



Common Values of the Liberal Professions in the European Union

Preamble

In March 2000 the European Council of Lisbon adopted a programme for reform. The aim was to make the EU the most competitive and dynamic knowledge-based economy in the world by 2010. The Commission's Communication "Professional Services – Scope for more reform" of 5 September 2006 recognises the contribution that liberal professions make to the economy in all Member States and thus to the EU economy as a whole..

One major identifying factor of a profession is the willingness of individual practitioners to comply with ethical and professional standards that exceed the minimum legal requirements. Directive 2005/36/EC of 7 September 2005, makes it clear that where a service is provided cross border, the host Member State's professional rules linked to professional qualifications, particularly those linked to consumer protection and safety shall apply. This recognises the current position in which codes of conduct for an individual professional may differ from one Member State to another and that those who use a cross-border service will expect it to be provided subject to the same ethical and practice standards as apply where they live.

The current text of the Draft Directive on Services in the Internal Market asks Member States, in cooperation with the Commission, to encourage the drawing up at Community level of professional codes of conduct and to ensure that such codes are accessible by electronic means.

The Resolution of the European Parliament of 13th October 2006 responding to the Communication of the Commission mentioned above, supports the adoption of codes of conduct by professional service providers and adds that these should be drawn up with the involvement of all relevant stakeholders.

The European Council of the Liberal Professions (CEPLIS) circulated a questionnaire to Interprofessional Groups in Member States and to Monoprofessional organisations at EU level seeking comments on specific values that all liberal professions should exhibit. The response was uniformly positive.

CEPLIS therefore proposes as a first step to seek dialogue with other stakeholders at EU level with a view to securing agreement on these common values. This is intended to set the scene for individual professions at EU level to incorporate these values in codes of conduct to be applied throughout the EU.

CEPLIS recognises that there will be differences in detail in codes for individual professions at EU level, for example in the area of confidentiality of information. There will also necessarily be differences in detail in the way that the values in the EU code are reflected in the codes at Member State level to recognise differences in legislation – for example on data protection – and in culture and tradition. The initiative should however result in considerable narrowing of differences in codes applicable in individual Member States.

The activities of liberal professionals comprise intellectual tasks for the proper discharge of which a high level of legal and technical and sometimes scientific knowledge is required. The necessary knowledge is acquired by the successful completion of studies leading to a degree or diploma of higher education and/or the award of a recognised professional title. In some cases there may be additional requirements leading to registration with a regulatory body before practice is permitted. The liberal professional then becomes subject to the code of conduct applicable to that profession drawn up by the appropriate professional body with a focus on the interests of those who seek services from the professional concerned. That professional is aware that contravention of the provisions of the code may lead to disciplinary sanctions. Clients must have confidence that alleged contravention of the provisions of Codes of Conduct will be treated seriously by the professional body concerned and, if proved, will result in action proportionate to the seriousness of the breach being taken.

CEPLIS considers that Codes of Conduct for liberal professions at EU level should contain provisions covering the following topics.

1. Confidentiality

Confidentiality is the cornerstone for the building of trust between professionals and their clients or patients.

Codes of Conduct should make it clear that professionals must respect and safeguard the confidentiality of information acquired in the course of providing professional services and ensure that information about an individual is not disclosed to others except in specified circumstances and, where possible, with the informed consent of the individual.

2. Participation in Continuous Professional Development

Codes of Conduct should make it clear that professionals have an unequivocal responsibility to develop and maintain competency in their field of practice and to this end must participate in continuous professional development throughout their working lives.

Those who use professional services have a right to expect that practitioners will keep their knowledge in their field of practice up-to-date and will extend their competencies as the demand for new services develops.

3. Independence and Impartiality

Codes of Conduct should make it clear that liberal professionals have the right to exercise personal judgement in the frame of their responsibilities after taking into account all relevant circumstances, without any application of external influence.

Those who use liberal¹ professional services have a right to expect assessment of circumstances to be carried out and decisions to be made impartially and objectively, without pressure from external sources and without conflicts of interest.

4. Honesty and Integrity

Codes of Conduct should make it clear that professionals are required to act with respect, loyalty and integrity in their relationships with clients and others, including professional colleagues and must not engage in any activity or behaviour that would be likely to bring the profession into disrepute or undermine public confidence in the profession. The first priority in the provision of professional services must be the best interests of the client or patient. Nevertheless, professionals have also duties to the courts and third parties and must balance these with those of the client to uphold the proper administration of justice.

Those who use liberal professional services have the right to expect to be treated with courtesy and respect. They are also entitled to receive sound professional advice in terms they will understand, as well as information before and during the provisions of services, both on the procedure it is intended to pursue to achieve the desired objective and on the fees involved.

5. Supervision of Support Staff

Codes of Conduct should make it clear that professionals are required to ensure that any member of support staff to whom a task is delegated has the knowledge and skills necessary to undertake that task effectively and efficiently. There should also be appropriate supervision.

Those who use professional services place their trust in the practitioner with whom they have direct contact and have the right to be confident that tasks will be delegated only to members of support staff who have the necessary knowledge and competencies. In that context, it should be clear that the responsibility for a delegated task remains with the delegator.[It would appear to be important to ensure that the

¹ “Liberal professions, [...] are, according to this Directive, those practised on the basis of relevant professional qualifications in a personal, responsible and professionally independent capacity by those providing intellectual and conceptual services in the interest of the client and the public.” in Directive 2005/36/EC of the European Parliament and of the Council of 7 September 2005 on the Recognition of Professional Qualifications

CEPLIS document clarifies the question of the accountability of the liberal professional who delegates a task to a member of support staff. - JF]

6. Compliance with Codes of Conduct and Practice

All codes of Conduct should make it clear that members of the profession concerned are naturally required to comply not only with the provisions of the Code of Conduct itself but also with legislation and the provisions of codes of practice and standards relating to specific professional services they may provide.

Those who use professional services have the right to expect a service of high quality through strict compliance with all relevant legislation and codes of practice.

7. Professional Liability Insurance

Codes of Conduct should require that those providing professional services have in place a form of insurance in respect of potential liabilities to recipients and, where applicable, to third parties arising out of the provision of the service and at a level sufficient to ensure that a justified claimant would be adequately compensated. This insurance may be provided through a national arrangement in the case of services provided by the state, by an employer, or by the individual practitioner. Exceptionally, and by formal prior arrangement, the risk may be borne by the recipient of the service.

Those who use a professional service have the right to expect adequate information on the insurance or similar arrangements made by the provider to cover liabilities in the event of adverse effects resulting from errors or omissions made in the provision of the service

8. Conflict with Moral or Religious Beliefs

Those who lawfully seek a professional service should not have access to that service barred due to the moral or religious beliefs of the individual professional from whom that service is initially sought.

Codes of conduct should make it clear that, although members of a profession have no obligation to offer to provide a professional service in ways which conflict with their own moral or religious beliefs, they do have an obligation to respect the moral, religious and cultural beliefs of those requesting a professional service. Moreover, they do have an obligation to provide information on where that service can most conveniently be obtained from an appropriate professional colleague.

After agreeing to provide a service, liberal professionals are bound to set aside any personal religious, political, cultural, philosophical or other convictions and always to do their best for the benefit of the service user.