the Union to adopt measures facilitating the free movement of workers, the freedom of establishment and the freedom to provide services, including through the mutual recognition of diplomas, certificates and other evidence of formal qualifications and the coordination of national provisions governing access to and the pursuit of regulated professions. |
| **1.2 Is the Union competence represented by this Treaty article exclusive, shared or supporting in nature?** |
| The initiative concerns the functioning of the internal market, which is an area of shared competence between the Union and the Member States pursuant to Article 4(2)(a) TFEU. Accordingly, the principle of subsidiarity applies. The evolution of an EU legal framework since 2005, incuding its amending and modernising in 2013, with further modernisation now proposed through SPI Action 2, demonstrates that EU-level action in this area is necessary and appropriate. |
| *Subsidiarity does not apply for policy areas where the Union has* ***exclusive*** *competence as defined in Article 3 TFEU[1]. It is the specific legal basis which determines whether the proposal falls under the subsidiarity control mechanism. Article 4 TFEU[2] sets out the areas where competence is shared between the Union and the Member States. Article 6 TFEU[3] sets out the areas for which the Unions has competence only to support the actions of the Member States.* |
| **2. Subsidiarity Principle: Why should the EU act?** |
| **2.1 Does the proposal fulfil the procedural requirements of Protocol No. 2[4]:**<br>- Has there been a wide consultation before proposing the act?<br>- Is there a detailed statement with qualitative and, where possible, quantitative indicators allowing an appraisal of whether the action can best be achieved at Union level? |
| The preparation of the initiative was supported by extensive stakeholder consultation activities. In addition to the consultations carried out in the context of the recent report on the implementation of the Professional Qualifications Directive, the Commission conducted a public consultation as part of the Skills Portability Initiative and targeted stakeholder consultations. Furthermore, the external |

[1] https://eur-lex.europa.eu/legal-content/EN/TXT/HTML/?uri=CELEX:12008E003&from=EN
[2] https://eur-lex.europa.eu/legal-content/EN/TXT/HTML/?uri=CELEX:12008E004&from=EN
[3] https://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=CELEX:12008E006:EN:HTML
[4] https://eur-lex.europa.eu/legal-content/EN/TXT/HTML/?uri=CELEX:12016E/PRO/02&from=EN

contractor supporting the preparation of the impact assessment organised a range of targeted consultation activities with competent authorities, national coordinators, professional organisations and representatives of regulated professions, as well as targeted surveys of competent authorities and citizens who had undergone recognition procedures. These are described in the explanatory memorandum accompanying the draft legal act and further detailed in the impact assessment supporting the proposal.

**2.2 Does the explanatory memorandum (and any impact assessment) accompanying the Commission's proposal contain an adequate justification regarding the conformity with the principle of subsidiarity?**

Yes, the explanatory memorandum and impact assessment explain that the initiative concerns the functioning of the internal market, which is an area of shared competence between the Union and the Member States pursuant to Article 4(2)(a) TFEU. Accordingly, the principle of subsidiarity applies. The current initiative aims to improve this existing legal framework for recognition at EU level. Changes to the EU framework can only be done through EU level action. Recognition procedures inherently require interaction between competent authorities in different MS, including the exchange and verification of information, validation of qualifications, and clarification of documentation. Unilateral efforts by MS to streamline their own procedures do not resolve these issues, as they neither ensure reciprocity nor establish common operational rules for cooperation. These issues are structural and cross-border in nature and cannot be adequately addressed through isolated national measures Without coordinated action at Union level, the system remains dependent on heterogeneous practices and ad hoc communication, limiting the potential for simplification and efficiency gains. Moreover, the integration of digital tools to facilitate recognition procedures requires a common framework to be effective. If developed separately at national level, such tools would risk fragmentation, duplication and lack of interoperability.

Union action is also necessary to strengthen transparency and enforcement of the existing rules. At present, the monitoring of recognition procedures relies largely on MS' self-reported data and individual complaints, which does not provide a comprehensive or reliable basis for assessing compliance and to enforce the rules in the event of systematic incompliance. Action at EU level is needed to ensure consistent and comparable data to support both national and EU-level corrective measures. Such transparency cannot be achieved through uncoordinated national systems. In the absence of Union intervention, the identified problems are likely to persist, resulting in continued delays, administrative burdens and legal uncertainty for applicants and CA A further coordinated EU framework would lead to more consistent and reliable recognition decisions across MSby streamlining information requirements, deadlines and cooperation practices. This can also facilitate the availability of reliable and comparable data, reduce administrative effort, lower reporting costs, and minimise risks of errors or inconsistencies, while enabling more timely and accurate monitoring.

