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Subsidiarity Grid

Accompanying the document

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

on the recognition of qualifications of third-country nationals

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Subsidiarity Grid

1. Can the Union act? What is the legal basis and competence of the Unions' intended action?
1.1 Which article(s) of the Treaty are used to support the legislative proposal or policy initiative?
The proposal is based on Article 79(2)(a) and (b) of the Treaty on the Functioning of the European Union (TFEU). Article 79(2)(a) TFEU empowers the European Parliament and the Council, acting in accordance with the ordinary legislative procedure, to adopt measures on the conditions of entry and residence of third-country nationals, including standards on the issue of long-term visas and residence permits. Article 79(2)(b) TFEU provides the legal basis for measures defining the rights of third-country nationals legally residing in a Member State, including the conditions governing freedom of movement and of residence in other Member States. Recognition of qualifications is directly linked to the conditions of entry and residence within the meaning of Article 79(2)(a) TFEU, since access to employment, and therefore to residence for work purposes, often depends on whether qualifications acquired in a third country can be recognised. The action also supports the effective exercise of rights of third-country nationals legally residing in the Union under Article 79(2)(b) TFEU, by facilitating access to employment corresponding to their qualifications and skills. The envisaged Union action therefore falls within the scope of both Article 79(2)(a) and (b) TFEU.
1.2 Is the Union competence represented by this Treaty article exclusive, shared or supporting in nature?
The Union's competence is shared. Article 79 TFEU falls within Title V TFEU (the Area of Freedom, Security and Justice), which Article 4(2)(j) TFEU identifies as an area of shared competence between the Union and the Member States. The Union and Member States therefore share competence in this area, with Union action and Member State action being complementary. The proposal does not seek to replace Member States' responsibility for defining which professions are regulated, organising national education and training systems, or taking migration and admission decisions, all of which remain primarily under national competence. Instead, it aims to establish common procedural rules to facilitate the recognition of qualifications of third-country nationals across the Union. <i>Subsidiarity does not apply for policy areas where the Union has exclusive competence as defined in Article 3 TFEU¹. It is the specific legal basis which determines whether the proposal falls under the subsidiarity control mechanism. Article 4 TFEU² sets out the areas where competence is shared between the Union and the Member States. Article 6 TFEU³ sets out the areas for which the Unions has competence only to support the actions of the Member States.</i>
2. Subsidiarity Principle: Why should the EU act?
2.1 Does the proposal fulfil the procedural requirements of Protocol No. 2⁴: - Has there been a wide consultation before proposing the act? - 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?

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>

- The proposal has been subject to extensive consultation activities. A Call for Evidence covering the Skills Portability Initiative (SPI), its three actions and envisaged policy options was published on 5 December 2025 and remained open until 27 February 2026. A Public Consultation was conducted in parallel, running from October 2025 to April 2026, in which 95.3% of respondents considered EU-level action very or somewhat necessary.
- In addition, targeted consultations were conducted between October 2025 and April 2026 with competent authorities, healthcare professional organisations, employers, civil society organisations and third-country nationals applicants (including a dedicated survey), together with bilateral meetings with Member States and written contributions from national governments. A full overview of the consultation activities and their results is summarised in Annex 2 (Stakeholder consultation synopsis report) of the Impact Assessment.
- The Impact Assessment contains a detailed problem definition, supported by qualitative and quantitative indicators, including an estimated average cost of EUR 1,500 and an average duration of 14.2 months per recognition procedure, with 70.4% of third-country nationals surveyed considering the length of the process a 'big' or 'very big' problem. The quantitative baseline, sensitivity analysis and cost estimates underpinning the appraisal of EU-level action are set out in Annex 4 (Analytical Methods).

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?

The explanatory memorandum and Impact Assessment explain that the subsidiarity principle applies since the proposal does not fall under the exclusive competence of the EU. The objectives of the proposal cannot be sufficiently achieved by the Member States at national, regional or local level and can be better achieved at Union level for the following reasons:

- Divergent national recognition systems, combined with the absence — unlike for EU nationals under Directive 2005/36/EC (PQD) — of any comparable EU framework for third-country nationals, generate uncertainty and burden that individual Member State action cannot resolve;
- Recognition procedures for third-country nationals interact structurally with EU migration instruments adopted under Article 79 TFEU (such as the EU Blue Card, the EU Talent Pool and Talent Partnerships), whose effectiveness depends on recognition systems functioning adequately; Member States cannot individually address this structural misalignment between migration and recognition frameworks;
- The lack of trust in, and understanding of, third-country skills and qualifications is best addressed through EU-level tools (such as a shared authenticity-verification service and mutual learning on third-country qualification systems) that generate economies of scale which would be inefficient to replicate separately across 27 national systems.

