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**COMMISSION STAFF WORKING DOCUMENT**  
*Accompanying the document*

**Communication from the Commission to the European Parliament, the Council, the  
European Economic and Social Committee and the Committee of the Regions**

**on reform recommendations for regulation in professional services**

{COM(2016) 820 final}

**Detailed information**  
**on the assessment of regulation in professional services**

Table of content

**I. Introduction**

**II. Economic impact**

- II.1. Economic importance of professional services
- II.2. Prevalence of professional services' regulations and their impact
- II.3. Choice of Professions and restrictiveness indicator
- II.4. Econometric analysis of the impact of regulatory barriers

**III. Transparency and mutual evaluation between Member States**

- III.1. Mutual evaluation exercise
- III.2. National Action Plans
- III.3. Public Consultation

**IV. Summary of analysis of the regulation of the professions analysed per Member State**

**V. Annex on methodology of the economic indicator**

**VI. Annex on econometric analysis of the impact of regulatory barriers in professional services on economic outcomes**

## I. Introduction

Professionals and their activities<sup>1</sup> are regulated by Member States at national, regional or sometimes local level. Great disparities lie between the Member States in how they choose to regulate a profession. Those wishing to provide their services may find themselves either unable to or forced to undergo costly and time consuming procedures before gaining access. In 2013 the Directive was amended by Directive 2013/55/EU and introduced a transparency and **Mutual Evaluation** exercise between the Member States of their regulated profession<sup>2</sup>. The objective of this exercise was to achieve a regulatory environment that is proportionate and adapted to the real objectives of protecting general interests.

In the Single Market Strategy the Commission announced, among other actions, that there will be a periodic issuance of profession-specific guidance for reforms in a number of selected professions, addressed to Member States concerned.

This Staff Working Document provides the necessary background information for the recommendation made in the Communication.

It first sets out the economic impact, in particular the economic importance of professional services, the prevalence of professional services' regulations and explains the new indicator measuring regulatory intensity (II.).

The second part gives more information about the work undertaken by the Member States and the Commission in the past years in the framework of the mutual evaluation exercise and its follow-up (III.).

The subsequent section describes the regulatory situation for the selected professions for each Member State (IV).

Part V contains detailed explanations of the methodology used for the indicator and the last part provides the details of the econometric regression calculations (VI.).

## II. Economic impact

### II.1. Economic importance of professional services

A better functioning of the Single Market gives European Member States advantages at the national as well as global level. Total services account for 71% of GDP, representing slightly more than € 10 trillion and 68% of total employment, i.e. roughly 150 million people<sup>3</sup>. However, it is broadly acknowledged that more than 20 years after its creation the full potential of a single market in services remains unfulfilled.

The significant role of professional services in the EU economy cannot be under-estimated as they account for 22% of the European labour force, or over 47 million citizens directly

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<sup>1</sup> [Professional services](#) often require a high degree of education and training and make specialised knowledge and skills available to clients who may be other business users or private individuals. **Regulated professions** are defined in the [Professional Qualifications Directive](#) 2005/36/EC as professions where one needs a particular professional qualification to be allowed to exercise the profession.

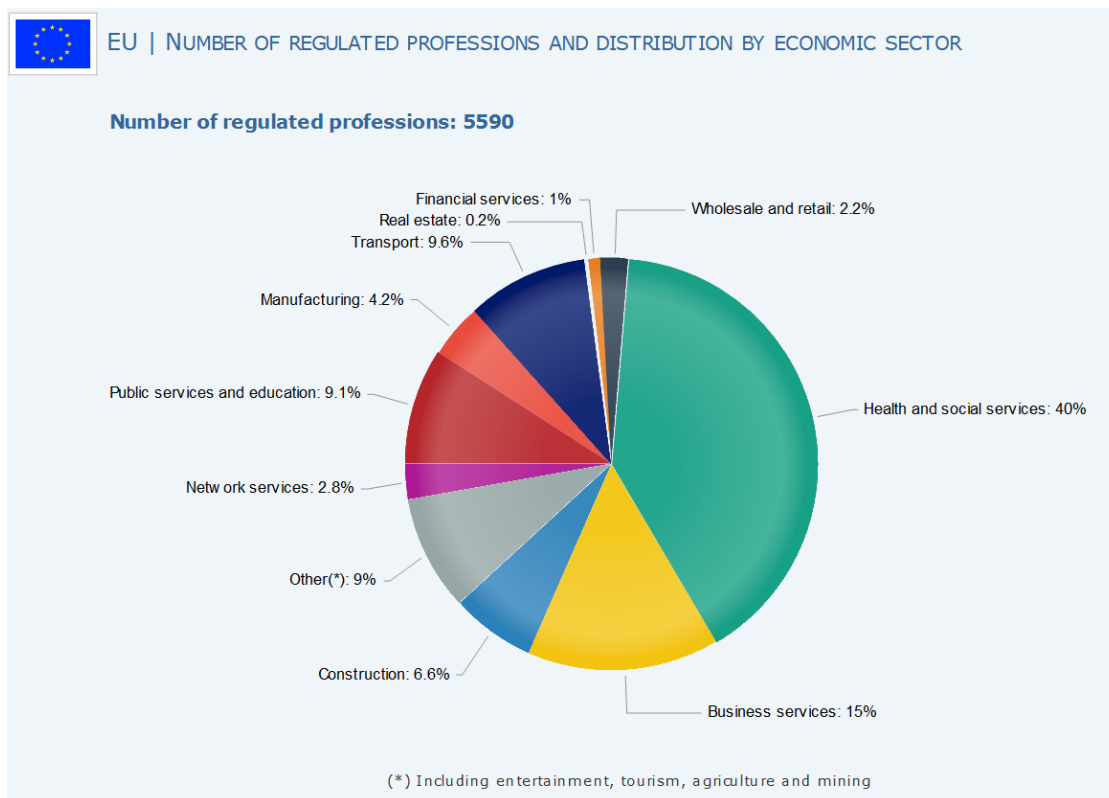
<sup>2</sup> The Communication of the Commission of 2 October 2013 set out a work plan to improve transparency on national professional regulations and to assess and discuss justification and proportionality of existing rules (mutual evaluation); COM(2013)676. Starting in 2014, this process required Member States firstly to introduce all the professions they regulated into the Regulated Professions Database alongside all the regulatory measures they implemented for each profession notified, using this information they were then required to review the impact of such measures and to consider their value in protecting legitimate public interests.

<sup>3</sup> Source: National account statistics.

affected by occupational regulation. Numerous studies demonstrate the untapped benefits to furthering the Single Market in services. One such recent study suggested that an annual potential of €39 billion GDP remains to be captured<sup>4</sup>.

At present, based on what Member States notified in the EU Regulated Professions Database<sup>5</sup>, there are over 5,500 regulated professions across the EU, if one considers the different regulatory regimes applicable throughout the 28 Member States. As highlighted by Chart 1, 40% of that total is accounted for by professionals in health and social services, followed by business services (15%), transport (9.6%), public services and education (9.1%) and construction (6.6%).

**Chart 1: Major groups of regulated professions, EU 28, October 2016**



Source: EU Regulated Professions Database

This number corresponds to an average of 200 regulated professions per Member State but with such large variances between countries that we see a range from the least, Lithuania reporting only 76, and Hungary with the most at 545<sup>6</sup>. However, these numbers tell little about the intensity (or proportionality) of the regulation, its economic impact or the characteristics of people affected by it. Nevertheless as a starting point to the present analysis it does serve to illustrate the scale of divergence in the European Single Market for services.

As highlighted by Chart 2, most regulated professions are regulated by way of reserved activities, i.e. by giving a monopoly to exercise certain activities or professions to individuals

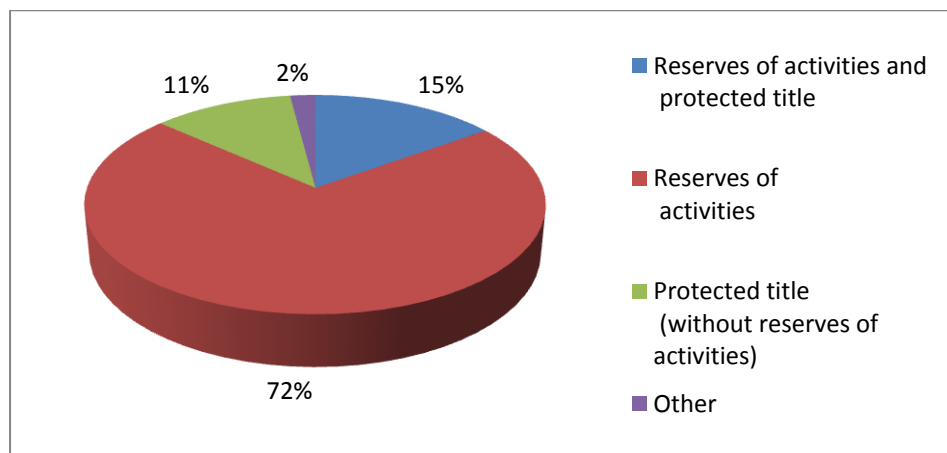
<sup>4</sup> [http://www.europarl.europa.eu/EPRS/EPRS\\_Mapping\\_the\\_Cost\\_of\\_Non-Europe-June%202014.pdf](http://www.europarl.europa.eu/EPRS/EPRS_Mapping_the_Cost_of_Non-Europe-June%202014.pdf)

<sup>5</sup> The Database includes information on the regulated professions covered by the Directive 2005/36/EC and shows that some 600 different “[generic professions](#)” are affected by occupational regulation. For each generic profession there are usually many more professions corresponding to the national terminology, because under a generic profession often there are several professions at national level, which brings the number of regulated professions in the EU up to c.a. 5,500.

<sup>6</sup> EU Regulated Professions Database, October 2016.

with the required level of qualification (72%), and in some cases title protection comes on top of the reserves (15%). These forms are the most stringent form of regulation compared to cases when only the title is protected but not access to the activities (11%).

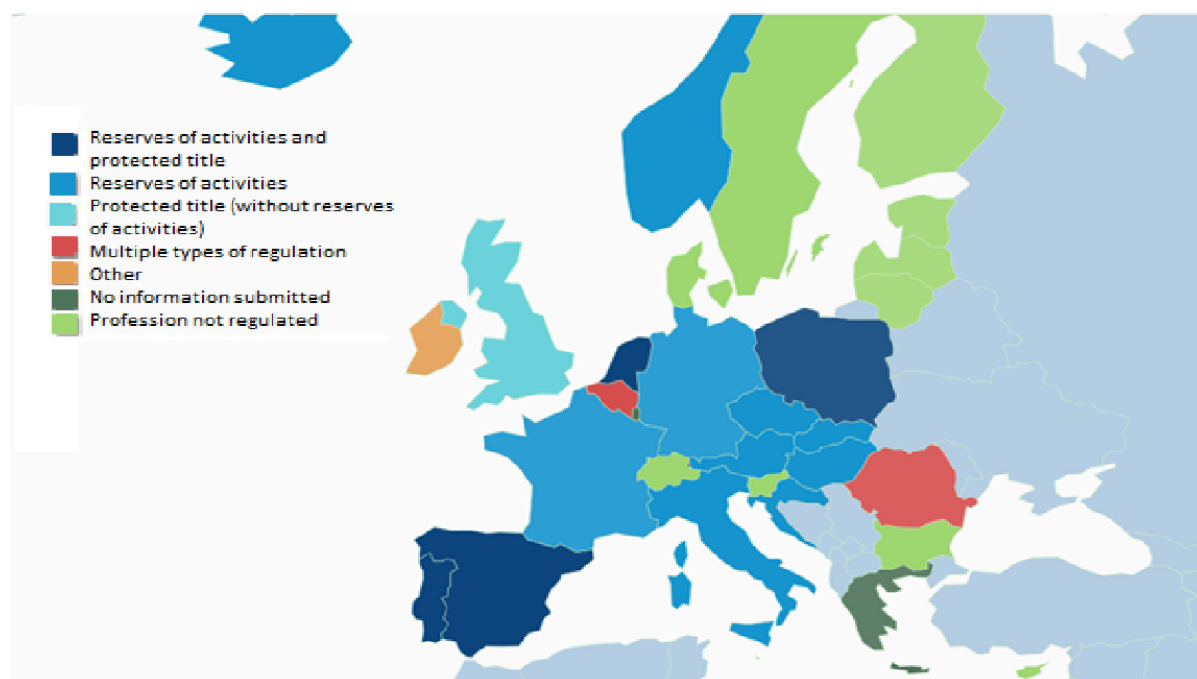
**Chart 2: Regulated professions in the EU by type of regulation**



Source: Database of regulated professions

The map below provides a visual representation of the occupational regulation across the EU countries in one profession as an example to illustrate the divergence between Member States in fundamental regulatory approaches (reserved activities, title protection, etc.).

**Chart 3: Categories of regulations by profession: Accountants / tax advisers (October 2016)**



Source: EU Regulated Professions Database<sup>7</sup>

Measuring the precise impact of regulation for professional services is difficult owing to the lack of such type of occupations in any EU or international statistical classifications and until

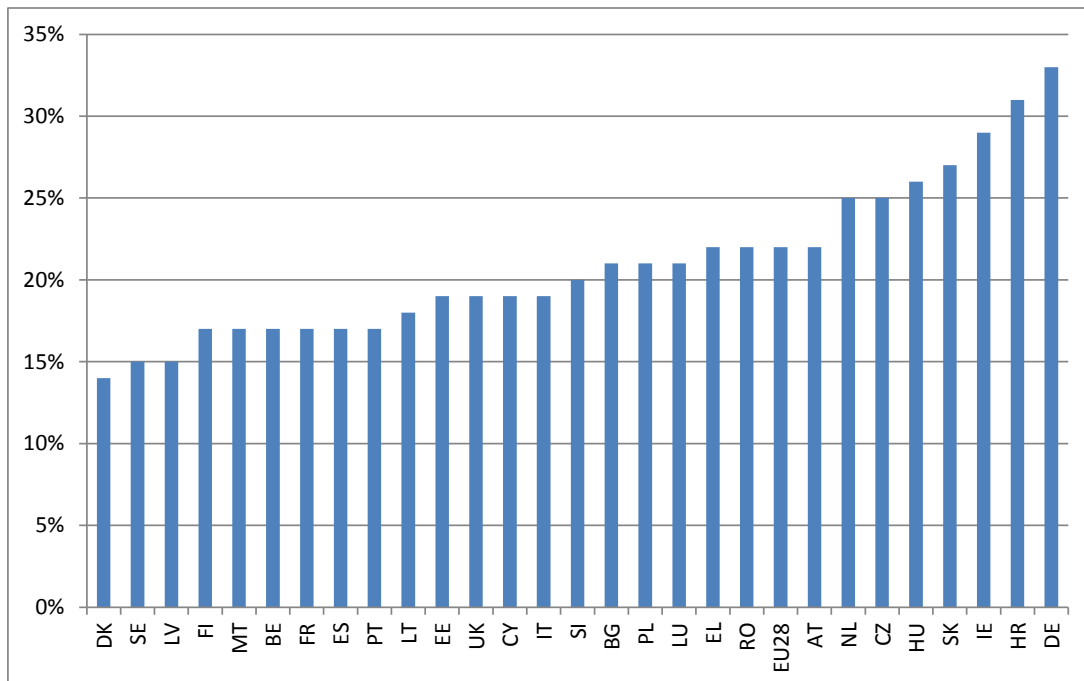
<sup>7</sup> Each country is responsible for updating information, on its regulated professions, competent authorities and statistics. The information displayed on the map reflects this situation which may not necessarily match with the Commission's assessment of national regulation, including as regards the 7 professions analysed in this document.

recently no figures even existed regarding the prevalence and effects of occupational regulation on the EU labour market. Therefore, to support the Mutual Evaluation the Commission contracted the first ever EU-wide representative survey to provide the data necessary to measure the prevalence of regulated professions.<sup>8</sup>

## II.2. Prevalence of professional services' regulations and their impact

Conducted during the first quarter of 2015 this survey reached over 26,600 European citizens and concluded that 22% of the European labour force, or over 47 million citizens are directly affected by occupational regulation. As Chart 4 indicates, its prevalence varies across the Union (from 14% in Denmark to 33% in Germany, with a higher general incidence in central Europe).

**Chart 4: share of regulated professions in total labour force, 2015**



Source:

TNS survey (2015).

The analysis of the survey as regards economic effects of regulation has shown that:

Occupational regulation can be associated with a substantial loss in employment (up to 700,000 jobs in the EU on the basis of conservative hypotheses). Depending on the occupation, there could be between 3 and 9% more people working in a given profession, should access requirements be made less stringent.

In terms of the impact on mobility, regulation imposes a significant cost to foreign-born workers. In particular, the proportion of foreign-born workers is about one third lower than among regulated workers. Automatic recognition arrangements in the EU are effective in facilitating entry into foreign markets and mobility across countries.

