

# World Health Professions Regulation Conference 2014

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## Session 1: Challenges facing health professional regulation

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**PGEU GPUE**

*Pharmaceutical Group of European Union  
Groupement Pharmaceutique de l'Union Européenne*

# CHALLENGES FACING PROFESSIONAL REGULATION - AN EU PERSPECTIVE

John Chave

# Pharmaceutical Group of European Union

*Members: Professional Bodies & Pharmacists' Associations*



- |   |           |   |                |
|---|-----------|---|----------------|
|    | Austria   |    | Luxembourg     |
|    | Belgium   |    | Malta          |
|    | Bulgaria  |    | Netherlands    |
|    | Croatia   |    | Poland         |
|    | Cyprus    |    | Portugal       |
|    | Czech Rep |    | Romania        |
|    | Denmark   |    | Slovakia       |
|    | Estonia   |    | Slovenia       |
|    | Finland   |    | Spain          |
|    | France    |    | Sweden         |
|   | Germany   |    | United Kingdom |
|  | Greece    |    | Kosovo         |
|  | Hungary   |   | FYR Macedonia  |
|  | Ireland   |  | Norway         |
|  | Italy     |  | Serbia         |
|   |           |  | Switzerland    |
|   |           |  | Turkey         |

# 6 things you need to know about the European Union

1. It makes laws that must be applied in all 28 member states;
2. European law takes precedence over the law of member states;
3. It has its own law court (the European Court of Justice or 'ECJ') The decisions of the ECJ bind all the member states;
4. The EU is based on a Treaty signed by the member states. This Treaty provides for the so called 'four freedoms', which are in fact six freedoms: free movement of goods, capital, services, persons, and workers between member states, and freedom of establishment in other member states. The six freedoms are the basis of the EU 'internal market';

# 6 things you need to know about the European Union

5. The EU is managed by a bureaucracy – the European Commission. Unlike national bureaucracies, the European Commission has powers to initiate new laws (which generally must be agreed by the European Parliament and the Member States) and to bring legal proceedings against Member States who do not respect EU laws;
6. The EU does not manage or finance the health systems of the Member States.

## Two Guiding Principles

- Regulation should not impede the internal market – specifically the free movement of workers between EU Member States;

[This is a fundamental treaty principle, supported and elaborated by the jurisprudence of the European Court]

- Unnecessary regulation of professions potentially impedes economic growth;

[This derives from the economic justification of the EU internal market. It is not a legal principle]

# Reconciling free movement and regulation

- Member States are responsible for health professional regulation, but the EU is responsible for the internal market;
- There is a tension between the need to facilitate movement, and the need to ensure that professionals are sufficiently competent to practise in the host Member State;
- The European Commission has frequently used its internal market competence to challenge professional regulation;
- In effect, Member States must be able to show that health professional regulation is justified in the interests of public health.





EUROPEAN COMMISSION

PRESS RELEASE

Brussels, 2 October 2013

## European Commission and Member States to assess barriers restricting access to regulated professions

The European Commission has today adopted a communication announcing the start of an evaluation of national regulations on access to professions. Regulated professions are professions to which access is conditional upon the possession of specific qualifications or for which the use of a specific title is protected, e.g. pharmacists or architects. There are very good reasons why such restrictions may exist, for example consumer protection. However, overly restrictive conditions for accessing certain professions may discourage or even prevent young people from entering the labour market. Different regulatory regimes may make it difficult for qualified professionals to apply for job vacancies in other Member States.

Improving access to professions, in particular through a more proportionate and transparent regulatory environment in Member States, would facilitate the mobility of qualified professionals in the single market and the cross-border provision of professional services. It could also have a positive impact on the employment situation and enhance economic growth, especially since professional services alone amount to around 9% of GDP in the European Union.

In order to provide a more complete picture of the barriers affecting the access to and exercise of regulated professions, a report on the findings of the peer review on legal form and shareholding requirements conducted under the [Services Directive](#) is also published today. These requirements, which often come in addition to



