



**OECD Workshop on
Regulatory barriers to competition in professional services: measurement
and reform experience**

**Session 4 – “Removing regulatory barriers in self-regulated professions
and economic recovery”, 19 Nov 2021**

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- 01 “AdC’s Action Plan for Legislative and Regulatory Reform”.** Steps taken to promote the implementation. Results from the AdC/OECD Cooperation Project

- 02 Competition policy as a catalyzer of economic recovery.** The Government “Recovery and Resilience Plan (PRR)”. The AdC’s contribution: advocacy paper

- 03 Recent legislative proposals under discussion in the Portuguese Parliament.** Proposals aiming at amending the framework-laws applicable to all public professional associations and professional societies (Law No. 2/2013 & Law No. 53/2015)

“AdC’s Action Plan for Legislative and Regulatory Reform”

Results from the
 AdC/OECD
 Cooperation Project

13 Self-regulated professions

+ Horizontal legislation

9 Strategic key proposals

Steps taken to promote the
 implementation



Financial and economic	Economists; certified accountants; statutory auditors; customs brokers
Health	Nutritionists; pharmacists
Legal	Lawyers; notaries; solicitors; bailiffs
Technical and scientific	Architects; engineers; technical engineers
2019	Initiatives promoting contacts with relevant stakeholders : 8 Government Ministries; 7 political parties represented in the Parliament; 12 public professional associations
2020	Hearing between the AdC and the Parliamentary Group of PS
2020	AdC’s Recommendation on the competitive impact of the accreditation process of higher education study cycles with direct and indirect impact on the access to self-regulated liberal professions (see here)

AdC’s Action Plan (2018)



Available: <https://www.concorrenca.pt/pt/projeto-adc-impact-2020>

Competition policy as a catalyzer for economic recovery

The Government
“Recovery and Resilience
Plan (PRR)”

The AdC’s contribution:
advocacy paper

- **Portuguese Government PRR – Resilience Reforms** (April-July/2021)
 - Foresees a reform to reduce unnecessary regulatory restrictions to access and exercise of self-regulated professions: **C6, RE-r16: “Reducing restrictions in highly regulated professions”**

Available: <https://recuperarportugal.gov.pt/c6-qualificacoes-e-competencias/>

- **AdC’s contribution: “The Role of Competition in Implementing the Economic Recovery Strategy”** (June/2021)



- **Roadmap** with **recommendations and principles** to be considered by Government and other policy-makers
- **Three core areas – opportunity for change:**
 - **Removing unnecessary barriers in the law**, for firms to enter the market and expand their business – **implementing AdC’s Action Plan (Professions)**
 - Enhancing competitiveness and efficiency in public procurement; and
 - Applying competitive neutrality in public financial support to firms.

Recent legislative proposals under discussion in the Portuguese Parliament

Proposals aiming at amending the framework-laws applicable to all public professional associations and professional societies (Law No. 2/2013 & Law No. 53/2015)

Public Consultation undergoing at the Portuguese Parliament of 4 legislative proposals <https://www.parlamento.pt/ActividadeParlamentar/Paginas/DetailIniciativa.aspx?BID=121163>

- Discussion in the **generality** (2021.10.15): **approved** the legislative proposal of the Parliamentary Group of PS (1st proposal and the broadest in scope)
- Discussion in the **specialty**: follows specific debate at the specialized **Commission of Labor and Social Security**
- **Public consultation**: 2021.10.25 - 2021.11.24

Parliamentary Group PS (Socialist Party)

Project of Law No. 974/XIV/3^a – amendment of Law No. 2/2013 and Law No. 53/2015 (broadest in scope)

1 Deputy of the Parliament (not inscribed in a Party)

Project of Law No. 983/XIV/3^a - amendment of Law No. 2/2013 (characteristics of traineeships: duration; object; remunerated)

Parliamentary Group IL (Liberal Initiative Party)