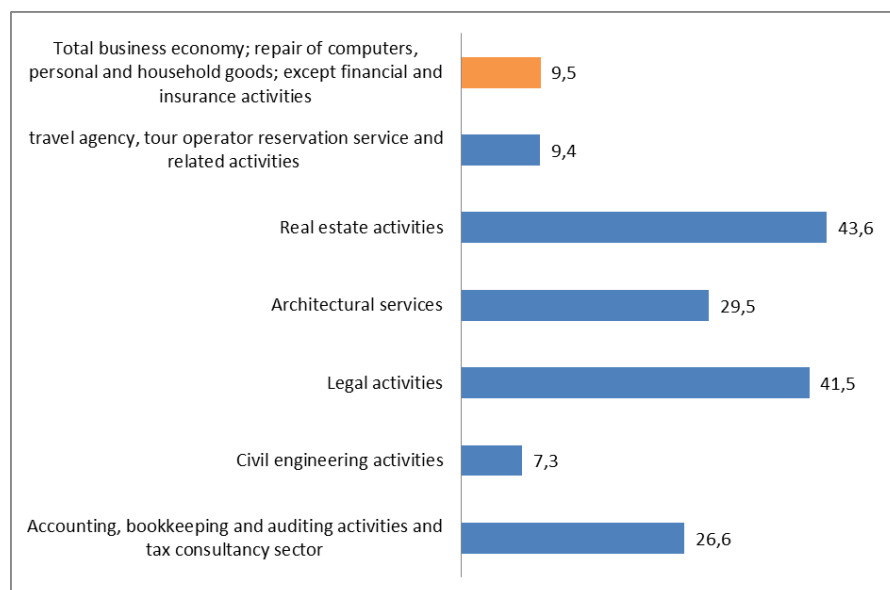
Occupational regulation is associated with an aggregate wage premium of 4%. However, it varies considerably across professions, as it ranges from 6 % for professionals to 19% for craft and related trade workers. The study also shows that regulation of professions contributes to wage inequality.

<sup>8</sup> Koumenta M. and M. Pagliero (2016), "Measuring Prevalence and Labour Market Impacts of Occupational Regulation in the EU". See: <http://ec.europa.eu/DocsRoom/documents/20362>.

The regulation of professions is also found to distort the returns on education. The returns on education for unregulated workers increase consistently with the years of education achieved. In contrast, the returns on education for regulated workers are basically flat until post-secondary education. The return on a university degree is then much larger for regulated workers than for unregulated ones.

Another factor is the lack of competition, evidenced by higher profit rates than in the rest of the economy, as Chart 5 shows, and a relatively lower turnover of companies. Some recent examples of reforms, lifting restrictions on entry and exercise of regulated professions, show a positive impact on employment as well as for consumers, as prices tend to decrease.

**Chart 5: Gross operating rate in selected sectors, EU28, 2013 (%)**



Source: Eurostat and own calculations

### II.3. Choice of professions and restrictiveness indicator

The Communication and this Staff Working Document contain recommendations and detailed and objective analysis of the regulations which apply to civil engineers, architects, accountants, lawyers, patent agents, real estate agents and tourist guides. These professions were selected because they belong to four key economic sectors (business services, construction, real estate and tourism). Mobility in these professions is relatively high and the professions are regulated in a majority of Member States yet taking divergent approaches meaning that potential for reforms most likely exists. Indeed, under these generic names are a multitude of professions regulated at national level with diverse specialisations varying from one country to another. In view of having a global picture of the restrictions in place for the activities covered under these generic professions it is necessary to analyse the restrictions for each of the sub-professions. For example, in Austria, there are 4 different professions exercising activities of an accountant (*Personalbuchhalter*, *Bilanzbuchhalter*, *Buchhalter* and *Steuerberater*) and in Spain there are 2 professions exercising activities of an architect (*Arquitecto* and *Arquitecto tecnico*). Hence restrictions applying to each of these professions are analysed.

#### *A new indicator on the restrictiveness of occupational regulation*

Based on the data collected from Member States during the mutual evaluation exercise, complemented by desk research by Commission services, a composite restrictiveness

indicator has been developed. The purpose of the indicator is to measure the intensity of restrictiveness of national regulation as regards access to and exercise of regulated professions through the use of a standardised approach. A detailed explanation of the methodology used for this indicator can be found in Chapter V of this Staff Working Document.

The indicator measures the relative restrictiveness of most existing barriers to the access to and exercise of regulated professions, essentially the following: the regulatory approach, i.e. the scope of reserves of activities and whether title is protected, level of education required, obligation to be a member of a professional organisation, existence of quantitative or territorial restrictions, legal form, shareholding and voting rights requirements, incompatibilities of activities for a professional, tariffs, restrictions on advertisement and marketing, professional indemnity insurance and additional authorisation requirements. In view of developing a full picture of the overall burden put on professionals, the indicator shows the cumulative effect of the different requirements leading to an assessment of the intensity of the regulation for a specific profession in a given Member state.

For those countries and professions where there is only title protection, the indicator measures the restrictiveness to access the title protection<sup>9</sup> even though it may be possible for a professional to exercise the activity without using the title.

The indicator integrates the relative importance of the different restrictions by way of differentiated weights applied to each of the restrictions analysed. For example, the existence of reserved activities is considered the strictest form of restriction whereas the obligation to be covered by professional indemnity insurance is considered relatively less restrictive. Indeed reserves of activities are the entry point by which professionals may or may not exercise an activity. All the other types of restrictions introduce additional conditions for professionals to meet in order to access and exercise the activities. The scope of the reserves is key in determining the overall level of restrictiveness. The larger the scope the more restrictive the regulation will be.

Restrictions cannot be analysed separately without taking into account the other mechanisms in place to complement or replace the specific restriction. This holistic approach enables an estimation of how restrictive a regulatory framework or approach is legally speaking for professionals. The indicator will however not reveal non-regulatory barriers or the role played specific horizontal laws or mechanisms in place to protect the consumers and the public interest objectives. This is why this indicator is accompanied by a qualitative assessment and analysis which provides additional information regarding the reality on the ground.

The restrictiveness indicator of regulation in professions has many similarities with the OECD's Product Market Regulation (PMR) indicator, but also differs from it in certain aspects, including: (1) groups of professions under review are the same for four of them, three more being analysed for the indicator of restrictiveness;<sup>10</sup> (2) this indicator assesses restrictions which are not considered by the OECD, including a range of requirements relating to qualification and training; (3) from a methodology point of view a simple average of all the restrictions was used by the OECD to calculate their composite indicator, while a weighted average was applied in the case of the Commission's restrictiveness indicator; (4) In

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<sup>9</sup> This concerns essentially the following professions and countries: accountant (Ireland, Netherlands, UK), architect (Netherlands, UK), civil engineer (Belgium, France, UK), patent agent (Finland, Ireland, Sweden), real estate agent (Finland)

<sup>10</sup> The following professions are analysed by both the OECD and the Commission: architects, lawyers, accountants and engineers. In addition, the Commission analysed the cases of patent agents, real estate agents and tourist guides.



the case of the OECD, the most stringent regulation are taken into account in situations where there are more than one profession existing at national level under the 4 main professional categories. The restrictiveness indicator takes into consideration all regulated professions at national level. For example, in the case of Austria, four types of accountants are analysed and the mean level of restrictions across the four professions is calculated. In the case of the OECD, only the highest restrictions are considered in the calculation. (5) Some of the activities covered by the OECD are not included in this new indicator. This is in particular the case of statutory audit activities which we consider as belonging to the profession of auditor, highly regulated and to be distinguished from accountant /tax adviser. Also concerning legal activities, the OECD considers notarial activities, highly regulated in most Member States, while we exclude these activities because we consider they fall within the remit of the notary profession and should not be mixed with lawyers.

#### II.4. Econometric analysis of the impact of regulatory barriers

An econometric analysis done by the Commission services indicates that the high levels of regulatory restrictions in the 7 analysed regulated professions coincide with poor economic outcomes, while lower restrictions seem to go hand in hand with better outcomes. Specifically, it is very likely that high sector-level restrictions in a country (as measured by the synthetic indicator) have a significant positive impact on the sheltered incumbents' rents in that sector (approximated by the profitability ratio) while possibly depressing the entry (the growth in the number of firms) in that sector. More details on the methodology used and the results can be found in the annex on the regression analysis in chapter VI.

### **III. Transparency and mutual evaluation between Member States**

The issue of proportionality in the regulation of professional services is one that the European Council and Parliament has returned to repeatedly for some time. In its March 2012 conclusions, the European Council asked Member States to reduce the number of regulated professions and remove unnecessary or disproportionate barriers to entry to regulated professions. In its recommendation of June 2012 the European Parliament called on the Commission to identify areas where Member States are disproportionately blocking access to regulated professions. In the conclusions from its meeting on 24 and 25 October 2013, the European Council once again stressed the need for Member States to identify remaining barriers to accessing professions, assess their cumulative effect and take appropriate action. It is in this context and against the backdrop of appreciation that the regulation of professions is as much an economic issue as one of skills and qualifications, that the mutual evaluation was initiated. The present initiative evolved as an appreciation of both the prevalence and impact of suboptimum regulations that developed through this mutual evaluation process and the information it uncovered.

#### III.1. Mutual evaluation exercise

This exercise was conducted with Member States between 2014 and 2016 and aimed to obtain a comprehensive overview of the regulated professions in the EU as well as conditions to access these professions through (1) a simplification and improvement of citizens' access to information on regulated professions and (2) the commitment of EU countries to review the requirements they impose with regards to access to and pursuit of regulated professions. The exercise was concluded in early 2016. Member States reviewed their regulatory measures affecting regulated professionals in this context and assessing whether these are excessive or constitute barriers to economic growth.

In practice each Member State was invited to examine on a case-by-case basis the regulations for access to each profession to ensure that barriers in place are not erecting undue obstacles or are not justified in the light of the objectives to be achieved. In order to enable Member States to exchange and compare the practices in place in each country, 12 professions were chosen as an example for in-depth discussions and the sharing of best practices during discussion with all Member States in Brussels.<sup>11</sup>

The aim of this process was, where beneficial, the revision of the conditions of access to and exercise of certain regulated professions, for instance by adapting the level of qualification required, by reducing the scope of reserved activities or by reducing or modifying other requirements imposed on professionals. In addition, the transparency and mutual evaluation also aimed to facilitate the mobility of skilled professionals within the European Union and to promote the development of services activities across national borders.

### III.2. National Action Plans

As a result of this process and according to the obligations set out in the revised Professional Qualifications Directive, Member States were required to submit so-called National Action Plans [NAPs]. 7 Member States, namely **Cyprus, Greece, Hungary, Ireland, Malta, Slovenia** and **Spain** have as yet not submitted any NAP and the level of ambition for reforms in regulation of professional services as expressed in those NAPs which were submitted varies greatly.<sup>12</sup>

By way of example, measures covered in the national action plans received include:

- horizontal actions covering a range of sectors and professions. For example: Austria has introduced in 2013 a new post-evaluation instrument for every new legal act and a new uniform and electronic registration system for trades; Denmark has indicated in its action plan that it has recently undertaken or intends to do so in the near future a modernisation and simplification of the regulation for 41 of the 166 regulated professions in the country; France has adopted measures to facilitate the access to some legal professions and has recently taken or plans to take further measures to simplify the access to and exercise of several professions including the revision of legal form and shareholding structure requirements, the scope of reserved activities or the qualification requirements.
- targeted measures on specific professions or types of restriction. For example: Germany intends to take some actions to modernise professions in business services; the United Kingdom is exploring potential reforms around building regulations with regards to the architectural profession, in veterinary nursing and surgery and the healthcare professions. In Italy, state exams and training requirements are being revised for some professions to better reflect the competences required and adapt the activities reserved of the concerned professions.

In addition, empirical case studies commissioned during the mutual evaluation exercise provide useful examples of how the assessment of the impacts of regulation or a change thereof can be done and what the effects can be. These studies show that the reduction or removal of regulatory barriers has led to a reduction in the prices of the concerned services; positive effects on employment for the regulated professions as a whole or a relative increase

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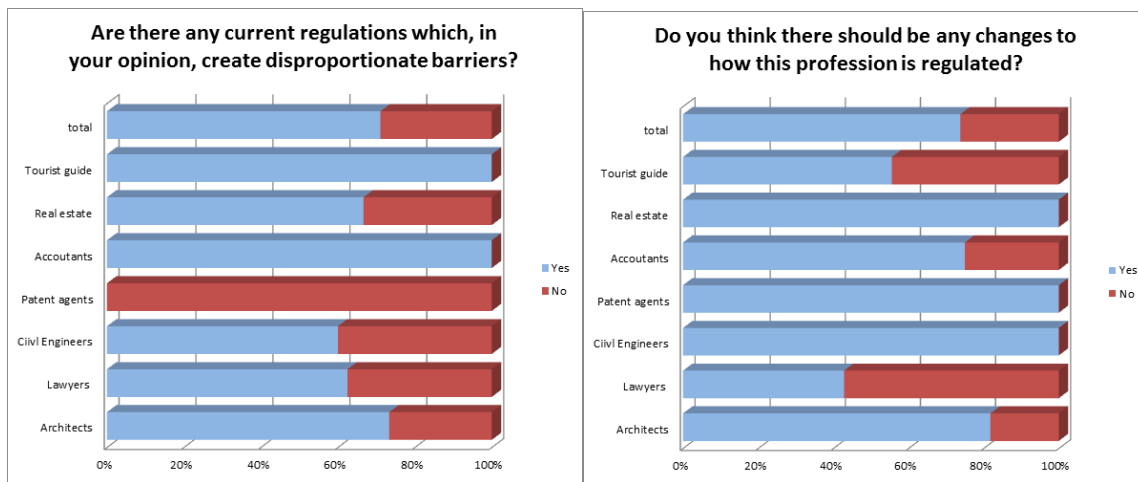
<sup>11</sup> The discussion covered a range of professions from different sectors, 4 of them being also part of this guidance: architects, civil engineers, real estate agents and tourist guides. Results of these discussions are available at [http://ec.europa.eu/growth/single-market/services/free-movement-professionals/transparency-mutual-recognition\\_en](http://ec.europa.eu/growth/single-market/services/free-movement-professionals/transparency-mutual-recognition_en).

<sup>12</sup> Available at <http://ec.europa.eu/DocsRoom/documents/19202>

in the number of new entrants into the reformed professions. In macroeconomic terms, this translates into a better allocation of resources, as shown in a recent study.

### III.3. Public Consultation

A public consultation was carried out between 27<sup>th</sup> May and 22<sup>nd</sup> August 2016 to provide respondents with an opportunity to comment the proportionality of professional regulations and on the content of Member State's NAPs. Respondents were also given the opportunity to nominate a profession of particular interest to them and comment on its regulation. A total 420 responses were received and 21 separate submissions<sup>13</sup>. Regarding the professions considered in this document we received 16 responses relating to the regulation of architects; 7 for engineers; 30 for lawyers; 24 for accountants; 3 estate agents; 16 tourist guides and; 1 regarding patent agents<sup>14</sup>. The responses to two of the question most pertinent to the subject currently under discussion are presented below:



<sup>13</sup> As only one submission per email address / organisation address is admissible (except in cases where the respondent was replying to different Member States' NAPs) 80 multiple submission were removed.

<sup>14</sup> A fuller extrapolation of the Public Consultation may be found under [http://ec.europa.eu/growth/single-market/services/free-movement-professionals/transparency-mutual-recognition\\_en](http://ec.europa.eu/growth/single-market/services/free-movement-professionals/transparency-mutual-recognition_en)

**IV. Summary of analysis of the regulation of the professions  
analysed per Member State**

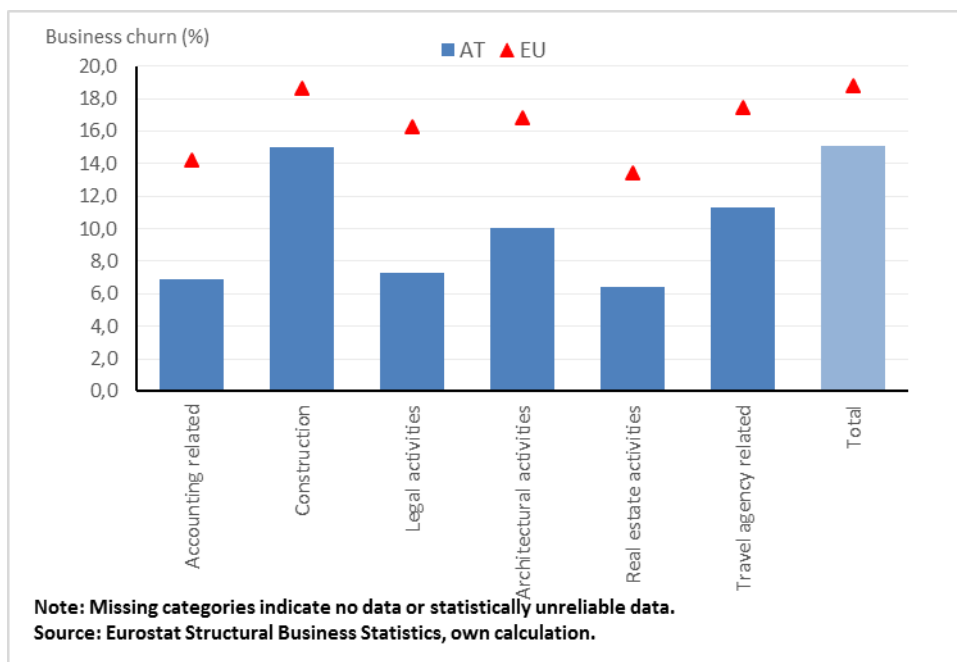
## I. Overview

On 1 November 2016 Austria had submitted information about 219 regulated professions. Among those professions, 10% concern business services, 9% the construction sector and 0,5% the real estate sector.