# The 'Troika'

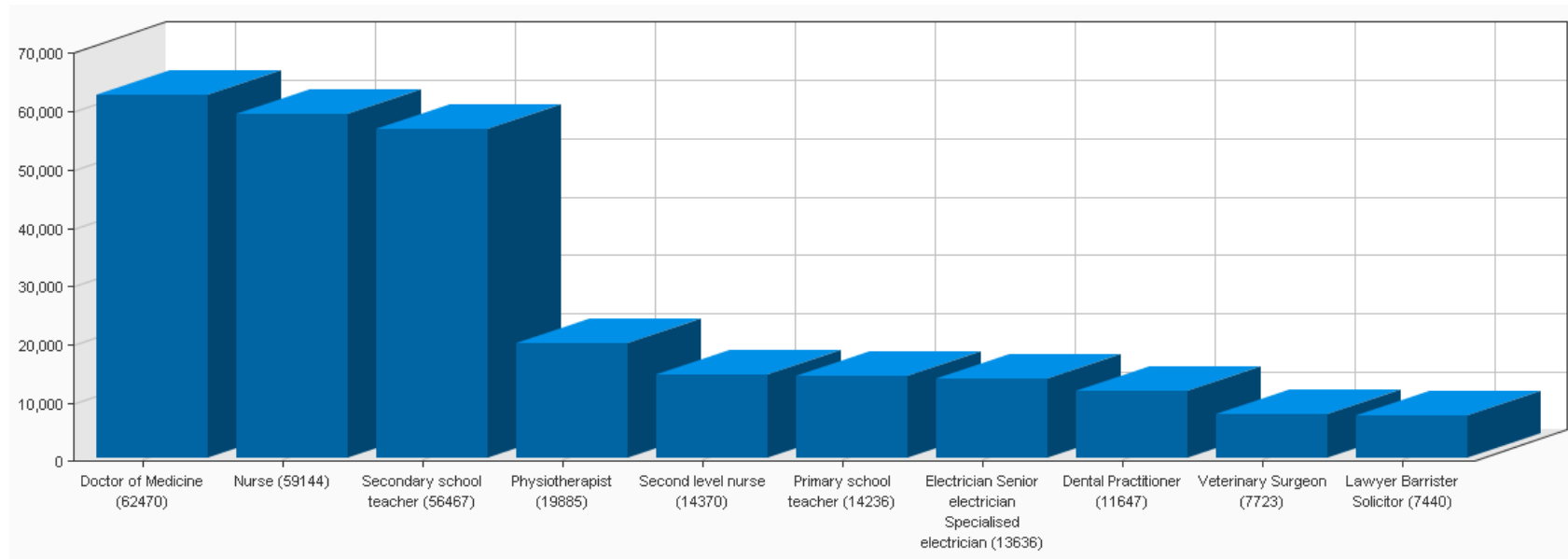
## iii. Structural reforms

*To increase growth in the domestic services sector*

Government will introduce legislative changes to remove restrictions to trade and competition in sheltered sectors including:

- the legal profession, establishing an independent regulator for the profession and implementing the recommendations of the Legal Costs Working Group and outstanding Competition Authority recommendations to reduce legal costs.
- medical services, eliminating restrictions on the number of GPs qualifying and removing restrictions on GPs wishing to treat public patients as well as restrictions on advertising.
- the pharmacy profession, ensuring that the recent elimination of the 50% mark-up paid for medicines under the State's Drugs Payments Scheme is enforced.

# Professional Mobility in Europe



# The Directive on the Recognition of Professional Qualifications

- The Directive puts in place rules and procedures to facilitate the recognition of professional qualifications between Member States;
- Some health professions have a special status within the Directive – Physicians, Pharmacists, Dentists, Midwives and Vets. Recognition for these professions is ‘automatic’, based on harmonised minimum training requirements;
- The Directive was revised and re-adopted in 2013.

# Challenges addressed in the RPQ Directive

- It was believed that the recognition procedure was too slow and this was discouraging mobility
- Inadequate language skills for health professionals are a threat to patient safety
- Insufficient means to prevent suspended health professionals finding work elsewhere in the EU

- **The European Professional Card**

This will allow accelerated recognition procedures.