Project of Law No. 988/XIV/3^a - amendment of Law No. 2/2013 (multidisciplinary practice; no possibility of By-laws to establish restrictions regarding: access to the profession; rules of professional societies)

Parliamentary Group PAN (People, Animals, Nature Party)

Project of Law No. 989/XIV/2.^a - amendment of Law No. 2/2013 and several By-laws of professional associations (characteristics of traineeships: duration; remunerated)

03 Recent legislative proposals under discussion in the Portuguese Parliament (2021)

Project of Law No. 974/XIV/3.^a: main proposals

- **All professions - Separation of the regulatory and representative function for all self-regulated professional associations**
 - Attribution to an **internal** independent supervisory body, of regulatory powers, in matters of access and exercise of the profession (e.g., internship rules; recognition of professional qualifications and competences obtained abroad; opinion on proposals for reserved activities)
 - Includes representatives of the profession and **other high-profile** individuals
- **All professions - Reanalysis of all reserved/tasks granted to the specific categories of professionals**
 - Aim to abolish/change when not adequate, necessary, and proportional
 - Foreseen the issuance of a **report, by the AdC**, to be submitted to the Government
- **All professions - Reassess the proportionality of characteristics of traineeships required to join a professional association: duration, purpose, evaluation model & charges**
 - E.g., 12 months maximum duration; non-duplication (professional/academic); non-duplication of subject-matters evaluated; no peer review; proportionality of charges; AND remunerated
- **All professions – Elimination of restrictions related to ownership, partnership and management of all professional firms**
 - E.g., non-professionals may hold the totality or majority of the share capital and voting rights; management may include only non-professionals members, if decided by the firms
- **All professions – Reduce restrictions to the offer of multidisciplinary activities by professional firms**
 - Expressly refers to the **Services Directive** (Article 25, “*Multidisciplinary activities*”); subjects the By-laws to a **proportionality test** regarding impediments and incompatibilities; subjects all to the applicable **deontological and secrecy** duties
- **All professions - Eliminates the possibility of being established certain restrictions in the By-laws:** e.g., quotas on access to the profession (e.g., specialties; geographical restrictions); price fixing; absolute prohibition of advertising

The Project of Law No. 974/XIV/3.^a aims to confer attributions to the AdC, namely:

Creation of new professional associations: issuance of an opinion to the Parliament

- It is foreseen that for the purposes of the procedure of evaluation, by the Parliament, of the constitution of new public professional associations, the AdC issues an opinion
- Opportunity to perform an **ex-ante competition impact assessment of the By-laws** and contribute with recommendations to eliminate legal barriers to entry/exercise of the profession

“Transitory clause” - Reevaluation of competition impact assessment of reserved activities: issuance of a report to the Government

- It is foreseen the issuing of a report, to be submitted to the Government, on the reassessment of the **various self-regulating liberal professions By-laws, laws, regulations, etc.**, with recommendations on reserved activities: **adequacy; necessity; proportionality**
- **High complexity** of the analysis
- Within **60 days after** the entry into force of the Law to be approved referred to in the Draft Bill

“Review clause” - Evaluation on its application and effectiveness: issuance of a report to the Parliament

- It is foreseen the issuing of a report, to be submitted to the Parliament, on the **application and effectiveness** of the Law to be approved referred to in the Draft Bill
- Opportunity to contribute with recommendations to eliminate legal barriers to entry/exercise of the profession
- Within **three years after** the entry into force of the Law to be approved referred to in the Draft Bill

03 Recent legislative proposals under discussion in the Portuguese Parliament (2021)





Key messages:

- **Significant steps forward taken.** Reform foreseen in PRR. Initiatives by different parliamentary groups under public discussion
- **Legislative proposals under discussion aim to amend frameworks applicable to self-regulated professions**
- **Specific amendments to the By-laws (and other laws, decree-laws, etc.) of each public professional association or professional societies** will subsequently need to be adapted



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Competition is a public good: a right of each and every one of us.

Thank you!

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