According to a recent EU wide survey<sup>15</sup>, 22% of Austrian labour force can be considered as working in regulated professions. This is slightly higher than the EU average (21%).

As indicated in chart 1, for all professions selected, business churn (or turnover) rate<sup>16</sup> is lower in Austria than in the EU on average. With the exception of the construction sector, the churn rates are also lower than the average churn rate for the total Austrian economy. This may be interpreted as an indication of the relatively low dynamism and competition within regulated professions in Austria.

**Chart 1: Business churn rate in selected sectors, Austria and the EU, 2013-14 (%)**



Austria has been participating very actively in the **mutual evaluation exercise**. However on 10 October 2016, still 20 % of the general information on different regulated professions was missing and almost 30% of the professions still need to be assessed as to the proportionality of their regulation.

In its **national action plan**, Austria presents a new post-evaluation instrument introduced in 2013 for every new legal act and a new uniform and electronic registration system for trades, but only announces changes for a limited number of professions. A working group which

<sup>15</sup> Koumenta M. and M. Pagliero (2016), "Measuring Prevalence and Labour Market Impacts of Occupational Regulation in the EU". See: <http://ec.europa.eu/DocsRoom/documents/20362>

<sup>16</sup> Business churn rate is calculated as the ratio of the sum of newly founded and closed enterprises to the total number of enterprises in year  $t$ . No data available for patent agent related activities.

should look into the possibilities of reforming rules on multidisciplinary activities of a number of regulated professions, has been initiated at the end of 2015. This working group came to the conclusion that there already are sufficient possibilities for cooperation between the professions. In June 2016 plans emerged about a significant reform of the trade law covering mainly craft professions, but also tourist guides and real estate agents.

In 2016, the European Commission addressed a **country specific recommendation** to Austria in the area of professional services:

*Reduce administrative and regulatory barriers for investments, such as restrictive authorisation requirements and restrictions on legal form and shareholding, and impediments to setting up interdisciplinary companies, in particular in the area of services.*

## II. Situation concerning the analysed professions

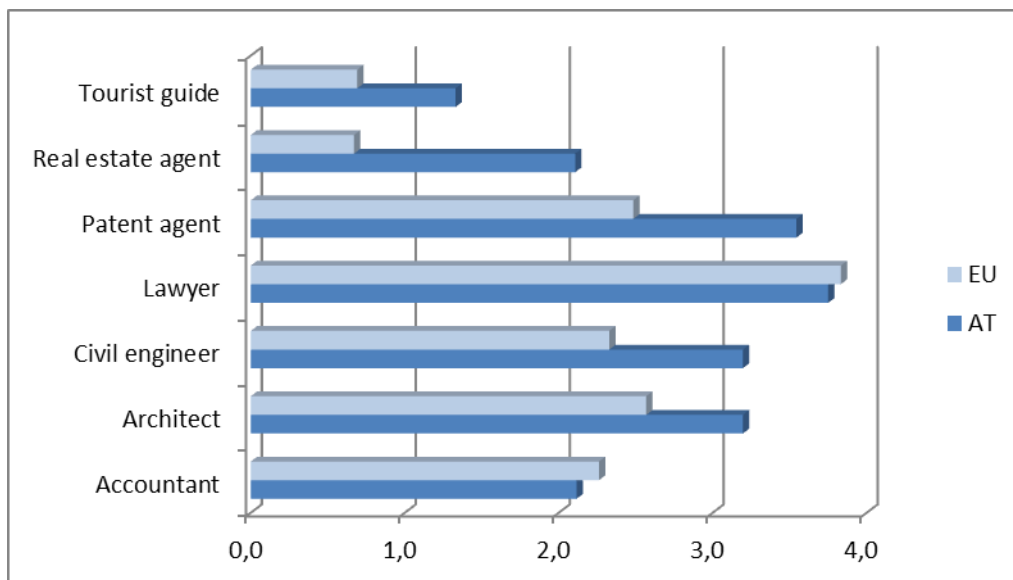
Architects, Engineers, Lawyers and Patent attorneys are among the so-called “liberal professions” in Austria and subject to specific legislation for liberal professions. The same is true for tax advisers, while other accounting professions have recently been regrouped in a separate law.

Tourist guides and Real estate agents are considered to exercise commercial activities and hence are covered by the general trade law (*Gewerbeordnung*).

The level of restrictiveness is higher in Austria compared to the EU weighted average for all professions under review with the exception of the profession of lawyer and accountant where it is slightly lower. Amongst the professions analysed, restrictiveness is highest for lawyers.

Chart 2 presents the results of the quantification made by the Commission on the restrictiveness level in the selected professions.

**Chart 2: Restrictiveness indicator, 2016, Austria and the EU**



Source: European Commission services

## Architects/Engineers

Both professions, covered by the same law, are regulated by a reserve of activities and a title protection. The reserve of activities includes the drawing up of public documents in their respective field of activity.

In addition, activities in the field of architecture and engineering can also be exercised by a so called master builder or commercial engineer ("*Baumeister / Ingenieurbüro*") in the framework of the general trade law ("*Gewerbeordnung*"). There is a number of shared activities.<sup>17</sup>

However there are significant differences between these two groups regarding the scope of activities and also the conditions concerning the access to the profession: In order to ensure the independence and objectivity of architects and engineers there is a strict separation between the planning and the execution of activities. Whereas architects/engineers are limited to planning, consulting, coordination and supervising activities, the master builder has no such limitation and can plan/supervise and build at the same time.

The required duration of study/professional training for architects and engineers is 8 years, including 3 years of mandatory traineeship/prior professional experience. Membership with the professional association is mandatory. Additionally to the qualification requirements, it is necessary to pass a specific exam in order to get the authorisation to practice which is valid throughout the national territory.

Professional indemnity insurance is not obligatory (except for public works). The professional chamber organizes collective insurance coverage on a voluntary basis.

Concerning legal form and shareholding requirements, the setting up of professional legal persons is possible, but only certain company forms are available, including the form of private limited liability company (GmbH). More than 50% of the shares have to be held by one or more natural persons authorised to exercise the profession of civil engineer; the remaining shares may be owned by either other architectural or civil engineering firms or by any other natural person. There are also strict rules on decision making, imposing that decisions can not be taken against the partners authorised to exercise the activity. The exclusive scope of the activity of architectural or civil engineering firms has to be the provision of architecture/engineering services limiting therefore the possibility of joint exercise with other professions.

## Accountants

The law on accountancy, which came into force in 2014, covers three professions: senior accountant ("*Bilanzbuchhalter*"), accountant ("*Buchhalter*") and payroll accountant ("*Personalverrechner*"). These professions are regulated by a reserve of activities for self-employed service providers. In order to become self-employed an official appointment is necessary and requires 1,5 to 3 years of professional experience. Membership with the

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<sup>17</sup> Architects share activities with master builder: Architectural design and planning, feasibility studies, Construction cost management, monitoring of construction /execution including supervision of other related professionals / inspection of execution, Examination of design and related documentation, Interior design / preparation of documentation for interior decoration, Preparation/ submission/ signing of technical control and compliance/permit related documentation or certification of project and adhering to building legislation / standards of performance, quality, cost and safety.

Engineers share activities with commercial engineers: Design and planning, feasibility studies, Ensuring compliance of related documentation or certification of project/ Signing of designs and technical control / Representation for obtaining permits, Planning and management maintenance; survey of sites, Project management including construction cost management, monitoring of construction/ execution of the project, Tender and contract administration.

Architects share activities with engineers: Landscape Architecture, Urban / territorial planning/ design, interior design.

professional chamber is mandatory as well as professional indemnity insurance. The law also foresees continuous professional development requirements.

Reserve of activities differs between those professions (from payroll services and representation and assistance before administrative authorities to book-keeping and drawing up of financial statements to tax advice), and most of them are also shared with tax advisers, auditors and partly with lawyers.

The profession of tax adviser (“*Steuerberater*”), a liberal profession, is regulated by a reserve of activities together with title protection. The reserve is rather large, including also all the activities, which can be provided by the other three accounting professions. None of these activities is exclusively reserved to tax advisers; they either share it with the accounting professionals or with other liberal professions.

While there are no specific restrictions or rules concerning legal form and shareholding for accountants, there is only a limited number of legal forms available for tax advisers. Shareholders must be either professionals or members of the family. Professionals from other Member States might not hold more than 25% of voting rights. There are also very precise rules providing that joint exercise of professions is only possible with other liberal professions, accountants, management and technical consultants. Professional indemnity insurance is mandatory.

### Lawyers

Like all the other liberal professions, lawyers are regulated by a reserve of activities and title protection. A lawyer’s right of representation, extending to all courts and authorities confers the power to represent parties on a professional basis, both in and out of the court, for all public and private matters. This power is reserved to lawyers.

After 4 years of legal studies in Austrian law, a candidate has to gain at least three years of experience as a trainee lawyer before being admitted to the bar exam. Membership with the bar is mandatory. There is also an obligation to engage in continuous professional development.

As far as legal form and shareholding requirements are concerned, as for other liberal professions, only certain company forms are available, including the form of private limited liability company (GmbH). More than 50% of the shares have to be held by lawyers. The other shares can only be held by a limited number of categories of persons foreseen by law, such as close relatives. The qualified registered lawyers must hold the majority in the company capital, and they must have a decisive influence on the decision-making process, which means a simple or the contractually determined qualified majority (usually up to 75%) for shareholders’ resolutions in favour of the professionals.

In order to preserve independence and professional secrecy and to avoid a conflict of interests, the setting up of multidisciplinary companies is not permitted. However, certain forms of cooperation between lawyers and other liberal professionals are possible if core values of the profession are safeguarded in the interest of the clients. There are also specific rules dealing with the incompatibility between certain professions (notary) as well as general rules on incompatibilities.

Professional liability insurance is mandatory.

### Patent agents

The profession is regulated by a reserve of activities and title protection. The reserve covers counselling and representation before the Patent Office or other administrative authorities,



drawing up legal documents in intellectual property matters and representing clients before the courts in intellectual property matters (for patent attorneys only before the Higher Regional Court (of Vienna). All these activities are shared with lawyers and notaries.

After 5 years of technical studies, an examination of competencies in law has to be passed and a prior professional practice obtained, the length of which depends on the type of professional practice (e.g. 5 years in the office of a patent attorney or 7,5 years in the field of intellectual property rights). Membership with the professional association is mandatory. A candidate has to apply for entry on the list of patent attorneys which can be refused. Candidates also have to swear an oath.

Regarding legal form and shareholding requirements, as for other liberal professions, only certain company forms are available, including the form of private limited liability company (GmbH). It is interesting to note that shareholders can only be patent attorneys and their close relatives (wife, children) or retired patent attorneys. In addition, a patent attorney may only be part of one company and joint exercise with other professions is therefore not possible.

Professional liability insurance is obligatory.

### Real estate agents

The profession of real estate agent is part of three professions in the sector of real estate trustees and can be exercised independently from the two other professions (which are real estate management and real estate developer). It is regulated by way of reserve of activities, which are brokerage of sale and of exchange of plots of land, legal estates, apartments, business premises, prefabricated houses and enterprises; brokerage of lease contracts (and similar contracts) for real estate; sale of real estate including hire purchase; brokerage of participations in property funds; advice and support for the afore-mentioned transactions. The activities of real estate agents also cover representation before of public authorities/courts (as far as it is not reserved to lawyers) as well as carrying out public auctions of properties. Part of the activities are shared, notably with lawyers and notaries, but others seem to be exclusive like obtaining information about properties to be sold or leased, the circumstances of their owner and the needs of prospective buyers or tenants or showing properties to be sold or leased to prospective buyers or tenants and explaining terms of sale or conditions of rent or lease.

In general it takes between 1 and 3 years of training (depending on the pre-professional education) in order to acquire the necessary professional qualifications. As for other regulated professions covered by the trade law, the qualification is only required for the pursuit of these activities as a self-employed person or as manager. Four alternative paths are available for obtaining the necessary qualifications, mainly requiring successful completion of a specific qualifying examination covering general knowledge of regulations such as tax law, labour law and many others, as well as specific subjects relevant for the profession offer different possibilities for obtaining the necessary qualifications.

Mandatory registration with the chamber of commerce (“*Wirtschaftskammer*”) is not linked to the regulation of the profession as anyone setting up a business has to become member of the chamber. Professional insurance is required as well as proof that there are no criminal convictions and no convictions related to violations of tax law.

Austria considers regulation necessary also due to the fact that the agents act as trustees representing the interests of their clients, thus preventing extensive and costly disputes at court.

Austria has indicated that it wants to maintain the current system, although an envisaged general review of the trade law announced in June 2016 could change this position.

### Tourist guides

The profession is regulated by a reserve of activities. The scope of the reserved activities is particularly wide covering guidance of persons to show and explain to them 1) the historic treasures and the artistic and cultural heritage of Austria, 2) the social and political situation in national and international contexts and 3) sporting and social events. However some of these activities are shared with non-regulated professionals ("*Reisebetreuer*"), e.g. persons in tour buses and taxis giving commentary inside a vehicle.

In order to become a tourist guide, an obligatory training of at least 250 training units has to be followed. Such training courses are offered by various institutes. In addition, there are different possibilities to get other studies recognized for the professional exam, thus extending the ways the qualification can be obtained. Mandatory registration with the chamber of commerce is not linked to the regulation of the profession, as anyone setting up a business has to become member of the chamber.

Austria has indicated that it wants to maintain the current system, although an envisaged general review of the trade law announced in June 2016 could change this position.

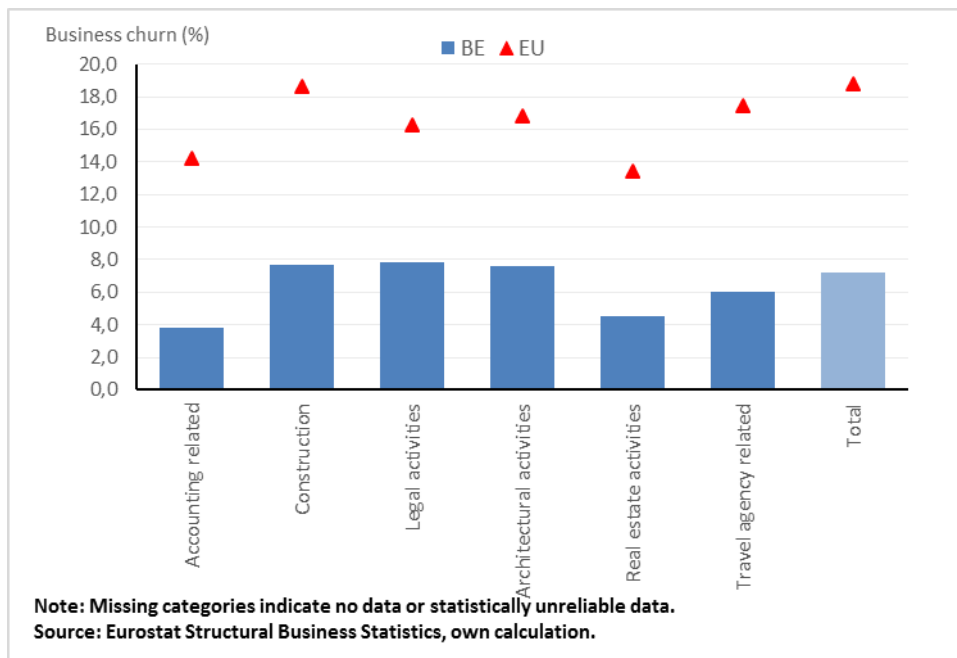
## I. Overview

On 1 November 2016 Belgium had submitted information about 130 regulated professions. Among those professions, 12,3% concern business services, 8,5% the construction sector and 0,8% the real estate sector.

According to a recent EU wide survey<sup>18</sup>, 17% of Belgian labour force can be considered as working in regulated professions. This is below the EU average (21%)

As indicated in chart 1, for all professions selected, business churn (or turnover) rate<sup>19</sup> is significantly lower in Belgium than in the EU on average. This may be interpreted as an indication of the relatively low dynamism and competition within regulated professions in Belgium.

**Chart 1: Business churn rate in selected occupations, Belgium and the EU, 2013-14 (%)**



Belgium has participated in the **mutual evaluation exercise** rather passively. The large majority of general information needed regarding its different regulated professions has been submitted in the regulated professions database. However on 10 October 2016, 20% of the general information on the different regulated professions is still missing and around 30% of the professions still need to be assessed as to the proportionality of their regulation.