EU-level action also offers economies of scale and avoids duplication of efforts. A common EU approach to key aspects of the recognition process is more cost-effective than multiple parallel national solutions, which may be incompatible or require complex interfaces. EU-level intervention ensures interoperability, thereby maximising the benefits of digitalisation and preventing fragmentation. While Union action requires initial adaptation efforts by national administrations, these costs are expected to be offset by long-term efficiency gains, reduced administrative burden, and improved service delivery. Overall, EU action provides a more efficient and coherent solution than uncoordinated national approaches, delivering benefits that cannot be achieved at the same scale or consistency by MS acting alone.

| **2.3 Based on the answers to the questions below, can the objectives of the proposed action be achieved sufficiently by the Member States acting alone (necessity for EU action)?** |
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| (a) Are there significant/appreciable transnational/cross-border aspects to the problems being tackled? Have these been quantified? |
| (b) Would national action or the absence of the EU level action conflict with core objectives of the Treaty[5] or significantly damage the interests of other Member States? |
| (c) To what extent do Member States have the ability or possibility to enact appropriate measures? |
| (d) How does the problem and its causes (e.g. negative externalities, spill-over effects) vary across the national, regional and local levels of the EU? |
| (e) Is the problem widespread across the EU or limited to a few Member States? |
| (f) Are Member States overstretched in achieving the objectives of the planned measure? |
| (g) How do the views/preferred courses of action of national, regional and local authorities differ across the EU? |
| The proposal addresses an inherently cross-border issue. The recognition of professional qualifications involves a qualification obtained in one Member State being assessed for the purpose of exercising a regulated profession in another Member State. Recognition procedures therefore require cooperation between competent authorities across national borders. The procedure itself generates direct administrative costs for both applicants and competent authorities through the preparation, submission and processing of recognition applications. The accompanying impact assessment quantifies these administrative costs and the savings expected from the proposal. It also quantifies the monetised benefits of shorter recognition procedures, reflecting faster labour market integration of mobile professionals, as well as broader economic and social benefits, including improved recruitment opportunities for employers, better matching of skills to labour market needs, higher labour productivity, reduced overqualification, greater labour market resilience and improved employment opportunities for professionals.<br><br>The proposal contributes directly to the effective exercise of the freedom of establishment and the freedom to provide services, which are core objectives of the Treaties. While Member States remain fully responsible for deciding which professions to regulate and for taking individual recognition decisions, unilateral national action cannot establish a coherent framework for cross-border recognition. Divergent procedures, incompatible digital solutions and differing administrative practices would continue to create obstacles to mobility and reduce the effective functioning of the internal market. Coordinated Union action is therefore necessary to establish common procedural rules and common digital infrastructure for recognition procedures.<br><br>At the same time, the proposal fully respects Member States' competences and administrative autonomy. Member States remain free to organise their administrative systems and implement the provisions of the Directive in accordance with their national legal and administrative traditions. The proposal does not affect their competence to regulate professions or to decide individual recognition cases. Rather, it is limited to those aspects where coordinated Union action provides clear added value. In particular, the Commission will develop, finance and operate the European Digital Recognition Solution, providing Member States with a common digital infrastructure that |

[5] https://europa.eu/european-union/about-eu/eu-in-brief_en

reduces implementation costs, avoids duplication of effort and ensures interoperability. This supporting tool is complemented by clearer procedural rules, implementation guidance, training and strengthened administrative cooperation, enabling Member States to implement the Directive more efficiently and consistently.

Complexity of recognitoon procedures exists throughout the Union, but their practical manifestation varies depending on national administrative structures, regulatory systems and patterns of professional mobility. In some Member States, the regulation of professions is organised centrally, while in others competences are exercised at regional level. Recognition procedures may be particularly important in cross-border regions, where geographical proximity encourages labour mobility but access to regulated professions remains subject to national recognition requirements. More generally, Member States differ in the number and organisation of regulated professions, the volume of recognition applications, the level of digitalisation of competent authorities and the administrative resources available. Nevertheless, the underlying challenges—administrative burden, procedural complexity, delays and uneven digitalisation—have been consistently identified across the Union through the implementation report and stakeholder consultations.