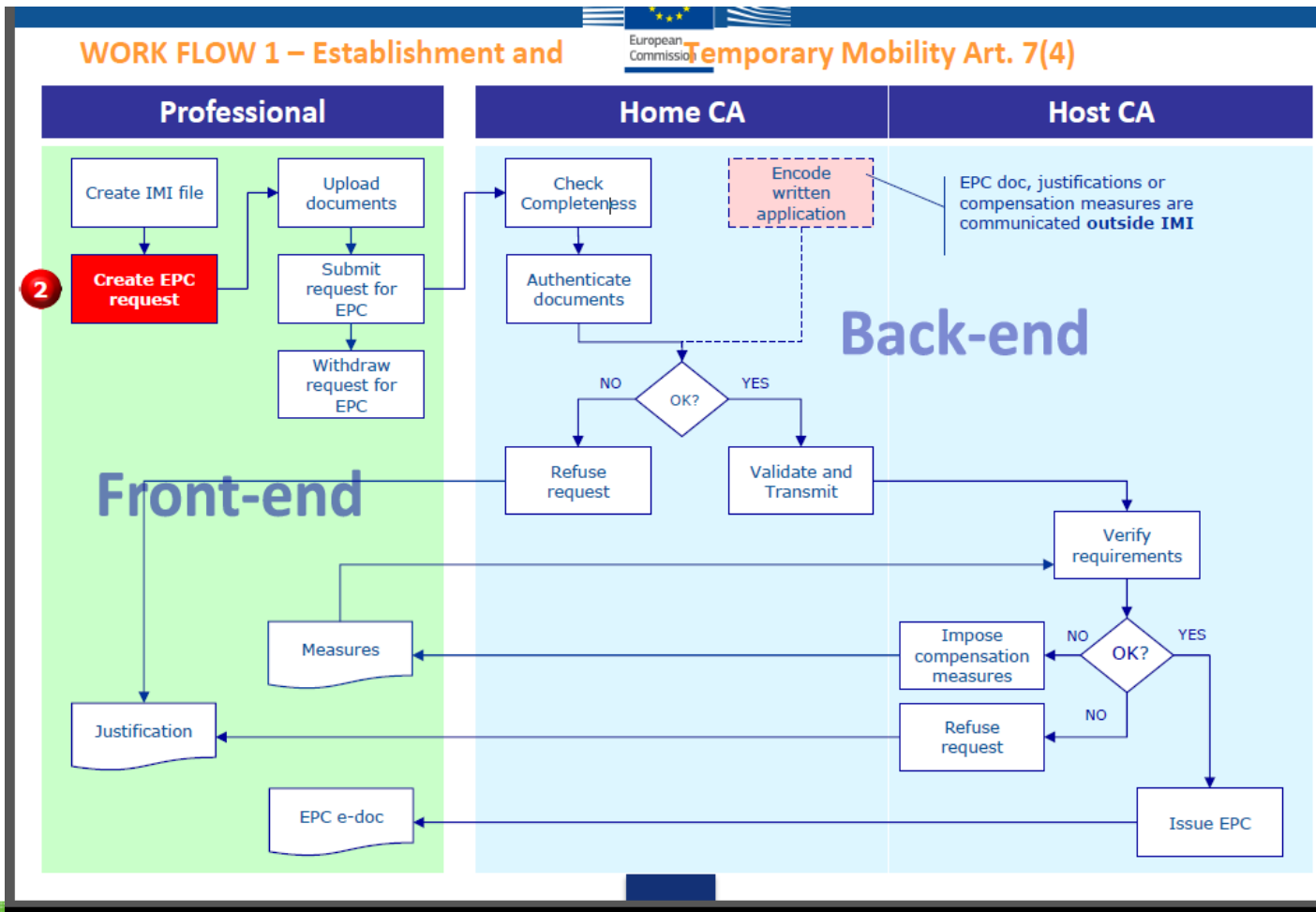
- **Language Testing**

Host competent authorities are allowed to test for language ability – this was previously unclear

- **Alert Mechanisms for health professions**

Competent authorities across EU must be made aware of suspensions.

WORK FLOW 1 – Establishment and Temporary Mobility Art. 7(4)



# European Professional Card [in a nutshell]

- Home member state makes the initial check of the documents, then sends file to host Member State.
- Host Member State has, in essence, two months to examine the documents and grant or refuse to issue the card; it may ask for more information but no extension granted.
- If no decision made within the time period, recognition is **automatically granted**.

## Transparency Exercise (2014)

- The European Commission believes that there are too many regulated professions in the EU and that some forms of regulation are unjustified;
- The aims of the transparency [or ‘Mutual Evaluation’] exercise are, in essence, to require EU Member States to re-examine their own regulated professions and consider whether certain regulations are necessary;
- It is not legally binding as such – the Commission hopes to encourage a degree of liberalisation. Legal action is not ruled out;
- Health professions are not exempt!