In its **national action plan (NAP)**, Belgium presents an overview per sector of its regulatory framework for regulated professions and explains the particularities of the regulation due to the fact that it is a federal state where different levels of public authorities are involved in regulating professional activities. The NAP only announces changes for a limited number of professions.

<sup>18</sup> Koumenta M. and M. Pagliero (2016), "Measuring Prevalence and Labour Market Impacts of Occupational Regulation in the EU". See: <http://ec.europa.eu/DocsRoom/documents/20362>

<sup>19</sup> Business churn rate is calculated as the ratio of the sum of newly founded and closed enterprises to the total number of enterprises in year *t*. No data available for patent agent related activities.

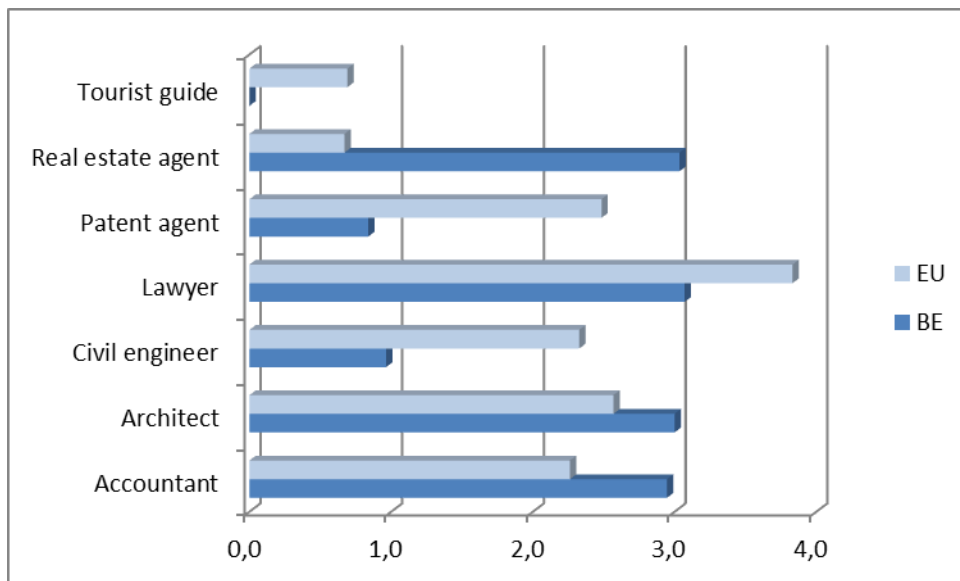
In 2016, the European Commission addressed a **country specific recommendation** in the area of professional services: *Increase competition in the business services sector and the retail sector by removing unwarranted operational and establishment restrictions.*

## II. Situation concerning the analysed professions

The level of restrictiveness is lower in Belgium compared to the EU weighted average for the profession of civil engineer, lawyer and patent agent. It is higher in Belgium than in the EU on average for real estate agent, architect and accountant. Amongst the professions analysed, restrictiveness is highest for lawyers.

Chart 2 presents the results of the quantification made by the Commission on the restrictiveness level in the selected professions.

**Chart 2: Restrictiveness indicator, 2016, Belgium and the EU**



Note: for the professions of civil engineer the indicator for Belgium measures the restrictiveness to carry the protected title  
Source: European Commission services

### Architects

The Law on the protection of the profession of architects dating from 1939 regulates the profession by way of a protected title and a reserve of activities of which some are shared with civil engineers such as the drawing-up of plans and monitoring of the execution of building work.

The education required is composed of 5 years of study and 2 years of traineeship without the need to pass a state examination.

There is a mandatory registration obligation with the professional. Currently, the Law does not require continuous professional development activities.

The joint exercise of different professional activities is limited to services that are related to architect services. The law also specifically bans the possibility to jointly exercise the profession of architect and building contractor.

The use of all corporate forms is allowed although a distinction is made between professional and ordinary company forms. In a professional company form, 60% of the shares and voting rights need to be held by the architects while in an ordinary company form only the majority

of the shares and voting rights/management positions need to be in the hands of the professionals.

Architects are required to take out professional indemnity insurance and an equivalence assessment is foreseen for insurance coverage taken out in other Member States.

Besides a prior check of professional qualifications, several other authorisation requirements seem to exist to access the profession of architect such as administrative procedures to access the mandatory training or to become a full member of the professional body after having fulfilled the traineeship and a visa requirement from the professional body to submit building plans to local authorities.

### Engineers

Civil engineers need to follow the same procedures as architects in case they work as/under the professional title of architect.

Construction engineers in Belgium are “burgerlijk bouwkundig ingenieur /ingénieur civil en construction” and “industriel ingenieur bouwkunde/ingénieur industriel en construction” and benefit from a protected title .

The professional title is granted after having obtained a university or higher education degree, e.g. after 5 years (300 ECTS) education for the “burgerlijk bouwkundig ingenieur/ingénieur civil en construction” and “ingénieur industriel en construction” in the French and Dutch speaking community and after 4 years (240 ECTS) education for the “industriel ingenieur bouwkunde” in the Dutch speaking community. No other requirements regarding the access or exercise of the profession have been identified.

### Accountants

The profession of accountant comprises two different sets of professions i.e. *expert-comptable/conseil fiscal* and *comptable agréé/comptable-fiscaliste agréé* (accountant/belasting consulent, erkendeboekhouder/erkendeboekhouder-fiscalist). All professions are regulated by way of a protected title and a reserve of activities except for the *conseil fiscal* which only benefits from a protected title.

Bookkeeping/drawing up of financial statements is a reserved activity for those professionals.

The required education is 3 years of university or post-secondary study and a mandatory traineeship of 3 years for *expert-comptable/conseil fiscal* and 200 days and a minimum of one year (and a maximum of three years) of professional training for *comptable agréé/comptable-fiscaliste agréé* without the need to pass a state exam. All self-employed professionals need to be registered with the relevant professional body and follow continuous professional development activities as determined by this body.

For reasons of incompatibility there is a total ban to exercise certain activities simultaneously with the profession of accountant and to exercise jointly or in partnership such activities (e.g. real estate agent, insurance brokers, activities in crafts, trade, agriculture etc.).

The *expert-comptable/conseil fiscal* can exercise its professional activities in any type of commercial entity and the majority of the voting rights must be held by the professionals. The *comptable agréé/comptable-fiscaliste agréé* can exercise its professional activities in any type of legal entity but must hold a majority of the voting rights (there are no shareholders restrictions).

There is a mandatory professional indemnity insurance obligation and the insurance contract needs to be approved by the professional body.

### Lawyers

The legal profession in Belgium includes the professions of Avocat/Advocaat/Rechtsanwalt and Avocat devant la Cour de Cassation/Advocaat bij het Hof van Cassatie and is regulated by way of a protected title and a reserves of activities for the representation of clients in court and before administrative authorities.

The general education requirement for lawyers is 5 years of study and 3 years of training. An Avocat devant la Cour de Cassation/Advocaat bij het Hof van Cassatie is required additionally to have a professional experience of 10 years as a registered lawyer and must take an additional training of 4 years which is finalised by passing a state exam.

There is a mandatory registration obligation with the Bar.

The number of licences granted to Avocat devant la Cour de Cassation/Advocaat bij het Hof van Cassatie appears to be restricted. Those lawyers are appointed by the King upon proposal by the Supreme Court.

Both legal professions are required to follow continuous professional training by way of a credit-system determined on a yearly basis (an average of 20 credit points/year to be collected on a 3 years basis).

Restrictions exist on the use of certain corporate forms although it is possible to exercise the profession in a company form with limited liability. The Flemish Bar however allows the use of all company forms on the condition that all shares are in hands of qualified lawyer(s). Irrespective of the legal form chosen, all shares and voting rights are reserved to lawyers.

Lawyers are banned from jointly exercising the profession of lawyer with certain professions such as judge, notary and bailiff. The joint exercise with certain other professional activities is restricted where conflicts of interest can arise.

Lawyers are required to take out professional indemnity insurance (a minimum coverage is being subscribed by the Bar for all its affiliated members and included in the membership fees. Each lawyer will subscribe to a complementary insurance if he/she considers it as appropriate).

### Patent agents

Patent agents are regulated by way of a reserve of activity for counselling and representing clients before the Patent authority. This activity is however shared with lawyers. It seems however that an additional authorisation requirement exists in the form of sitting an exam in order to become an 'accredited' patent agent and be registered as such with the Registry.

The education required is 4 years of study, an apprenticeship or training program of 3 years under supervision of an accredited patent agent and the successful completion of a state exam.

There are no requirements to follow continuous professional development activities, to subscribe to mandatory professional indemnity insurance or to have a compulsory registration with the professional body.

No other restrictions have been reported on the use of a corporate form, the holding of shares/voting rights or the joint exercise of professions/professional activities.

### Real estate agents

Real estate agents are regulated by way of a protected title and reserve of activity. The intermediation in real estate transactions is an activity shared with notaries, while "syndic" management of properties can also be carried out by other professional such as lawyers. The justification for this is argued by the Belgians to be the broader and more complex nature of real estate activities in Belgium such as preparing sales files and lease/purchase agreements (e.g. collecting mandatory information on soil, energy performance and spatial planning). However, it seems that real estate activities are in essence concentrated on acting as an intermediary between buyer and seller of real estate property. Furthermore, certain activities are shared with notaries, who also bear the burden of responsibility.

The education required is a bachelor degree of 3 years, one year of training offered by the professional body and a mandatory traineeship of minimum 200 days and this is the only pathway to obtain the professional qualification.

Real estate agents are required to be registered with the professional body and to be covered by professional indemnity insurance. Continuous professional development activities are mandatory and although no restrictions exist on the use of corporate forms by the professional, in order to register a real estate company 60 % of the voting rights need to be held by qualified professionals. The joint exercise of professional activities is generally restricted to avoid conflicts of interest.

### Tourist guides

Tourist guides are not regulated in Belgium.

However, the professional title "tour guide" will shortly be protected in the Walloon Region, following the adoption of a new decree in this matter.

According to that decree, the title "tour guide" will be granted to persons able to provide evidence of substantial experience and owning certificates related with the profession. The competent authorities consider that this new protection of the title aims to ensure professionalism in the exercise of the profession, but not to restrict nor limit the access to the profession: every person wishing to practice that activity will be allowed to do it, without however being authorized to bear the title of "tour guide".



BULGARIA



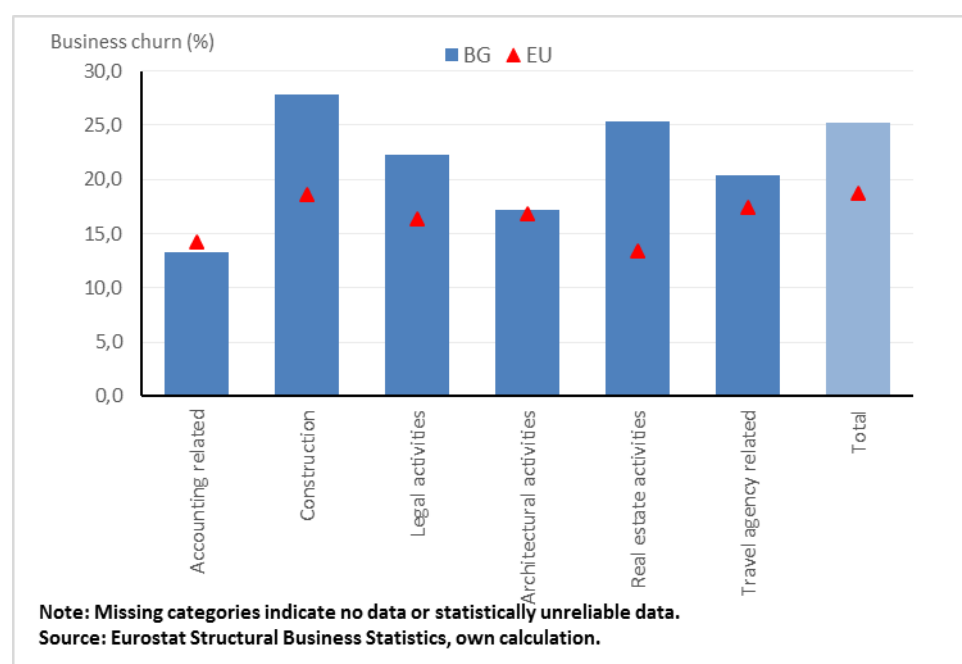
## I. Overview

On 1 November 2016 Bulgaria had submitted information about 109 regulated professions. Among those professions, 8,3% concern business services and 10,1% the construction sector.

According to a recent EU wide survey<sup>20</sup>, 21% of Bulgarian labour force can be considered as working in regulated professions. This corresponds exactly to the EU average (21%).

As indicated in chart 1, for construction, legal, real estate and travel agency related activities business churn (or turnover) rate<sup>21</sup> is higher in Bulgaria than in the EU on average. This may be interpreted as an indication of the relatively high dynamism and competition within regulated professions present in these sectors in Bulgaria. Accounting and architectural activities, although similar to the EU average, have a lower churn rate than in the overall economy which may indicate a relative lower dynamism in these sectors

**Chart 1: Business churn rate in selected occupations, Bulgaria and the EU, 2013-14 (%)**



Bulgaria has participated actively in the **mutual evaluation exercise**. On 10 October 2016, less than 5% of the general information on regulated professions is missing. About 10% of the professions still need to be assessed as to the proportionality of their regulation.

In its **national action plan** (NAP), Bulgaria presents a very detailed overview of the regulatory framework of the regulated professions. The NAP also announces periodic reviews of the scope of the reserved activities to be carried out for each regulated profession.

<sup>20</sup> Koumenta M. and M. Pagliero (2016), "Measuring Prevalence and Labour Market Impacts of Occupational Regulation in the EU". See: <http://ec.europa.eu/DocsRoom/documents/20362>

<sup>21</sup> Business churn rate is calculated as the ratio of the sum of newly founded and closed enterprises to the total number of enterprises in year  $t$ . No data available for patent agent related activities.



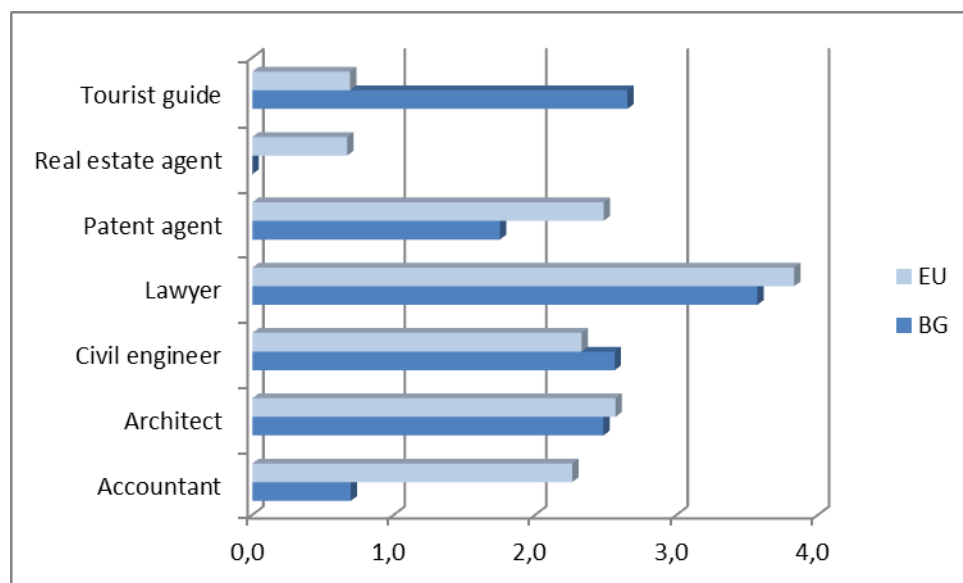
In 2016 Bulgaria introduced regulation of the professions of tourist guide and travel agent.

## II. Situation concerning the analysed professions

The level of restrictiveness is lower in Bulgaria compared to the EU weighted average except for the profession of tourist guide and to a lesser extent for civil engineer where the opposite is true. Amongst the professions analysed, restrictiveness is highest for lawyers.

Chart 2 presents the results of the quantification made by the Commission on the restrictiveness level in the selected professions.

**Chart 2: Restrictiveness indicator, 2016, Bulgaria and the EU**



Source: European Commission services

### Architects/Engineers

Both professions are covered by the same law and are regulated by way of reserve of activities and a title protection.

For professional companies, only the use of the title "design office" is protected. The title "design office" can be used subject to shareholding requirements (minimum 50% of the capital held by professionals), but the professional activity is not reserved to companies holding such titles. Thus, the service can be provided by qualified professionals in a company without restriction as regards its legal form or shareholding requirements.

According to the Spatial Planning Act the activities reserved to architects/engineers consist in drawing up spatial plans and investment projects, and submitting those documents and plans to the competent authorities.

