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Manifesto: Definitions of the concept of liberal profession at European level

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EXTRAORDINARY GROUP III MEETING

The Liberal Professions

A lever for the Development of Europe:
towards a European Manifesto of Professionals

1 December 2017

Sala Protomoteca del Campidoglio | Piazza del Campidoglio | Rome

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European Economic and Social Committee
Group III – Various Interests

Definitions of the concept of liberal profession at European level

19 September 2017

At the initiative of the European Commission, a strategic discussion is taking place at EU level on the future of regulated professions. This is reflected in several developments, including the transparency process, the various infringement procedures and the services package presented in January 2017. From the European

Commission's perspective, the liberal professions are part of the regulated professions. No distinction is made between the liberal professions and other regulated professions.

It is likely that this debate will continue, and that the pressure on these professions to cut regulation in the interests of more economic growth will become much more intense. If we want to shed light on the specific characteristics of the liberal professions in general and, more specifically, as regards the tension between regulation and liberalisation, we need to work towards a common understanding of the liberal professions and an appropriate definition at European level. To date, various European legislative documents, European Parliament resolutions, rulings of the European Court of Justice (ECJ) and other EU initiatives have made reference to the liberal professions but without providing an exhaustive definition of this concept. Examples include the mention in Article 57(d) TFEU relating to the provision of services, and Recital 43 of the Professional Qualifications Directive adopted in 2005.

A common European definition of the liberal professions could be added to existing legal definitions in national law as well as other definitions. In particular, these include the list of criteria drawn up by the ECJ in 2001, Recital 43 of the 2005 Professional Qualifications Directive as well as definitions developed by various European (umbrella) associations in recent years.

A common European definition should be based on existing definitions and key common elements, without being overly rigid, especially so that it can accommodate

changes to the world of work and the emergence of new professions.

European criteria for the definition of the liberal professions

On the basis of existing definitions of the liberal professions, **various common elements** can be identified which should be used for a European definition.

The liberal professions can be characterised as follows:

- they provide intellectual services based on a specific professional qualification or skill,

- these services are provided personally and are based on a relationship of trust,

- the activity is carried out autonomously and on a professionally independently basis,

- the liberal professions are characterised by a professional ethos, they have an obligation to the contracting authority and are required to act in the public interest,

- and they are subject to a system of professional organisation and oversight.

Comment:

The above characteristics do not appear altogether in every definition. Some features are increasingly commonly, while others appear only occasionally or are worded differently with varying levels of significance attached. Relatively often, mention is made of particular qualifications, the intellectual nature of the service provided and the

autonomy/independence of those belonging to a liberal profession. Reference to a special relationship of trust and public service obligations is also to be found in some definitions. The same applies to the idea of personal provision. Fewer matches are found with regard to laws governing professions, professional self-governance, the need for registration, a professional code of conduct and ethical principles. Definitions from the German-speaking world are generally more comprehensive and include more criteria than definitions from other EU Member States. A European definition should include a sufficient number of criteria, without being too unwieldy or overly complicated.

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Definitions of the concept of liberal profession at European level



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