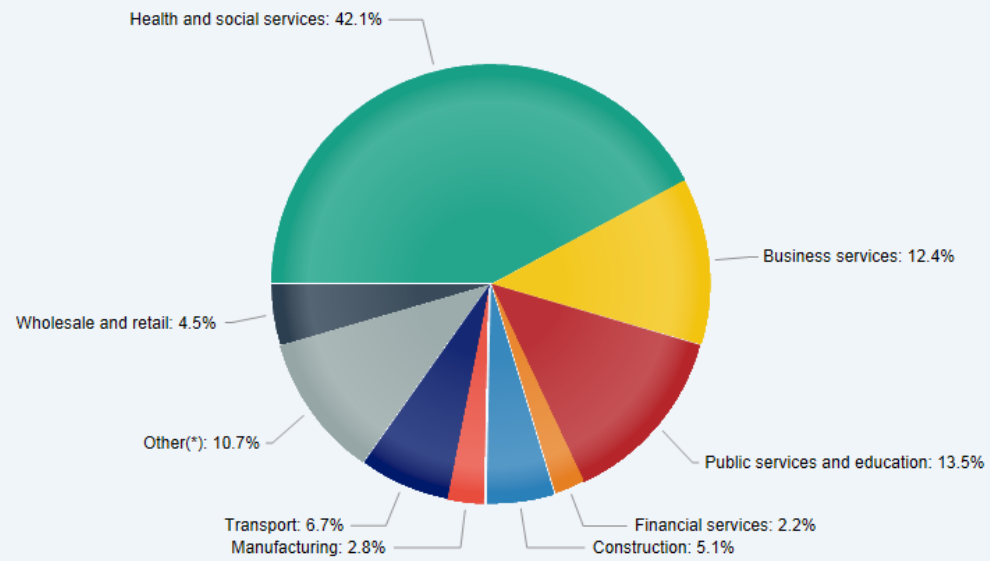
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-  Hungary
-  Malta
-  Netherlands
-  Austria
-  Poland
-  Portugal

Switzerland



SWITZERLAND | NUMBER OF REGULATED PROFESSIONS AND DISTRIBUTION BY ECONOMIC SECTOR

**Number of regulated professions: 178**



(\*) Including entertainment, tourism, agriculture and mining

Table: Preselected professions cluster 2

		(1) N° of countries where regulated	(2) Employment	(3) Mobility
Sector		2013, EU28	2011, EU27	1997-2013, EU27 EEA+CH
Physiotherapist <sup>4</sup>	Health and social	25	148,818	19793
Social worker	Health and social	18	349,621	6586
Occupational therapist <sup>5</sup>	Health and social	21	289,320	2718
Psychologist	Health and social	21	253,226	3420
Psychotherapist	Health and social	6	<i>incl. in psychologists</i>	308
Masseur/Massage therapist	Health and social	13	78,686	1578
Child care worker	Health and social	7	1,232,352	1543
Dietician	Health and social	21	27,252	1171
Dental hygienist	Health and social	14	120,816	743

# The Pharmacy Example

- There have been 23 European legal cases brought against pharmacy regulations since 2006, plus one decision of the EU competition authorities against the French Order of Pharmacists;
- The 'Troika' has argued for various deregulation measures in affected countries;
- Pharmacy is a 'Sectoral profession' under the Recognition Directive, although pharmacist mobility is relatively low;
- It is likely that pharmacy will be part of the European Professional Card.



# Changes to regulation and the demographic challenge

- A paradoxical aspect of the EU system is that health professional migration does not always follow need – there is no cross border planning or management;
- At the same time, the EU Commission agenda to reduce barriers and costs to entry of professions is arguably consistent with the strong need to address long term shortages of health professionals;
- De-skilling or de-professionalisation remains a potential future ‘supply side ‘ measure to address shortages;
- At the same time, there is evidence that flexible approaches to scope of practice restrictions increase access at limited cost.