The training requirements for exercising either of the professions in full capacity comprise 7 years in total and include a Master's degree and a State exam, as well as 2 years of experience with a fully qualified professional (or 4 years of relevant experience, according to the second path to obtain qualification). There is a legal obligation for the professional chambers to provide continuous professional development courses to interested architects/engineers, but it is not compulsory for them to follow that training.

For both professions membership in the relevant professional organisation is compulsory according to the Chamber of Architects and Investment Design Engineers Act.

As regards incompatibility, there is a general conflict of interest rule for working on projects. The Chamber of Architects and Investment Design Engineers Act provides that the same person cannot participate in the construction process as both designer and constructor.

Professional liability insurance is mandatory according to the Spatial Planning Act.

### Accountants

The profession is regulated in Bulgaria by way of reserved activities and the title “accountant” does not exist as such.

Article 17 of the Accountancy act reserves to professionals, holding particular qualifications, the activity of drawing up consolidated, annual and interim financial statements of enterprises (with the exception of consolidated statements of microenterprises). This activity is shared with auditors.

The Accountancy act establishes 5 pathways to obtain qualification with a total duration of 7 to 8 years, according to the pathway. The main path consists in Master's degree in accounting and economics, and a professional experience of 2 years in the area of accounting, external, internal audit and financial inspection or tax audits.

The qualification requirement and the requirement for a clean criminal record are the only requirements professionals must fulfil. Additional authorisation requirements or restrictions to exercise the profession have not been identified.

### Lawyers

The legal profession in Bulgaria is regulated by way of reserves of activities and protected title.

The activities, reserved to lawyers consist in representation of clients in court (shared with in-house lawyers). In addition, lawyers may certify copies of documents or authenticate signatures (activity shared with notaries). Legal advice is not reserved to lawyers. A number of lawyers offer online consultations through their websites.

Recently, the scope of the reserved activities to lawyers has been reduced, concerning the registration of companies. The activity is now open to other professionals, such as accountants, but also to non-professionals. The registration of companies in the Commercial Register is supervised by the Registry Agency and is no longer done before the courts. As a consequence, the registration fees, practiced by other professionals, such as accountants for registration of companies have been significantly lowered.

However, a new draft-law has been submitted in 2015, introducing a wide range of activities, exclusively reserved to lawyers, such as giving oral and written consultations and statements on issues of law, preparation of complaints, drafting of notary acts, testaments, etc.

The level of qualification required is Master's degree in law, six-months professional traineeship, successful completion of a Bar exam and 2 years of relevant professional experience.

Candidates holding an educational and scientific degree of "Doctor of laws", as well as individuals who have a legal service record of more than 5 years may register with the Supreme Bar Council without passing an examination.

Professional liability insurance is mandatory. Only a limited number of legal forms are possible, whereas shareholding requirements provide for 100% capital ownership for lawyers.

### Patent agents

The profession of industrial property representative is regulated in Bulgaria by way of reserved activities and protected title. The activity of filing patents is exclusively reserved to industrial property representatives. They share with lawyers the activity of representation before the courts in intellectual property matters.

The total duration of the education required is 7 years (Master's degree in law, technical disciplines or intellectual property), two years of professional experience in intellectual property and a specific State exam.

Membership in a professional association is not required, but there is an obligation to enrol in the Register of Industrial Property Representatives. Incompatibility rules exclude involvement in trade and in salaried activities, as well as with the status of civil servant.

Additional requirements have not been identified, except for clean criminal record.

### Real estate agents

The profession is not regulated in Bulgaria.

There have been several requests from members of a professional association to regulate the profession in 2013, triggering petitions against a possible regulation from other professionals or consumers. After reviewing the regulatory framework and based on the existing rules on consumer protection, the Government decided not to introduce regulation of the profession.

### Tourist guides

In 2016 the profession has been regulated by Ministerial decree by way of title protection and reserves of activities. However, a proper proportionality assessment of the qualification requirements and the reserved activities has not been submitted yet.

The scope of the reserved activities is very wide, covering not only the provision of reliable, accurate and true information during the trips, but also escorting tourists from the airport to their hotel or escorting tourists for departure to the relevant airports, railway stations, bus and marine stations.

In terms of education, although there are several routes to obtain qualification, the education comprises in general 5 years (master's degree) and a specific State exam, organised by the Ministry of Tourism. There is a general obligation to follow continuous professional development courses, but no specific requirements as regards the content, the duration and the sanctions foreseen.

Mandatory registration in a State register is compulsory, but membership in a professional association remains voluntary. Additional requirements have not been identified.



CROATIA



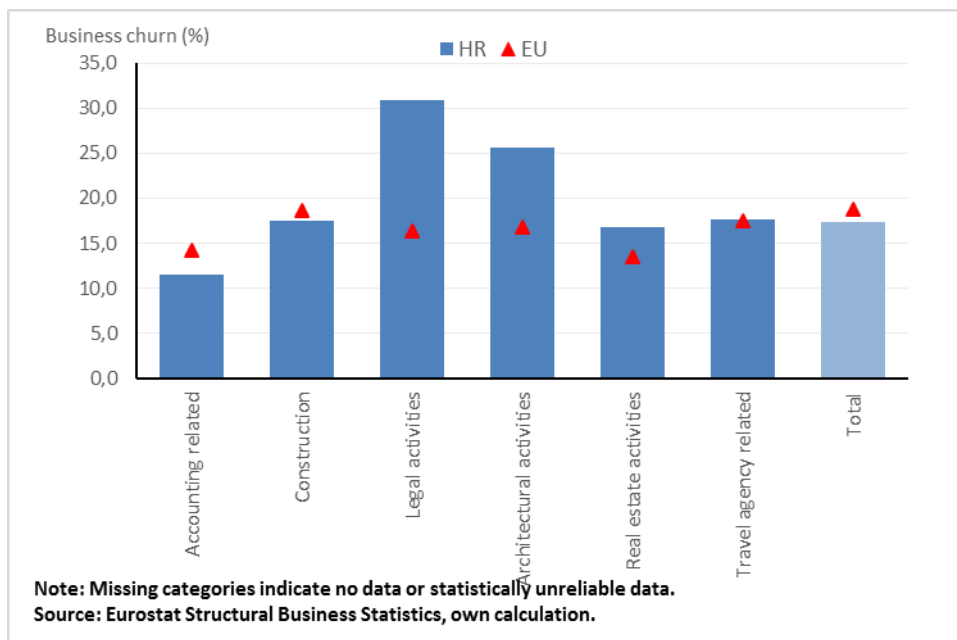
## I. Overview

On 1 November 2016 Croatia had submitted information about 261 regulated professions. Among those professions, 11,1% concern business services, 2,8% the construction sector and 0,6% the real estate sector.

According to a recent EU wide survey<sup>22</sup>, 31% of Croatian labour force can be considered as working in regulated professions. This is significantly higher than the EU average (21%).

As indicated in chart 1, for legal and architectural activities business churn (or turnover) rate<sup>23</sup> is higher in Croatia than in the EU on average. This may be interpreted as an indication of the relatively high dynamism and competition within regulated professions present in these sectors in Croatia. Business churn rate for accounting related activities is lower than in the EU on average which may indicate a relative lower dynamism in this sector.

Chart 1: Business churn rate in selected occupations, Croatia and the EU, 2013-14 (%)



Croatia was not among the most active countries participating in the **mutual evaluation exercise**. On 10 October 2016, Croatia still needs to submit 12 % of the general information on different regulated professions and only 19 of the 274 professions have been analysed as **to the proportionality of their regulation**.

**The national action plan was submitted in the summer of 2016.** It comprises a series of measures and actions to be carried out from 2016 to 2018 to facilitate access to and exercise

<sup>22</sup> Koumenta M. and M. Pagliero (2016), "Measuring Prevalence and Labour Market Impacts of Occupational Regulation in the EU". See: <http://ec.europa.eu/DocsRoom/documents/20362>

<sup>23</sup> Business churn rate is calculated as the ratio of the sum of newly founded and closed enterprises to the total number of enterprises in year  $t$ . No data available for patent agent related activities.

of regulated professions in Croatia, in particular by reducing the number of regulated professions and by revising existing regulation in some specific sectors.

In 2016, the European Commission addressed a **country specific recommendation** to Croatia in the area of regulated professions:

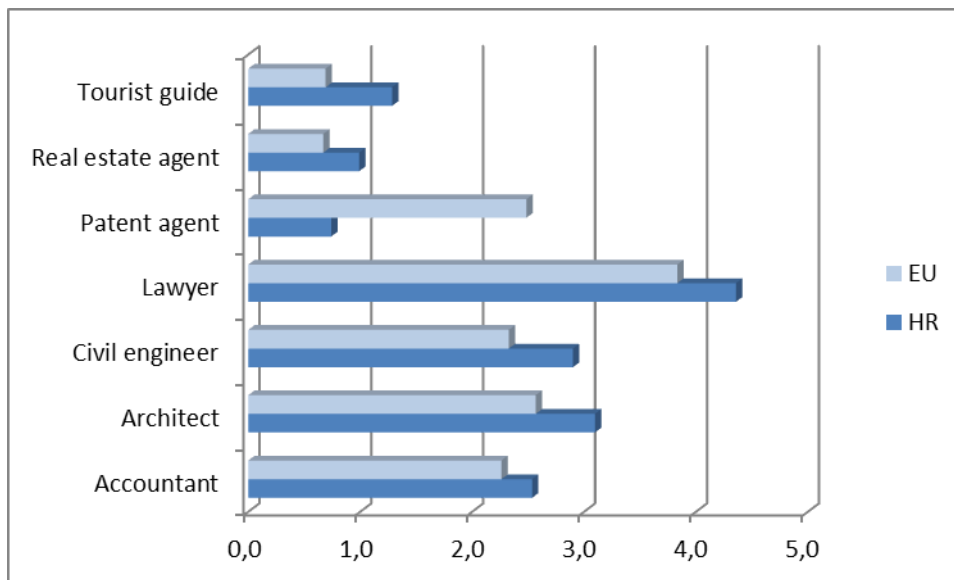
*Remove unjustified regulatory restrictions hampering access to and the practice of regulated professions.*

## II. Situation concerning the analysed professions

The level of restrictiveness is higher in Croatia compared to the EU weighted average except for the profession of patent agent where it is lower. Amongst the professions analysed, restrictiveness is highest for lawyers.

Chart 2 presents the results of the quantification made by the Commission on the restrictiveness level in the selected professions.

**Chart 2: Restrictiveness indicator, 2016, Croatia and the EU**



Source: European Commission services

### Architects/Civil engineers ("certified" civil engineer)

Both generic professions are covered by the same law and are regulated by reserves of activities and also by protecting the use of the title. The legislation exclusively reserves a number of activities for both profession, and it seems that they do not appear to be shared even between engineers and architects.

Certified architects and certified engineers may perform design and/or professional construction supervision tasks as sole practitioners, in a joint-practice office or in a legal person registered for this activity. A contractor (a legal person or a natural person-craftsman) must have in its employment site engineer and/or works manager as the responsible person (a natural person of the architectural, civil engineering, mechanical engineering or electrical engineering profession) when carrying out the construction.

It appears that the Croatian legislation provides different education requirements for the ones who want to use the official Croatian title (certified architect, certified engineer and indeed

there are neighbouring professions with specific titles regulated in Croatia) and for the ones who intend to work without using the title. There are more detailed and heavier requirements for the ones who intend to obtain the title as well.

Both professions require higher education training and professional experience (some modalities can be seen as traineeship) as well (it seems that the experience/traineeship requirement for architects is very heavy), but there are a few different pathways for obtaining the qualification. For the modality when professionals intend to use the title there is a compulsory state exam as well, afterwards the registration with the professional body is automatic (and implicitly compulsory). For the same modality, there is a general continuous professional development obligation in the Croatian legislation, but architects and engineers have a wide discretion on how they comply with this requirement.

Membership in the Chamber and the right to use a professional title shall be acquired on the basis of a decision on the registration in the appropriate directory of members of the relevant Chamber. Regarding the joint exercise of the profession, the only limitation is that a company/individual professional who performs the "project management" cannot actually execute the project, to avoid conflict of interest. The indemnity insurance is compulsory for professionals, and a mutual recognition clause concerning insurances from other EEA Member States is in place.

#### Accountants

Croatia did not report on the regulation of chartered accountants, but regulates tax advisers, by way of reserves of activities. As exclusive reserves, tax advisers might provide tax advice, fill in tax applications, and they can also represent clients before administrative bodies/courts (shared with lawyers), and can monitor correctness of the accounts (shared with auditors).

As qualification requirement a diploma in economy or law is required (legislation seem to accept Bsc level qualifications) as well as minimum 5 years professional experience after the qualification was obtained. Once this experience is obtained, tax advisers still need to pass a state exam as well to be able to work independently. Accordingly, there is only this pathway to become a fully qualified tax adviser. Chamber membership is compulsory, and there is a monthly fee (without limitative nature) to pay. There is no continuous professional development obligation linked to the chamber membership. Licence is valid for the entire territory of Croatia.

Tax advisers can practice as individual professionals, or provide services as a non-limited liability company (public society) composed by only tax advisers. The Croatian regulation of this profession is currently under reform concerning legal form and shareholding requirements, but the scope of reserved activities which is very wide doesn't seem to be addressed. The indemnity insurance is compulsory for professionals, and any evidence of insurance from other EEA Member States is accepted.

Other authorisation requirements include good repute and proof of no previous bankruptcy, or the obligation to reside on the national territory.

#### Lawyers

Lawyers are regulated by reserves of activities and title protection. The three main reserves concern: giving legal advice (shared with law professors and to a certain extent tax advisers); representing clients in front of courts or authorities (shared to a certain extent with tax advisers); drafting various legal documents or actions (shared with notaries).

The education requirement is a minimum higher education diploma, traineeship and passing a state examination. Following that, it is compulsory to register with the Croatian Bar Association. The Bar also runs a special register for established foreign attorneys providing services under their home titles. The registration is valid for the entire territory of Croatia, and there is no age restriction provided by the legislation. Lawyers need to follow the Code of Ethics, which provides an ethical obligation for continuous professional development (renew, expand and perfect their legal and general knowledge), however this obligation is by no means linked to the registration. Interesting to observe an existing provision in Croatian law according to which if a lawyer is not practising law for more than six months without a good reason, he/she might be deprived of the right to exercise the legal activity.

Lawyers can only establish individual practices, joint legal offices or law firms (these can be public societies which are without limited liability, or limited liability companies). They cannot operate as any other legal persons. Shares have to be held by attorneys only. Those lawyers who have their individual practices can only establish one office in the territory of Croatia. There is a general ethical obligation on not performing activities which are incompatible with maintaining good reputation and/or independence of attorneys.

Lawyers are required to obtain professional indemnity insurance, and the Croatian legislation also recognises insurances obtained in other Member States.

#### Patent agents

The profession is regulated by reserves of activities (representation before the Patent Office or other administrative authorities), but this activity is shared with lawyers.

Patent agents need to follow (a) either a minimum bachelor level higher education training in a number of technical natural sciences, and pass a state exam; (b) other higher university studies, followed by a minimum 5 years work experience in the field of industrial property and afterwards completion of a state exam; or (c) be a lawyer enrolled with the Bar and pass the specific state exam.

The agents need to be members of the Chamber in order to be able to carry out their activities. The registration is valid for the entire territory of Croatia. There is neither continuous professional development requirement, nor obligatory insurance mentioned in the Croatian legislation.

As regards potential company forms the Croatian legislation is quite flexible: activities of patent agents might be carried out by sole professionals, or by a legal person which employs at least one patent agent.

#### Real estate agents

Real estate agents are regulated by reserves of activities but all the reserves (establishing/facilitating contacts and negotiations, obtaining information on properties, displaying properties) might be shared with lawyers. In the field of real estate representation, the two roles are the role of the agent (always a natural person), and that of the intermediary, which can be a company, individual merchant or individual craftsman.

Real estate agents only need to pass a professional exam, the entry requirement of this is to have a high school qualification (final exam), there is no traineeship or professional exam requirement. There is a state register of real estate agents who passed the above professional exam.

There is no continuous professional development obligation for this profession. As regards insurance requirement, it is important to observe that the legal persons need to be insured, but there is no similar requirement for the natural person professionals.

As regards legal persons (when we are talking about intermediaries), the requirement is to employ at least one qualified and licensed professional. Otherwise, the Croatian regulation of this profession is fully liberal concerning shareholding requirements, voting rights, restrictions on corporate forms or on the joint exercise of the profession.

### Tourist guides

Croatia exclusively reserves some activities (accompanying and guiding tourists on cruises and sightseeing tours) of tourist guides for qualified professionals. The law also specifically provides that expert guide services at a museum, gallery, protected natural area, archaeological site etc. are not to be considered as activities of tourist guides.

There is no specific training requirement enshrined in the legislation: following a high school degree (final exam) candidates need to pass a specific examination. The tourist guide certification exam shall be conducted before and consists of a general part, that is unique for all the candidates and a special part which relates to tourist sites (localities) in a specific region / county. Successful candidates are then put on a register.