The proposal has been designed to accommodate these differences. While Member States will need to adapt certain procedures, they are supported through a Commission-funded digital infrastructure, common workflows, implementation guidance, training and structured cooperation within the Group of Coordinators. These measures are expected to reduce, rather than increase, the administrative burden on national authorities. The benefits of the proposal will naturally differ in size according to the scale of recognition activity and the level of existing digital maturity. Member States processing large numbers of recognition applications are expected to benefit most immediately from simplification and economies of scale, while those with lower case volumes or less developed digital systems may require greater adjustments during the transition. In the longer term, however, all Member States are expected to benefit from greater legal clarity, improved administrative cooperation, lower implementation costs and a more efficient and coherent framework for the recognition of professional qualifications across the Union.

**2.4 Based on the answer to the questions below, can the objectives of the proposed action be better achieved at Union level by reason of scale or effects of that action (EU added value)?**

(a) Are there clear benefits from EU level action?

(b) Are there economies of scale? Can the objectives be met more efficiently at EU level (larger benefits per unit cost)? Will the functioning of the internal market be improved?

(c) What are the benefits in replacing different national policies and rules with a more homogenous policy approach?

(d) Do the benefits of EU-level action outweigh the loss of competence of the Member States and the local and regional authorities (beyond the costs and benefits of acting at national, regional and local levels)?

(e) Will there be improved legal clarity for those having to implement the legislation?

The proposal provides clear added value at Union level by reducing the administrative burden associated with the recognition of professional qualifications and improving the functioning of the internal market. The accompanying impact assessment demonstrates significant benefits for

applicants, competent authorities and employers through lower administrative costs, faster recognition procedures and shorter recruitment times. These direct benefits are complemented by broader economic and social gains, including improved labour market matching, increased labour productivity, better employment opportunities for mobile professionals and a stronger capacity to address labour and skills shortages in key sectors.

The proposal also delivers substantial economies of scale. Its central element is the European Digital Recognition Solution, which will be developed, financed and operated by the Commission. A single common digital infrastructure is considerably more cost-effective than multiple national solutions, avoiding duplication of investment, reducing implementation costs for Member States and ensuring interoperability across the Union. As demonstrated in the impact assessment, a common European solution delivers greater benefits at a lower overall cost than fragmented national approaches.

The proposal does not replace national policies on the regulation of professions or the organisation of national administrations. Member States remain fully responsible for determining which professions are regulated and for taking individual recognition decisions. Rather than harmonising these areas, the proposal modernises and enhances the implementation of the established common procedural rules through common implementation tools to promote greater consistency in the application of the existing framework, while preserving the flexibility inherent in a directive.

Accordingly, the proposal does not entail a transfer of competences from Member States to the Union. It supports national authorities in exercising their existing responsibilities more efficiently by providing common digital infrastructure, clearer procedural rules and enhanced administrative cooperation. The resulting benefits—in terms of lower administrative costs, faster recognition, improved labour mobility and a more effective internal market—clearly outweigh the limited procedural adjustments required at national level.

Finally, the proposal significantly improves legal certainty by clarifying a number of provisions of Directive 2005/36/EC. It provides greater precision on procedural requirements, documentation, deadlines, fees, administrative cooperation and processes, thereby facilitating a more consistent implementation of the Directive and reducing uncertainty for competent authorities, applicants and other stakeholders.

## 3. Proportionality: How the EU should act

**3.1 Does the explanatory memorandum (and any impact assessment) accompanying the Commission's proposal contain an adequate justification regarding the proportionality of the proposal and a statement allowing appraisal of the compliance of the proposal with the principle of proportionality?**

Yes, the explanatory memorandum and impact assessment contain an adequate justification regarding the proportionality of the proposal. The proposal concerns the revision of Directive 2005/36/EC, an area where the need for Union action is already established. The proposed amendments are limited to those necessary to address shortcomings identified through the implementation of the Directive, including fragmented information, unnecessarily burdensome recognition procedures, uneven levels of digitalisation and inefficiencies in administrative cooperation between competent authorities.