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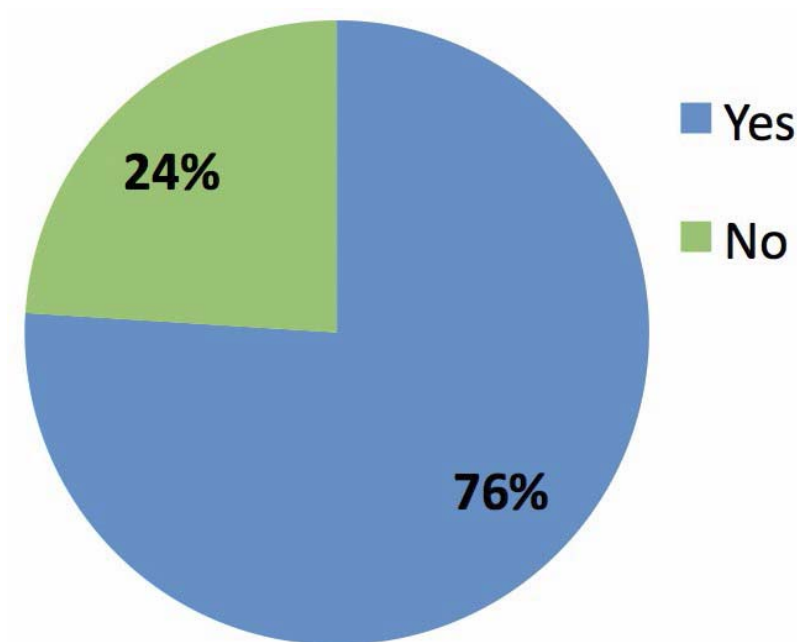
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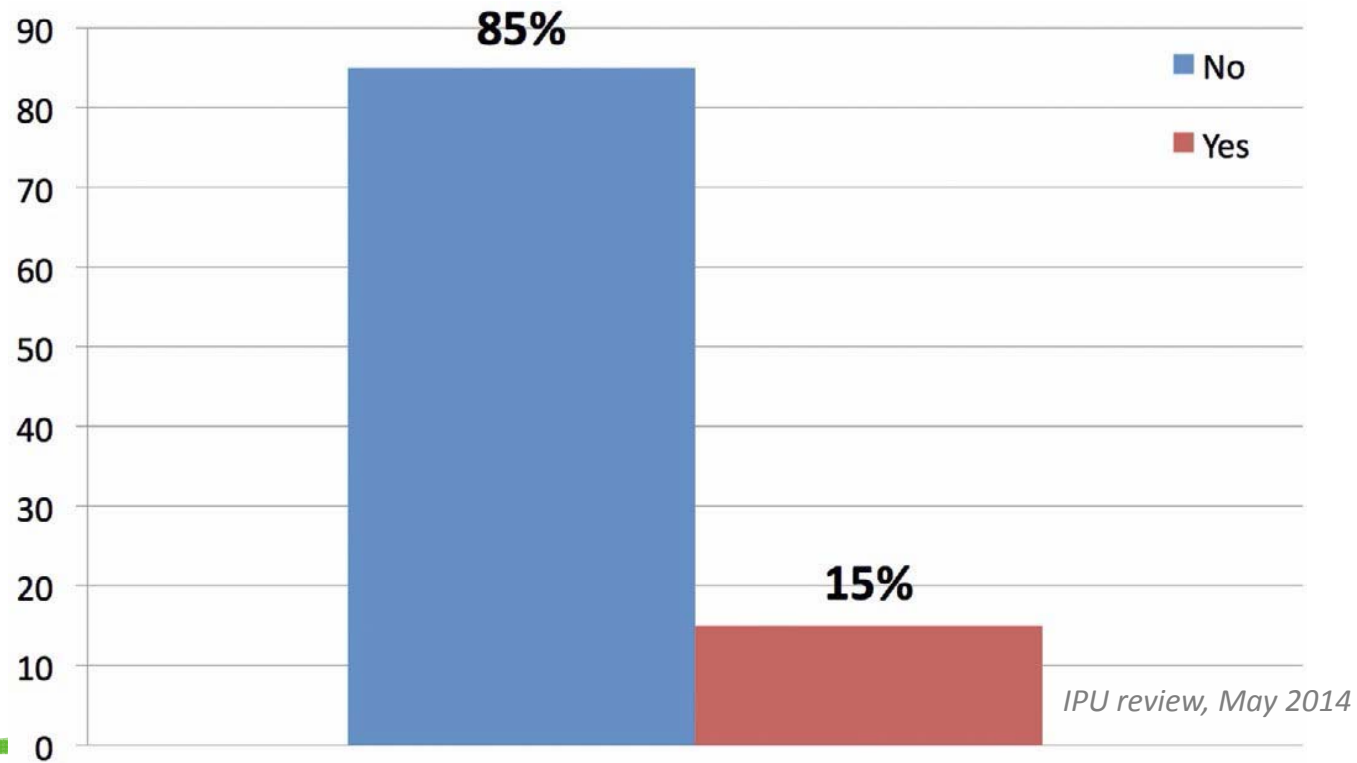


## Pharmacy vaccination in Ireland -Had the patient received an influenza vaccination before?



*IPU review, May 2014*

## Pharmacy vaccination in Ireland: What % of those not vaccinated before are at-risk?





# Looking Forward

- The EU has been, and continues to be, successful in promoting health professional mobility in the EU;
- Health professional mobility will not in itself address long term supply problems (in some cases it makes them worse). Other solutions need to be explored;
- The EU level liberalisation agenda continues to force regulated health professions to justify barriers to entry;
- The danger is that some regulations come to be perceived as an obstacles to efficiency and expanded access;
- A debate about scope of practice is inevitable, but carries with it opportunities and threats for all professions.



# THANK YOU

[www.pgeu.eu](http://www.pgeu.eu)



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