Tourist guides may therefore provide services in the area of tourist sites (localities) and in other parts of the Republic of Croatia which are not designated as tourist sites (localities) if they have passed the general part of the certification exam for tourist guide and the special parts of the certification exam which relates to tourist sites (localities).

As a result, tourist guides are currently limited by territorial restrictions as they are only allowed to provide services in the county where they have passed the professional exams. Given that national tourist guides are disadvantaged in relation to providers from other Member States who can provide tourist guide services occasionally or temporarily anywhere in the territory of Croatia, it has been announced that the relevant act should be amended in order to abolish those territorial restrictions.

There is no continuous professional development obligation for this profession.

As regards potential company forms the legislation is quite flexible: activities of tourist guides might be carried out by sole professionals, or by a company (tourist agency). In the latter case the agency needs to be insured, but not the individual professional.





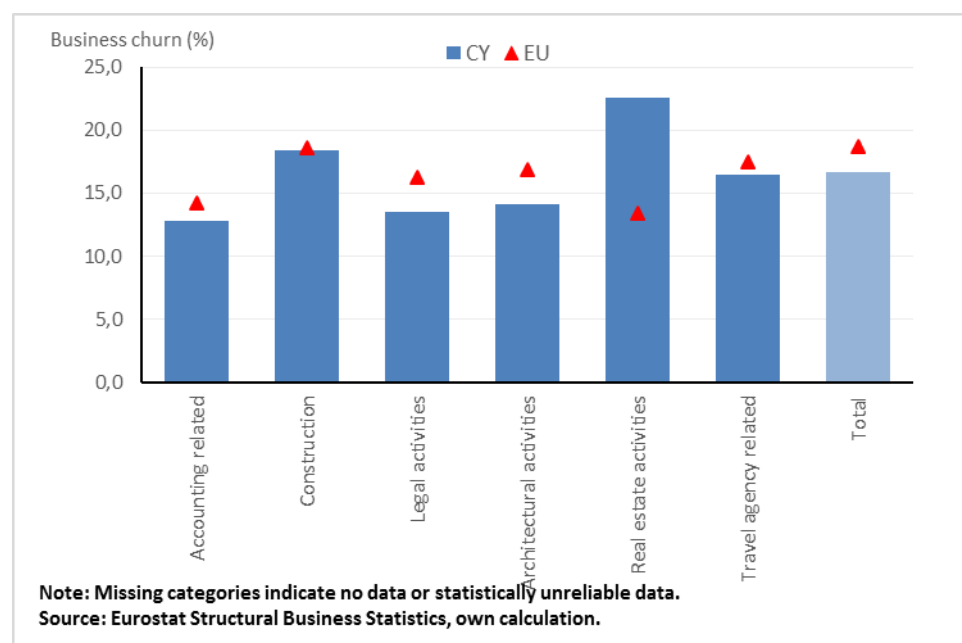
## I. Overview

On 1 November 2016 Cyprus had submitted information about 114 regulated professions. Among those professions, 16,7% concern business services, 4,4% the construction sector and 0,4% the real estate sector.

According to a recent EU wide survey<sup>24</sup>, 19% of Cyprus' labour force can be considered as working in regulated professions. This is lower than the EU average (21%).

As indicated in chart 1, for accounting, legal and architectural activities business churn (or turnover) rate<sup>25</sup> is lower in Cyprus than in the EU on average as well as compared to the average for the total Cypriot economy. This may be interpreted as an indication of the relatively low dynamism and competition within regulated professions present in these sectors in Cyprus.

**Chart 1: Business churn rate in selected occupations, Cyprus and the EU, 2013-14 (%)**



Cyprus was not active in the **mutual evaluation exercise**. On 10 October 2016, it had submitted 70% of the general information regarding its regulated professions, but has only provided 15% of the proportionality assessment of the rules regulating professions. On the other hand Cyprus has been subjected to an MoU by the troika, and a review and opening of their regulated professions has been on the agenda for a number of years, with varying success.

Cyprus has not submitted any **national action plan**.

<sup>24</sup> Koumenta M. and M. Pagliero (2016), "Measuring Prevalence and Labour Market Impacts of Occupational Regulation in the EU". See: <http://ec.europa.eu/DocsRoom/documents/20362>

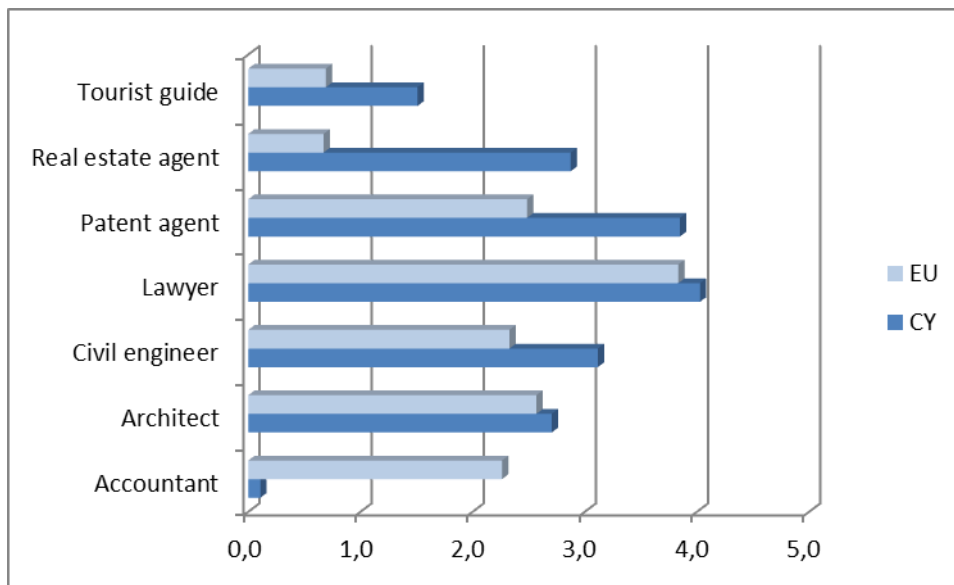
<sup>25</sup> Business churn rate is calculated as the ratio of the sum of newly founded and closed enterprises to the total number of enterprises in year *t*. No data available for patent agent related activities.

## II. Situation concerning the analysed professions

The level of restrictiveness is higher in Cyprus compared to the EU weighted average for the professions of tourist guide, real estate agent, patent agent and civil engineers and to a lesser extent for lawyer and architect. Amongst the professions analysed, restrictiveness is highest for lawyers and patent agents.

Chart 2 presents the results of the quantification made by the Commission on the restrictiveness level in the selected professions.

**Chart 2: Restrictiveness indicator, 2016, Cyprus and the EU**



Source: European Commission services

### Architects

Cyprus regulates the profession of architect by way of reserve of activities and protection of title. The reserves of activities to architects and their nature as exclusive or shared ones derive from a number of legal provisions which include those dealing with construction and similar requirements. A number of activities are shared with other engineers while architects have the exclusive right to sign plans to be submitted to the authorities for the issuance of building permits and to the extent they relate to architectural work.

Access to the profession is open to persons with (a) a 4 years of University (or equivalent) studies, or 6 years' University (or equivalent) studies, 3 years of which should be full-time, and (b) a post-diploma 1-year practical training in architecture. Registration to the Technical Chamber of Cyprus is also necessary.

Architects may form general and limited liability partnerships, and private limited liability companies. Public limited liability companies and other company forms are not allowed. Shareholding of these companies should be held in their entirety by members of the Chamber of Engineers (ETEK). Recently a new law allowed for natural and legal persons already legally established in another Member State to be able to become shareholders in Cypriot companies just by proving that they are legally established in their Member State of origin, without imposing any condition for registration with ETEK. The new law also allowed for legal persons already established in another Member State to establish in Cyprus by setting up a branch or an agency, with no shareholding requirements imposed based on the Cypriot law.

Cyprus provides for a specific regime of qualifications and registration for professionals (including architects) and companies allowed to undertake public works' contracts. Public works are classified in categories on the basis of a number of criteria. In parallel, both professionals and companies are put in corresponding categories which allows them to undertake relevant works.

#### Civil engineers

Cyprus regulates the profession of civil engineering by way of reserve of activities and protection of title. The reserves of activities to civil engineers and their nature as exclusive or shared ones derive from a number of legal provisions which include those dealing with construction and similar requirements. A number of activities are shared with other engineers and architects. All plans that are submitted to the authorities for the issuance of a building permit and relate to civil engineering work need to be submitted and signed exclusively by a licenced civil engineer.

Access to the profession is open to persons holding (a) a University diploma (or equivalent) which should allow the holder to exercise the profession in the country delivering the diploma, and after (b) completion of a 1-year post-diploma practical training. Registration to the Technical Chamber of Cyprus is also necessary.

Engineers may form general and limited liability partnerships, and private limited liability companies. Public limited liability companies and other company forms are not allowed. Shareholding of these companies should be held in their entirety by members of the Chamber of Engineers (ETEK). Recently a new law allowed for natural and legal persons already legally established in another Member State to be able to become shareholders in Cypriot companies just by proving that they are legally established in their Member State of origin, without imposing any condition for registration with ETEK. The new law also allowed for legal persons already established in another Member State to establish in Cyprus by setting up a branch or an agency, with no shareholding requirements imposed based on the Cypriot law.

Cyprus provides for a specific regime of qualifications and registration for professionals (including civil engineers) and companies allowed to undertake public works' contracts. Public works are classified in categories on the basis of a number of criteria. In parallel, both professionals and companies are put in corresponding categories which allows them to undertake relevant works.

#### Accountants

Cyprus regulates the profession of Certified Public Accountant and Registered Auditor. On the contrary, it does not appear that the profession of Accountant is regulated.

Membership of Accountants with ICPAC (the Institute of Certified Public Accountants of Cyprus) does not appear to be obligatory for the exercise of the profession of accountant (as opposed to registered auditors). Nonetheless, the practical effect of the conditions for, the effects and the consequences of the award of the title "Certified Public Accountant" by ICPAC to its members needs to be better understood.

No restrictions have been identified on corporate forms, shareholdings/voting rights or regarding the joint exercise of professions.

## Lawyers

The legal profession is regulated by way of a protected title and a number of reserves of activities, some of which are exclusive and the others are shared. Representing clients in court and the provision of legal advice are the most prominent reserved ones.

The education requirement is 4 years of legal training and a supervised traineeship of 18 months. A state exam needs to be passed before appointment.

Lawyers have to register with the Bar Association to get an authorisation to practice, and they also have to demonstrate a clean criminal record and take an oath. There is also a "habitual residence" requirement, established in the law. The habitual residence requirement does not however seem to cover EU lawyers which are established in Cyprus under their home country title. There is no obligation to collect continuous professional development points per year.

Lawyers can either work independently, as sole practitioners, in a partnership with other lawyers or in law firms. Law firms may choose between a number of legal forms, namely partnerships, limited partnerships, and private limited companies. All partners or shareholders of law firms have to be lawyers and any transfer of shares in a limited company need to be communicated and approved by the Bar. Partnerships and limited partnerships of lawyers may be shareholders in a law firm which has the form of a private limited company.

Cypriot law contains an obligation for lawyers to have professional liability insurance, the minimum level and conditions of which are set by decision of the Bar.

## Patent agents

The profession of patent agent is not regulated in Cyprus. However, the law on lawyers reserves the submission of patents and trademarks to lawyers who also have the right to provide legal advice, including on issues relating to patents and trade mark law. In that respect, the conditions for accessing and for exercising the activities which correspond to those of a patent agent, are those that apply to lawyers. The assessment therefore of the regulatory regime applicable to patent agents should be the one applicable to lawyers.

## Real estate agents

The profession of real estate agent is a regulated profession. A licence is required and regulation takes the form of a protection of title and, in some way, of reserved activities. In essence, while the involvement of a real estate agent is not necessary for the conclusion of real property transactions, if a professional is involved in a real estate transaction, it has to be a licensed real estate agent. In addition, all contracts for the provision of real estate agency services entered into by non-licensed agents are void. These specific activities of real estate agents do not appear to be shared with other professions.

Obtaining a licence is dependent upon specific qualifications and training which amount to a minimum of 4 years. Training needs to be of a post-secondary nature of a period of at least 3 years at a University or equivalent level and should be on issues having a relevance to the profession. Subsequent professional training of 12 months is also required and takes the form of work as assistant real estate agent.

Legal persons can offer real estate services and they need to be licensed. The law provides that the legal persons may take the form of general partnerships, limited partnerships and SRLs while limited company by shares are not included in that list. There are no specific shareholding requirements but the legal persons need to employ a licensed real estate agent as the person responsible to ensure compliance with professional obligations (that person is described as Director in the relevant licence application form).

### Tourist guides

Tourist guides are a regulated profession. The exercise of the profession without a licence is a criminal offence (a register of licensed tourist guide is kept at the Cyprus tourist Organisation). Tourist guides need to have a diploma of a tourist Guide school (or equivalent) or to have exercised the profession in another Member State; knowledge of Cyprian history, art, archaeological and historic places, the natural environment and the current affairs of Cyprus; a very good knowledge of Greek and at least of another foreign language.

Tourist guides enjoy exclusive activities. Tourist Offices may not employ non-registered tourist guides for excursions, sightseeing tours or simply customer guiding. In addition, Tourist Offices are obliged to place a licenced tourist guide to each sightseeing tour, with some exceptions (e.g., tours which do not comprise archaeological sites, museums, etc., and walking, cycling, motorbike and riding tours).

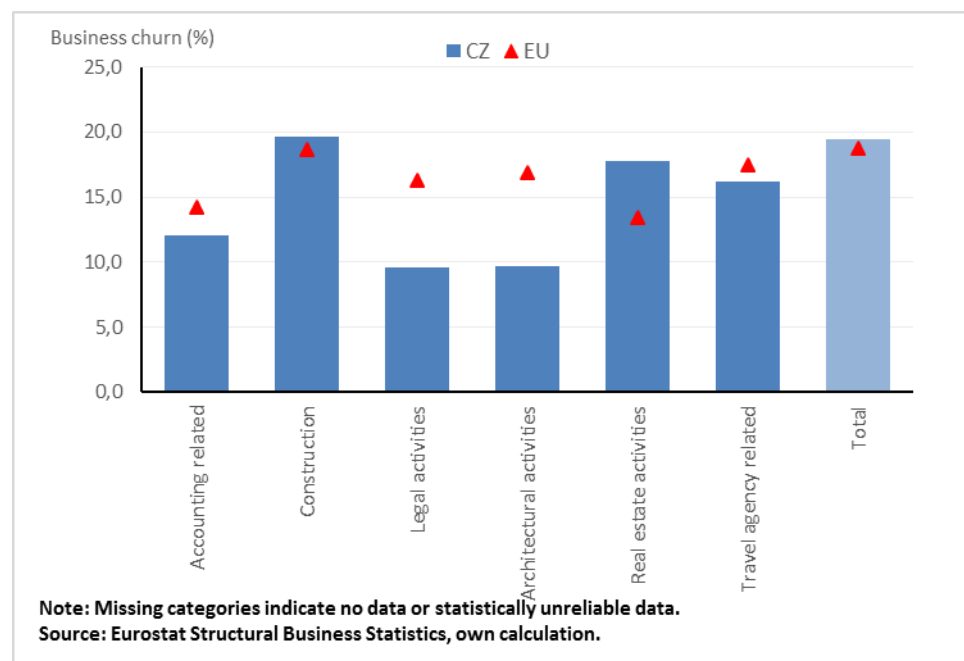
## I. Overview

On 1 November 2016 the Czech Republic had submitted information about 366 regulated professions. Among those professions, 18,6% concern business services, 5,2% the construction sector and 0,3% the real estate sector.

According to a recent EU wide survey<sup>26</sup>, 25% of the Czech labour force can be considered as working in regulated professions. This is slightly higher than the EU average (21%).

As indicated in chart 1, for accounting, legal, architectural and travel agency related activities business churn (or turnover) rate<sup>27</sup> is lower in the Czech Republic than in the EU on average as well as compared to the average for the total Czech economy. This may be interpreted as an indication of the relatively low dynamism and competition within regulated professions present in these sectors in the Czech Republic.

**Chart 1: Business churn rate in selected occupations, Czech Republic and the EU, 2013-14 (%)**



The Czech Republic has been participating very actively in the **mutual evaluation exercise**. On 10 October 2016, the Czech Republic has submitted almost all of the general information on different regulated professions and all professions have been assessed as to the proportionality of their regulation.

In its **national action plan**, the Czech Republic presents an overview of the regulatory framework of the regulated professions, but only announces changes for a limited number of professions. In most cases reforms have been designed to reduce the overall administrative burden.

<sup>26</sup> Koumenta M. and M. Pagliero (2016), "Measuring Prevalence and Labour Market Impacts of Occupational Regulation in the EU". See: <http://ec.europa.eu/DocsRoom/documents/20362>

<sup>27</sup> Business churn rate is calculated as the ratio of the sum of newly founded and closed enterprises to the total number of enterprises in year *t*. No data available for patent agent related activities.