The proposal does not harmonise the substantive rules governing regulated professions or the conditions for the recognition of professional qualifications. Member States remain fully responsible for determining professional qualifications, regulating professions, assessing applications and taking recognition decisions. The proposed measures focus instead on improving the functioning of the

recognition framework by clarifying certain procedural obligations, strengthening administrative cooperation and facilitating the use of interoperable digital tools.

Proportionality was assessed in the comparison of the policy options considered in the impact assessment. Each option was evaluated in light of the balance between its expected benefits and the implementation efforts required. The assessment also examined whether the scope, intensity and implementation requirements of the proposed measures were commensurate with the objectives pursued. The preferred option was selected because it provides the most effective response to the identified shortcomings while remaining limited to what is necessary. Although it entails a greater degree of intervention than the alternative options, this reflects the scale and persistence of the problems addressed and remains confined to procedural aspects of the recognition framework, without affecting Member States' competence over the regulation of professions or substantive recognition decisions.

**3.2 Based on the answers to the questions below and information available from any impact assessment, the explanatory memorandum or other sources, is the proposed action an appropriate way to achieve the intended objectives?**

(a) Is the initiative limited to those aspects that Member States cannot achieve satisfactorily on their own, and where the Union can do better?

(b) Is the form of Union action (choice of instrument) justified, as simple as possible, and coherent with the satisfactory achievement of, and ensuring compliance with the objectives pursued (e.g. choice between regulation, (framework) directive, recommendation, or alternative regulatory methods such as co-legislation, etc.)?

(c) Does the Union action leave as much scope for national decision as possible while achieving satisfactorily the objectives set? (e.g. is it possible to limit the European action to minimum standards or use a less stringent policy instrument og approach?)

(d) Does the initiative create financial or administrative cost for the Union, national governments, regional or local authorities, economic operators or citizens? Are these costs commensurate with the objective to be achieved?

(e) While respecting the Union law, have special circumstances applying in individual Member States been taken into account?

The proposal is limited to those aspects of the recognition framework where coordinated Union action can provide clear added value, while fully respecting Member States' competences. It does not affect Member States' responsibility for regulating professions, determining access conditions or taking individual recognition decisions. Instead, it focuses on those procedural aspects that can be better addressed at Union level, including improving recognition procedures, facilitating exchanges between competent authorities, providing common digital tools and workflows, and ensuring that applicants receive clear, complete and comparable information throughout the recognition process. The proposal therefore concentrates on the interactions between applicants and competent authorities, cooperation between competent authorities and the operation of the recognition procedures themselves.

The choice of a directive is appropriate and justified, as the proposal amends Directive 2005/36/EC and therefore necessarily takes the same legal form. A directive also remains the most suitable instrument because it allows Member States to implement the common framework in accordance with their national legal and administrative traditions. While preserving this flexibility, the proposal

increases adds detail where experience has shown that the current provisions are insufficiently precise to ensure consistent implementation. It therefore introduces more detailed rules on issues such as documentation, translations, communication with applicants, fees and procedural deadlines, without altering the nature of the instrument.

The proposal leaves the maximum possible scope for national decision-making consistent with achieving its objectives. It does not seek to regulate exhaustively every aspect of recognition procedures. Rather, it addresses those issues where greater convergence is necessary to improve the functioning of the internal market, while leaving all other aspects to the discretion of the Member States.

The proposal entails budgetary implications for the Union, notably for the development, operation and maintenance of the European Digital Recognition Solution, as set out in the accompanying Financial Statement and Impact Assessment. Member States will incur certain transitional costs associated with adapting their administrative procedures and implementing the revised framework. However, these costs are expected to be limited and temporary, as the Commission will develop, finance and operate the common digital infrastructure. The resulting economies of scale, together with the expected reductions in administrative burden and processing costs, make these implementation costs proportionate to the objectives pursued.

Finally, the proposal is designed to be applicable across the Union without requiring different regulatory solutions for individual Member States. While it can be implemented within diverse national administrative structures, its objective is precisely to promote greater convergence in the operation of recognition procedures by establishing common procedural rules and shared digital infrastructure, thereby significantly reducing the fragmentation of current recognition procedures.
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