Moreover, the identified gap stems from the personal scope of the Single Market legal basis underpinning the PQD, which is necessarily limited to EU nationals and cannot be extended by Member States acting alone to cover third-country nationals. Further EU action is therefore required to establish a framework equipping Member States with common tools to recognise third-country nationals qualifications more effectively.

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)?

No. The objectives of improving streamlined, simple and trusted recognition procedures for third-country nationals cannot be sufficiently achieved by Member States acting alone. A coordinated EU-level approach is necessary to address divergence between national systems, establish

common procedural rules and deliver more predictable outcomes across the Union. The Public Consultation confirmed this, with 95.3% of respondents considering EU-level action very or somewhat necessary.

While Member States remain fully responsible for defining which professions are regulated, organising their national education and training systems, and taking individual recognition and admission decisions, no single Member State can establish a coherent, EU-wide approach to procedural consistency, information exchange on third-country qualifications, or coordination between recognition and migration authorities. These limitations stem from the design of the existing EU legal frameworks themselves (see Annex 8) and cannot be remedied by national action alone.

(a) Are there significant/appreciable transnational/cross-border aspects to the problems being tackled? Have these been quantified?

Yes. Recognition of qualifications of third-country nationals is inherently a cross-border phenomenon at EU level. The share of the EU working-age population born in a third country rose from approximately 8% in 2014 to 12.6% in 2024. The scale of the burden this generates has been quantified: an average cost of EUR 1,500 and an average duration of 14.2 months per recognition procedure, rising to years in some cases, with a further EUR 300 in administrative costs for migration-related recognition procedures outside regulated professions. These figures, along with the 95.3% Public Consultation result confirming the perceived necessity of EU-level action, are set out in the problem definition and Annex 4 of the Impact Assessment.

(b) Would national action or the absence of the EU level action conflict with core objectives of the Treaty⁵ or significantly damage the interests of other Member States?

Yes. Persistent fragmentation in recognition procedures undermines the functioning of the Single Market and the EU's collective competitiveness in the global competition for talent, weakening the effectiveness of EU instruments such as the EU Blue Card, the EU Talent Pool, Talent Partnerships and the European Legal Gateway Office pilot, whose value depends on recognition systems functioning adequately. It also creates inconsistent treatment of third-country nationals and unpredictable outcomes for employers, including SMEs, operating across different Member States.

(c) To what extent do Member States have the ability or possibility to enact appropriate measures?

Member States remain responsible for defining regulated professions, organising national education and training systems, and taking migration and admission decisions. However, the Single Market legal basis underpinning the PQD is limited in personal scope to EU nationals and cannot be extended by Member States acting alone to cover third-country nationals. Member States acting individually therefore cannot establish a coherent, cross-cutting recognition framework applicable across the Union.

(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?

The scale of the problem varies with Member States' exposure to inbound migration of third-country nationals and the concentration of shortage sectors such as healthcare, ICT, construction and engineering, as well as with the existing degree of coordination between national migration and recognition authorities (see Annex 11, Diverging territorial impact of policy options). However, the underlying structural misalignment between migration and recognition frameworks is common

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

across Member States and stems from the design of the relevant EU legal frameworks themselves (Annex 8), and therefore requires coordination beyond the national level.
(e) Is the problem widespread across the EU or limited to a few Member States?
The problem is Union-wide, even though its intensity varies. Third-country nationals represent a growing and substantial share of the EU workforce (12.6% of the working-age population in 2024), with nurse shortages recorded in 78% of Member States and specialist medical shortages in 75%. The challenges addressed by the proposal therefore affect Member States to different degrees but are Union-wide in nature, relating to the functioning of the internal market and the implementation of common EU migration rules.
(f) Are Member States overstretched in achieving the objectives of the planned measure?
This is less a question of national administrative capacity than of structural limits. Because the Single Market legal basis underpinning the PQD cannot be extended by Member States acting alone to cover third-country nationals, and because Article 79 TFEU migration instruments are not designed around qualification recognition, Member States cannot individually create the missing framework, regardless of their administrative capacity.
(g) How do the views/preferred courses of action of national, regional and local authorities differ across the EU?
Member States' positions diverge. Some explicitly support common rules modelled on the PQD's general system, adapted to reflect the diversity of third-country quality assurance standards. Others, offer conditional supporting views tied to avoiding new administrative burden and ensuring alignment with existing recognition frameworks. Several Member States more broadly stress the importance of preserving national flexibility over substantive recognition standards. These positions are reflected in the written contributions summarised in Annex 2 (Stakeholder consultation synopsis report) and in the wider consultation record described in the Impact Assessment.
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?
Yes. EU-level action supports the effectiveness of the EU's talent-attraction ecosystem (the EU Blue Card, the EU Talent Pool, Talent Partnerships and the European Legal Gateway Office) and improves predictability for third-country nationals and employers alike. This could not be achieved without action at EU level.
(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?
Yes. The preferred policy option (PO3) is estimated to generate aggregate administrative savings of approximately EUR 22.3 million per year, monetised time savings for applicants of approximately EUR 300 million per year, and a reduction in employer-borne administrative costs of approximately EUR 20 million per year. These benefits are achieved through shared EU tools — including an EU authenticity-verification service and a public register of third-country learning