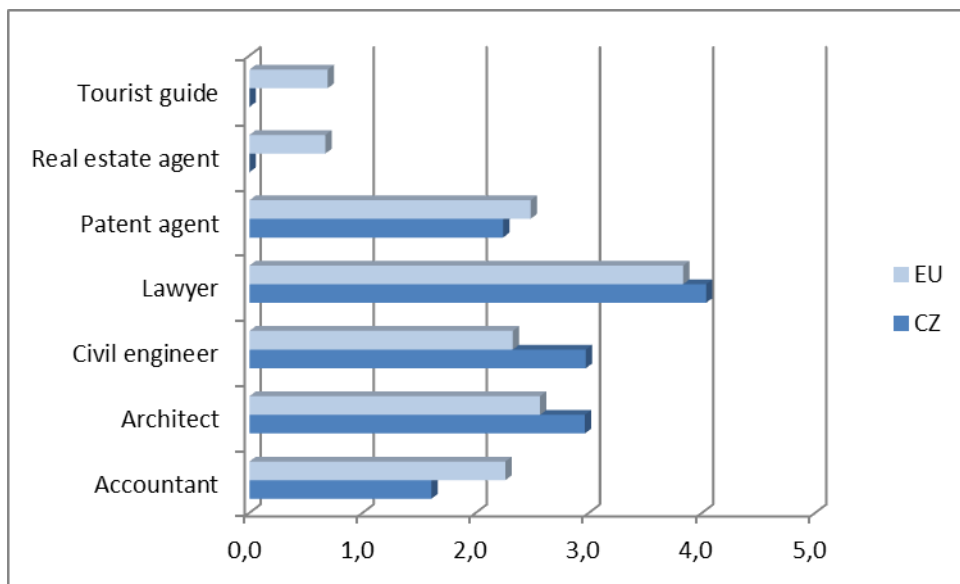
The Czech Republic also announces the forthcoming regulation of additional professions, such as tourist guides and real estate agents.

## II. Situation concerning the analysed professions

The level of restrictiveness is higher in the Czech Republic compared to the EU weighted average for the professions of architect, civil engineer and lawyer. It is lower than the EU average for the professions of accountant and patent agent. Amongst the professions analysed, restrictiveness is highest for lawyers.

Chart 2 presents the results of the quantification made by the Commission on the restrictiveness level in the selected professions.

**Chart 2: Restrictiveness indicator, 2016, Czech Republic and the EU**



Source: European Commission services

### Architects/Engineers

Both professions are regulated by reserved activities and protected title.

The activities, reserved to chartered architects are described as follows: preparation of land-use planning documents including land-use planning data documents, preparation of design documents of buildings, preparation of design documents of garden and landscape arrangement and treatment including relevant land-use planning data documents and a relevant parts of land-use planning documents, participation in preparation of design documents of engineering structures, conduct of building and architectural or urban surveys, issuance of expert statements, preparation of documents and opinions for partial environmental impact assessment of a building, preparation of design documents for interior decoration of buildings, execution of supervision of building implementation, management and implementation of a simple building, conduct of geodesic measuring for designing activity and alignment works, acting on behalf of a developer, performance of professional functions in the sections of land-use planning or Building Code at state administration authorities.

While architectural design and planning is only shared with engineers, the rest of the activities is shared with both engineers and chartered technicians.

Chartered engineers are entitled, within scope of granted authorisation, to pursue following activities: to prepare project documentation of constructions (including appropriate territorial planning supporting documentation) excluding ground constructions (determined as important from the architectural or urbanism point of view, this exception shall not have effect on conclusion of binding relations according to generally valid legal regulations; to take part in preparation of project documentation for ground constructions determined as important from the architectural or urbanism point of view and which is being prepared by a chartered architect, to prepare supporting documentation for territorial planning and relevant parts of the territorial planning documentation, to perform statics and dynamics calculations of structures, to perform building-technical or engineering surveys, to perform testing and diagnostics of structures, unless stated otherwise in a special regulation, to issue expert opinions; to process documentation and reviews, for partial impact assessment of the construction on the environment and also for the purposes of proceeding before state bodies, to manage implementation of construction on the construction site, to conduct of geodesic measuring for designing activity and alignment works, unless stated otherwise by a special regulation, to provide author or technical supervision over the implementation of a construction, to act on behalf a builder before administrative proceedings, to pursue professional functions in the area of territorial planning or construction code in the bodies of state administration, unless stated otherwise by a special regulation.

In terms of qualification for architects 5 years of education (Master's degree) and 3 years of mandatory practice are required (8 years in total).

To qualify as a chartered engineer 4 years' Bachelor's degree with 5 years' mandatory practice or Master's degree with 3 years of mandatory practice are required.

For both professions there is a general obligation to follow continuous professional development courses.

Membership is compulsory in the two professional chambers monitoring professional practice, namely the Czech Chamber of Architects (CKA) and the Czech Chamber of Chartered Engineers and Technicians Active in Construction (CKAIT). As regards incompatibility, there is a general obligation to avoid conflict of interests.

It appears that for both professions there are certain restrictions on the corporate form/type of entity to be used to exercise related activities, as well as shareholding requirements. According to the relevant provisions regulating legal form (Act. no. 360/1992 Coll.) authorised persons (i.e. certified architects, certified engineers and certified technicians) are allowed to carry out their activities in a limited liability company, where authorised persons shall represent majority both among partners and executives in such a company; should a concerned company have only one partner or executive, he/she shall be only an authorised person.

Professional indemnity insurance is mandatory for both architects and engineers. No other authorisation requirements have been reported.

### Accountants

The Czech Republic regulates two professions in the sector by way of reserved activities: *daňový poradce* (tax adviser) and *Činnost účetních poradců, vedení účetnictví, vedení daňové evidence* (accountant).

The scope of the reserved activities for tax advisers is defined as follows: providing legal assistance and economic advice in financial matters, taxes, levies, fees and other payments, as well as in matters directly related to taxes (especially the processing of tax returns and



representation before tax authorities, if necessary). Tax advisers may also represent clients in judicial proceedings in tax matters and prepare opinions.

While representation and assistance before tax authorities as well as representation in court and tax advice are shared with lawyers, payroll activities, book-keeping and drawing up annual financial statements and consolidated financial statements are shared with accountants.

Accountants provide advice concerning bookkeeping and tax accounting; prepare financial statements and consolidated financial statements, annual reports and consolidated annual reports.

The activity is regulated when exercised in a self-employed capacity or as a company. The legal entities must appoint a person who meets the qualification requirements. For salaried employees, qualification is not required.

Whereas for a tax adviser there is a qualification requirement of 3 years of university education and a state exam, the training for accountants takes approximately 5 years (general secondary education with a school-leaving examination and 5 years' professional experience, accredited requalification course and 5 years' professional experience or university education and 3 years' professional experience).

For the profession of tax advisers registration in a chamber is compulsory and professional liability insurance is mandatory. No such conditions exist for accountants.

Additional requirements have not been reported.

### Lawyers

The legal profession of advocate is regulated by way of reserved activities and protected title.

The core of the activities, reserved to the legal profession, consist in representing clients in criminal cases, in proceedings before Constitutional Court, the Supreme Court and the Supreme Administrative Court. However, the Czech Republic also indicates as reserved activities the following: drawing up legal documents (shared with patent attorneys), legal advice - including in tax matters and representation before administrative authorities (shared with patent attorney and tax adviser) and other forms of legal aid where these are provided on a permanent basis and for a fee (e.g. public procurement administration). It is however unclear whether general legal advice is reserved to lawyers.

The qualification required to practise the profession is a University degree in law, followed by a professional training for a minimum of three years and a Bar examination.

Advocates must be registered with the Czech Bar Association. An advocate may practise the legal profession as a sole practitioner or jointly with other lawyers as a member of a consortium, or a member of a company. Salaried practice is also allowed. The incompatibility rule appears to be wide: according to the law, a lawyer may not "have another profession nor conduct any other activity incompatible with the profession of a lawyer". Multidisciplinary restrictions are also foreseen, since lawyers cannot team-up with other professions within the same company. Only lawyers may hold shares in law firms.

Professional liability insurance is compulsory.

The National Action Plan indicates that it was examined whether the requirements under the Czech national legal system are non-discriminatory on the basis of nationality or residence and proportionate. The conclusion was that all requirements under the Czech legal system should be maintained.

### Patent agents

The profession is regulated by way of reserved activities.

All activities, reserved to patent agents, namely: providing expert advice to natural persons and legal entities in matters relating to industrial property, representation before public bodies and in proceedings before courts, as well as other services related with protection of industrial property, are shared with lawyers.

The qualification requirement includes a bachelor's degree with at least 3 years' professional experience in the field of intellectual property. In addition, the candidate has to pass a professional examination at the Industrial Property Office and register to the Chamber of Patent Attorneys.

Professional indemnity insurance is compulsory. Additional requirements, restricting the access to the profession have not been identified.

The National Action Plan indicates that following the assessment within the transparency exercise for regulated profession of patent attorney, the competent authorities concluded that the regulation and qualification requirements are non-discriminatory and proportional and the current system should be maintained.

### Real estate agents

The profession is not regulated. Real estate activities are considered as trade and applicants are only obliged to comply with the general rules set by the Trade Licensing Act (legal capacity and integrity/good repute).

The Association of Real Estate Offices has a system of self-regulation and in order to be a member one must obtain a certificate according to ISO and CEN standard.

However, the Czech national action plan announced the upcoming regulation of the profession to ensure a higher level of consumer protection. The Czech Republic considers that the absence of regulation for this profession has led to unprofessionalism and unfair activities which harm consumers as well as those real estate agents who are fair and competent. The currently low degree of regulation is inadequate because it does not protect consumers from unprofessionalism and unfair and even criminal activities, and contributes to atmosphere of distrust of real estate agents. This opinion also corresponds to results of a survey, according to which both consumers and real estate agents themselves ask for regulation of this profession. According to a survey, 81% of the consumers and 76% of the real estate agents think that it is necessary to set up rules for performing the real estate activities.

The new rules are expected to specify the conditions for pursuing the profession of real estate agent. The draft bill foresees the introduction of a mandatory professional qualification (for instance completion of secondary education and 3 years of relevant experience). The real estate agents will also need to be covered by mandatory liability insurance and be subject to some information obligations. There is an intention to create a publicly accessible electronic database of all natural persons having the required qualifications.

The bill was submitted to the Government in August 2016.

### Tourist guides

The profession is no longer regulated since 2008. Previously, national rules required the possession of professional qualification and linguistic skills. Now to obtain the trade licence

for tourist guide, the applicant only needs to meet general conditions, set by the Trade Licensing Act (legal capacity and integrity/good repute).

According to the Czech Republic, the liberalisation of the profession lead to a number of complaints received by the professional association from consumers related to poor quality services being provided by persons who indicated to be tourist guides and that often a receipt on the provision of service has not been given to the consumers. The competent supervision authorities claim that it is difficult to identify unlawful service providers as there can be thousands of trade licence holders.

The authorities stress that the liberalisation had negative impact on the number of issued trade licences, whereas at the same time the illegal business in the provision of tourist guide services increased and the service quality and competitiveness of tourist guides declined.

The Ministry of Regional Development cooperates with the selected professional associations in tourism, one of them being the Czech Tourist Guide Association. The Ministry of Regional Development is currently preparing new legislation in order to regulate the profession, most probably by way of "protected title".

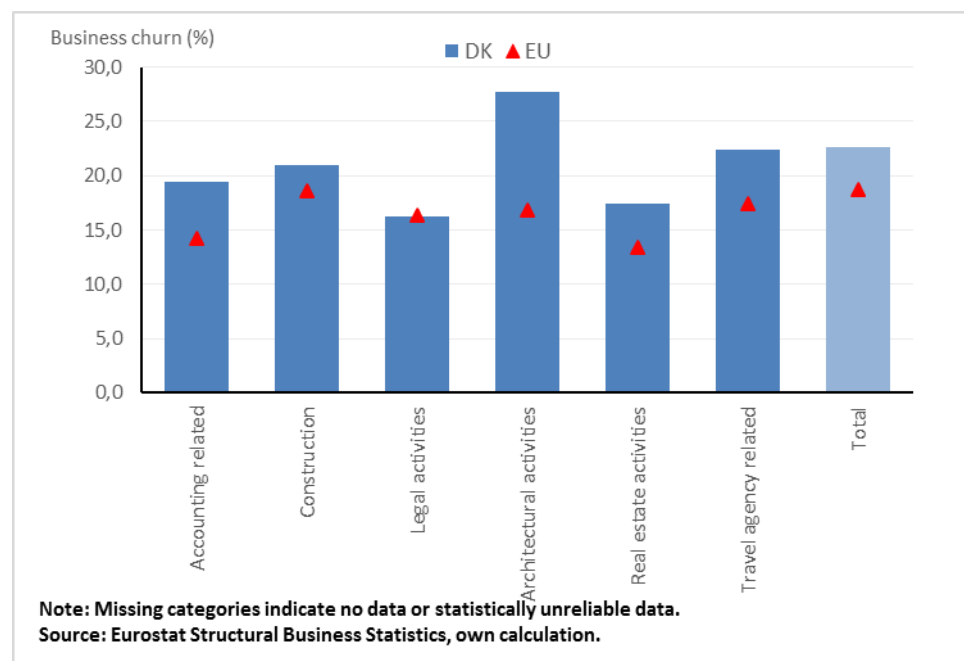
## I. Overview

On 1 November 2016 Denmark had submitted information about 161 regulated professions. Among those professions, 14,9% concern business services, 11,2% the construction sector and 0,6% the real estate sector.

According to a recent EU wide survey<sup>28</sup>, 14% of Danish labour force can be considered as working in regulated professions. This is lower than the EU average (21%).

As indicated in chart 1, for all the professions selected, business churn (or turnover) rate<sup>29</sup> is higher in Denmark than in the EU on average. This may be interpreted as an indication of the relatively high dynamism and competition within regulated professions present in these sectors in Denmark.

**Chart 1: Business churn rate in selected occupations, Denmark and the EU, 2013-14 (%)**



Denmark has actively participated in the **mutual evaluation exercise**. It has setup an inter-ministerial taskforce in charge of reviewing all regulated professions and come with proposals for simplifying complex regulation or removing them where unnecessary. On 6 October 2016, Denmark still needed to submit 3 general information on different regulated professions and 2 professions still need to be assessed as to their proportionality.

In its **national action plan**, Denmark announces changes affecting about 40 regulated professions. These changes vary in their scope and likely impact. They cover the following types of measures: abolishment of the scheme, change of rules and requirements, change in

<sup>28</sup> Koumenta M. and M. Pagliero (2016), "Measuring Prevalence and Labour Market Impacts of Occupational Regulation in the EU". See: <http://ec.europa.eu/DocsRoom/documents/20362>

<sup>29</sup> Business churn rate is calculated as the ratio of the sum of newly founded and closed enterprises to the total number of enterprises in year  $t$ . No data available for patent agent related activities.

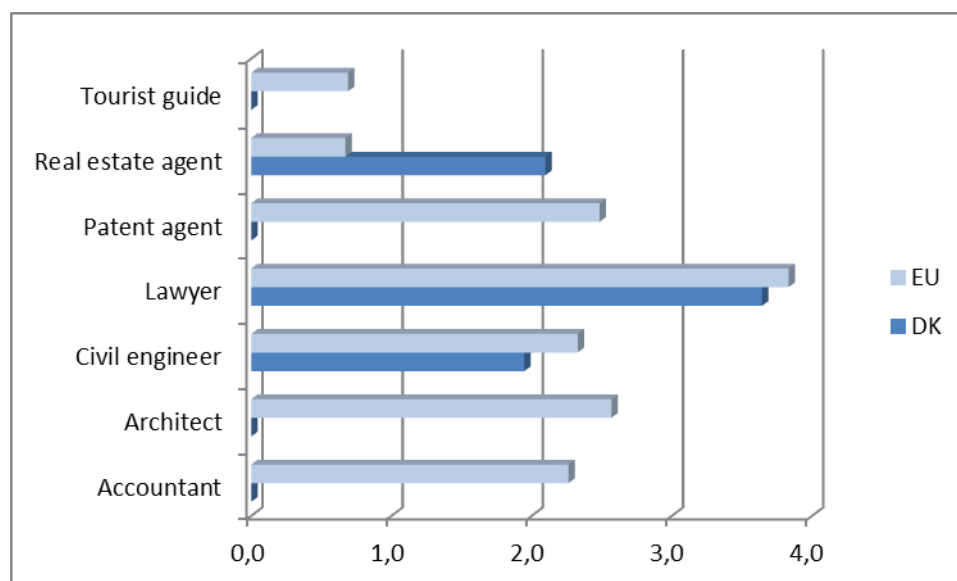
reserved activities, change of administration, further digitalisation, simplified guidance, modernisation, merger of schemes and further regulation.

## II. Situation concerning the analysed professions

The level of restrictiveness is lower in Denmark compared to the EU weighted average except for the profession of real estate agent where the opposite is true. Amongst the professions analysed, restrictiveness is highest for lawyers.