programmes eligible for automatic recognition — that are inherently more effective when developed once centrally than replicated separately across 27 Member States.
(c) What are the benefits in replacing different national policies and rules with a more homogenous policy approach?
The proposal does not replace national recognition decisions or create a 'once-only' EU-wide validity of recognition granted in one Member State. It establishes common procedural rules on documentation, timelines and safeguards and, for a limited set of professions, automatic recognition grounded in prior verification of third-country learning programmes. This reduces fragmentation and increases legal certainty for third-country nationals, employers and administrations without imposing a single substantive assessment standard.
(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)?
Yes. The proposal does not impact Member States' competence over the definition of regulated professions, national education and training systems, or migration and admission decisions. Given the limited degree of competence affected, the economies of scale, legal certainty and competitiveness benefits described above outweigh the marginal reduction in national discretion over procedural detail.
(e) Will there be improved legal clarity for those having to implement the legislation?
Yes. Common procedural rules on documentation, timelines, coordination between recognition and migration authorities, and use of the shared authenticity-verification service would provide considerably greater legal clarity for competent authorities, employers and third-country nationals than the current fragmented landscape.
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. Each of the policy options assessed in the Impact Assessment is shown to respect the principles of subsidiarity and proportionality. Policy Option 1 imposes no new obligations on Member States and is fully compatible as a non-binding option. Policy Option 2 addresses procedural requirements without harmonising substantive assessment standards or affecting Member State competence over recognition or admission decisions. The preferred option, Policy Option 3, introduces automatic recognition for a defined set of professions grounded in the existing framework of minimum training requirements under the PQD; it is a proportionate response that preserves Member States' competence over qualification standards and admission decisions, and participation by third-country institutions in the automatic recognition register is voluntary.
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?

Yes. The preferred option's measures are directly linked to the scale and persistence of the problems they address — an average recognition duration of 14.2 months, an average cost of EUR 1,500 per application, and persistent information asymmetry regarding third-country qualifications — and are targeted at the specific objectives of streamlined recognition systems (SO1), reduced legal and administrative complexity (SO2) and increased trust in third-country qualifications (SO3), while preserving Member States' responsibilities.
(a) Is the initiative limited to those aspects that Member States cannot achieve satisfactorily on their own, and where the Union can do better?
Yes. The initiative is confined to procedural aspects of recognition — common rules on documentation, timelines and safeguards, and automatic recognition for a defined set of professions grounded in verified third-country learning programmes — rather than to admission policy, migration volumes or the definition of regulated professions, all of which remain with Member States.
(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.)?
The action is intended to take the form of a Directive establishing common procedural rules on the recognition of qualifications of third-country nationals. This is consistent with the choice of a Directive as the instrument for the parallel amendment of the PQD under Action 2 of the SPI, and reflects the need to leave Member States discretion over how competent authorities apply the common rules within their own administrative structures. The analysis also considered a non-binding instrument, such as a Commission Recommendation, drawing on prior experience with this approach in the field of qualifications recognition. This experience indicated that non-binding instruments have not delivered consistent implementation across Member States, and that a binding instrument is necessary to achieve the objectives of common procedural rules, enforceable deadlines and reliable outcomes for third-country nationals.
(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 or approach?)
Yes. The proposal does not harmonise the definition of regulated professions, national education and training systems, or Member State competence over migration and admission policy. It leaves Member States discretion over how they organise the competent authorities responsible for applying the common procedural rules, and participation by third-country institutions in the automatic recognition register remains voluntary.
(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?
Yes, and the costs identified are modest relative to the benefits. Implementation costs under the preferred option are estimated at EUR 28.7–50.7 million one-off and EUR 3.7–6.0 million per year, borne mainly at EU level (with limited adaptation costs for Member States linked to database interoperability), against estimated aggregate annual benefits of over EUR 340 million (administrative savings, monetised time savings for applicants and reduced employer-borne administrative costs). No new administrative costs are expected for citizens or businesses, consistent with the 'one in, one out' approach.

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

Yes. The Impact Assessment recognises that implementation costs and benefits will not be distributed equally across Member States, and identifies five determinants of this territorial variation: the volume of inbound migration applications involving qualification recognition; the scale, density and fragmentation of the national professional-regulation landscape; the existing degree of coordination between national migration and recognition authorities; and the procedural distance between current national practice and the proposed common EU rules (Annex 11, Diverging territorial impact of policy options). The proposal's common framework is designed to accommodate this diversity while respecting Member States' different national contexts and responsibilities.