Chart 2 presents the results of the quantification made by the Commission on the restrictiveness level in the selected professions.

Chart 2: Restrictiveness indicator, 2016, Denmark and the EU



Source: European Commission services

### Architects

The profession of architect is not regulated in Denmark.

There is a 5-years post-secondary education programme with no mandatory traineeship. Voluntary 2-years post-graduate training programmes exist. Professionals have to follow continuous professional development programmes on a regular basis. 10% of architects' salary is set aside by employers to provide for this continuous training. The Danish legislation on building imposes on the professionals that build a new construction to be covered by decennial professional indemnity insurance.

The Danish Building Act regulates much of the construction process in terms of safety and standards criteria and it is the municipal authorities that exercise oversight of this, largely through the building permit application process. On the basis of the building Act, the Danish building regulation regulates the administrative provisions for the application process of building permit and contains functional requirements that must be fulfilled when constructing buildings (e.g. design, fire safety, energy consumption). In addition architects may operate by agreeing a 'description of services' with clients, legally obliging them to deliver upon as agreed. The wider community is actively engaged on planning applications. Ultimate responsibility rests upon building owners who need to ensure that his building is in accordance with the building regulations. They may as appropriate seek civil redress from any construction project participants seen to be at fault. Checking/ensuring health and safety

on construction sites is the function of “health and safety coordinators”. Energy Performance checks are conducted by verified practitioners. For building of a “high consequence class” (schools, shopping malls, etc.), a structural engineer needs to be hired to certify the quality of the construction when submitting the building permit. Also fully qualified architects, engineers and construction engineers are typically employed as building inspectors in municipalities. Denmark reports its overall satisfaction with its system and its safety record, pointing out that there is 'no penal history'.

### Civil engineer

The profession of civil engineer (*Anerkendt statiker*) is regulated by reserves of activity and protected title.

More than 99% of all civil engineers perform their profession without any certification. However less than 100 civil engineers are certified as structural engineers. The Danish Building Regulation requires the involvement of a certified structural engineer in the structural design or in the checking process of the structural calculations when a building is categorised as high consequence class (CC3), according to Eurocode 0.

The activity of preparing or assuring the quality of calculations related to construction of a certain size and complexity, where the consequences of collapse could be particularly large is reserved to civil engineers. A 5 years degree is required (several paths exist to obtain the qualification. Master of Science in Engineering (M.Sc.(Eng.)), Bachelor of Science in Engineering with honours (B.Sc.Eng. (Hons.)) or Bachelor of Science in Engineering (BSc. (Eng.)). The certifying body must give applicants who do not have any of the above qualifications the opportunity to take a test or examination to ascertain whether they have the requisite professional expertise. Besides the required degree, access to the profession is granted after the completion of a 3 years mandatory training (i.e. having worked at least 3 years on static calculations).

### Accountants

The profession of accountant is not regulated in Denmark. Only the profession of statutory auditor (*Statsautoriseret revisor*) is regulated with reserved activities.

### Lawyers

The profession of lawyer (*Advokat*) is regulated by reserves of activity.

Lawyers have an exclusive right to conduct legal proceedings for others. This includes representing clients before the courts, acting as administrator concerning deceased persons, estate and acting as administrator concerning division of matrimonial property. A 5- years university degree combined with a 3-years mandatory training as solicitor’s clerk is required. The passing of state exam is also necessary. Registration with the Danish Bar association is mandatory for every lawyer in Denmark. Lawyers should also take part in continuous

professional development. Restrictions apply to the corporate forms lawyers companies may take, non-lawyer may not possess more than 10% of the capital and the voting rights of a lawyer company and lawyers may not be associated with non-lawyers. All lawyers need to have professional indemnity insurance coverage.

In 2008, the rules on the monopoly of lawyers to appear before a court were amended: other persons than lawyers were granted competence to appear before the court in cases concerning claims smaller than DKK 50.000, in cases concerning payment orders which meet certain requirements and in cases concerning enforcement of orders in the bailiff’s court. In its

national action plan, Denmark has announced that a further review of the necessity and proportionality of the regulation in place was ongoing following Danish's governmental competitiveness policy programme in 2012. The review is still ongoing and it is expected that it will be completed in the beginning of 2017.

#### Patent agents

The profession of patent agent is not regulated in Denmark, no specific requirements exist.

#### Real estate agents

The profession of real estate agent (*Ejendomsmægler*) is regulated by reserved activities and protected title.

Activities of property selling acting as an intermediary are reserved to registered real estate agents who bear the responsibility for the transaction and are mandatory by law for every property sale. The agents are also responsible for arrangement of valuation of real estate to consumers. A lawyer who is registered as a real estate intermediary can also be appointed as such. In order to qualify as real estate agent, several possibilities exist but on average specific education lasts 3 years completed by 2 years of work experience. There are also multiple ways to obtain a required qualification. Real estate agents have to be registered in the public register of approved real estate agents managed by the Danish Business Authority. The Disciplinary Board handles complaints and imposes penalties against real estate agents and agencies.

Real estate agents who conduct their activities conducted from a physical place may not be associated with other professionals with the exception of lawyers. Real estate agents are not allowed to represent both parties in a transaction nor be involved in the financing of the real estate purchased. Registered real estate agents have to be covered by professional liability insurance.

Besides the sector specific regulation, consumers are protected through several horizontal legislations such as: the law on consumer protection in the acquisition of real estate, the contract law or the consumer law.

The regulation was recently revised and the new law, which entered into force in January 2015, has removed the activity of buyer-counselling from the list of activities reserved to real estate agents. In its national action plan, the Danish authorities have explained that they hoped that this reform would lead to further development and growth in the market for real estate. Denmark also refers to an ongoing review of the requirements in place and the scope of reserved activities.

#### Tourist guides

The profession of tourist guides is not regulated in Denmark.

There are no legal requirements for access to exercise the profession, to hold a particular qualification or educational or professional qualification. A tourist guide diploma program is offered by a Danish university, which provides future tourist guides with the necessary knowledge and competences to exercise the activity of tourist guide.

Consumers are protected through the existence of the Danish Consumer Complaints Board (*DA-Forbrugerklagenævnet*) under the Danish Competition and Consumer Authority.

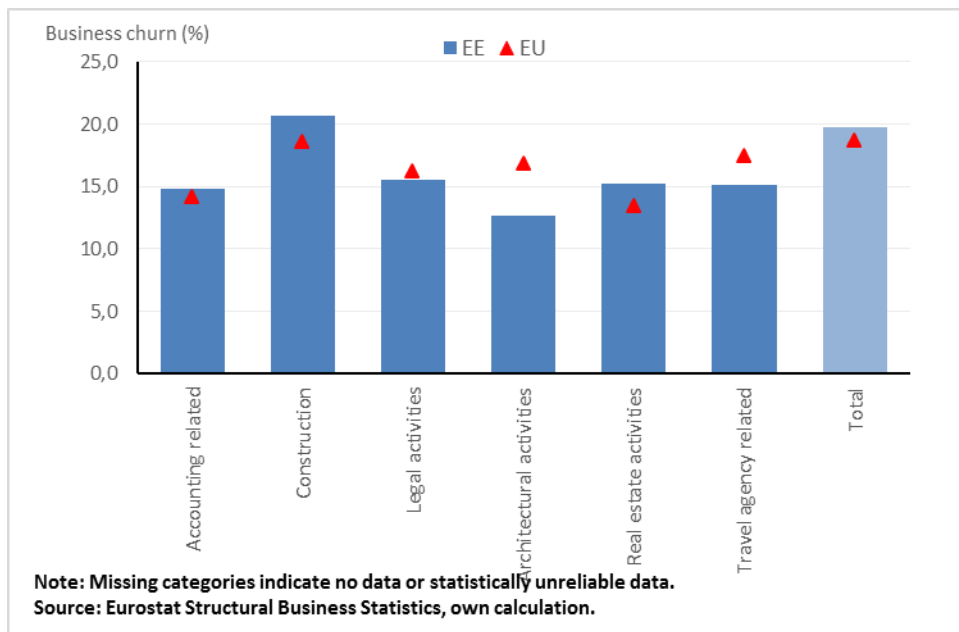
## I. Overview

On 1 November 2016 Estonia had submitted information about 98 regulated professions. Among those professions, 12,2% concern business services, 15,3% the construction sector and 1% the real estate sector.

According to a recent EU wide survey<sup>30</sup>, 19% of Estonian labour force can be considered as working in regulated professions. This is lower than the EU average (21%).

As indicated in chart 1, for architectural and travel agency related activities, business churn (or turnover) rate<sup>31</sup> is lower in Estonia than in the EU on average. This may be interpreted as an indication of the relatively low dynamism and competition within regulated professions present in these sectors in Estonia. For the other professions the churn rates are similar to the EU average or higher in the case of construction activities.

**Chart 1: Business churn rate in selected occupations, Estonia and the EU, 2013-14 (%)**



Estonia has been actively participating in the **mutual evaluation exercise** and has provided the requested information. On 10 October 2016 Estonia had submitted all the general information regarding its different regulated professions as well as 85% of the assessments concerning the proportionality of the regulation of those professions.

In its **national action plan**, Estonia explains the internal processes for carrying out the transparency exercise and presents an overview of the regulatory framework of the regulated professions per each economic sector stating no need for reforms. At the same time, Estonia states that the original reasons for a particular regulation might no longer apply and that regulation could probably be reduced further.

<sup>30</sup> Koumenta M. and M. Pagliero (2016), "Measuring Prevalence and Labour Market Impacts of Occupational Regulation in the EU". See: <http://ec.europa.eu/DocsRoom/documents/20362>

<sup>31</sup> Business churn rate is calculated as the ratio of the sum of newly founded and closed enterprises to the total number of enterprises in year *t*. No data available for patent agent related activities.



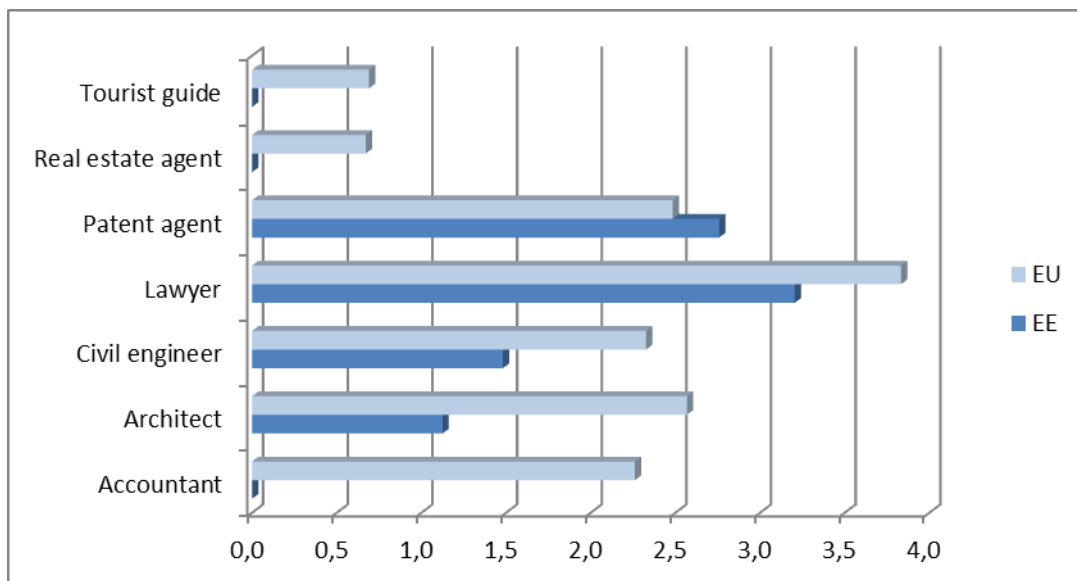
## II. Situation concerning the analysed professions

While the reported number of regulated professions in Estonia is relatively low, there is a tendency to regulate rather the education and training or particular professional activities than the profession as such. A voluntary certification scheme is being run by the Estonian Qualifications Authority, who sets up professional standards using EQF levels. These professional standards are used not only for developing curricula in formal education and training, but they also serve as the basis for issuing professional certificates in various sectors, including in the construction sector. Generally professional certificates are not mandatory (i.e., not a pre-condition for working), however sometimes the legislation provides for the mandatory requirement of a professional certificate. In view of this, there is a growing concern that professional certificates might become increasingly used as mandatory qualification requirements in certain sectors (such as construction) thus potentially becoming a barrier to access the market.

The level of restrictiveness is lower in Estonia compared to the EU weighted average except for the profession of patent agent where it is higher. Amongst the professions analysed, restrictiveness is highest for lawyers.

Chart 2 presents the results of the quantification made by the Commission on the restrictiveness level in the selected professions.

Chart 2: Restrictiveness indicator, 2016, Estonia and the EU



Source: European Commission services

### Architects/Engineers

The professions of architect and of civil engineer are not regulated as such. However, for certain modes of pursuit of the professional activities there is a requirement to have a professional certificate (i.e. a certificate at a certain level issued by the Qualifications Authority).

According to Estonia, in response to the perceived low quality of the workforce, there is a recent trend in the construction legislation to make professional certification mandatory for certain professional activities (more specifically, for a so-called “competent person” (*“pädev isik”*)). The competent person performs, scrutinises or manages work independently in an area of activity related to his or her competence and assumes responsibility for such work,

submits technical opinions in his or her own name or, when acting in the interests of an undertaking, in the name of the undertaking, and, where necessary, arranges the allocation of resources and organises the work of others.

According to the Building Code of 2015, any company that wishes to undertake activities in the fields of construction, design, building surveys, energy audits, owner supervision, consultancy on building projects and buildings, and issuing energy certificates must register in the Register of Economic Activities and name a "*pädev isik*" for that particular field. There are, therefore, qualification requirements for such specialists in charge, while other employees do not need to comply with this requirement. Registration as "*pädev isik*" is also applicable to self-employed professionals.

The Regulation No 108 of the Minister of Economic Affairs and Infrastructure dated 3 August 2015 sets out detailed breakdown of occupations in the field of construction that require proof of qualifications. To a certain extent various construction activities are shared with one or more related professions, while for certain specific activities "*pädev isik*" must necessarily be qualified at a certain pre-defined level.

For instance, only architects can be "*pädev isik*" for the following activities: (i) drawing up of architectural component of construction project (excluding landscape architecture and interior design), (ii) auditing of compliance of architectural component of building with the requirements (level 8), (iii) expert assessment of architectural construction project. On the other hand, qualifications in engineering or in architecture are both acceptable to pursue occupation of a competent person authorised to granting energy labels for new buildings.

A variety of required qualification levels is indicated for engineers seeking occupation of "*pädev isik*", depending on the specific area of activity. For instance, qualification of construction engineer are required for the following activities: (i) building construction with a building permit, (ii) building project design, (iii) owner supervision, (iv) auditing of structural components and general construction, (v) expert assessment of construction projects. In the more specific areas, specialised qualifications are required (e.g., road engineer for road safety auditing or public road maintenance).

The Estonian authorities have recently indicated that they are planning to simplify the structure foreseen under Regulation No 108, thereby making it less restrictive.

The Building Code also refers to the application of the Recognition of Professional Qualifications Act in respect of mutual recognition of foreign professional qualifications and appears to provide for automatic recognition of qualifications listed in Annex VI of the Directive 2005/36/EC. However, neither the Building Code nor Recognition of the Professional Qualifications Act appears to implement automatic recognition rights for architects listed in Annex V of Directive 2005/36/EC.

The qualification requirements are set by reference to professional certificates obtained based on various levels of the Estonian Qualifications System. The principle is that the level of competence can be reached both formally (e.g. Master's for level 7) and informally (work experience + exam).

For an architect performing a function of a "*pädev isik*" there is a requirement to have pre-EQF levels architects IV/ V or EQF levels for authorised architects 7 or 8 (i.e., at least a Master's degree or an equivalent). Furthermore, 3 years of professional experience is required. The professionals shall submit documents for assessment by the Estonian Association of Architects and to participate in an interview.

For an engineer performing a function of "pädev isik" various combinations of qualifications are acceptable. For instance, for an engineer certified at EQF level 6 generally ~6 years of training is required: either bachelor's degree of 4 years and professional experience 2 years; or 4 years professional higher education and 2 years professional experience; or bachelor's degree of 3 years and professional experience 3 years. If the person has obtained his or her degree more than 5 years ago, there are supplementary training requirements.

There is a need to renew the professional qualification every 5 years. For instance, to renew the qualification of construction engineer, level 6 or level 7, the person must have participated in 80 hours of trainings, for level 8 – 100 hours of training. To renew the qualification of architect (level 6) the person must have participated in 80 hours of trainings.

### Accountants

The profession of accountant is not regulated in Estonia. Only the profession of sworn/internal auditor is regulated in this sector.

### Lawyers

Estonia regulates the activities of "*advokaat*" (sworn advocate) by way of reserve of activities and protection of the title. In most types of court proceedings only sworn advocates are permitted to represent persons in the Supreme Court<sup>32</sup>. Along with other professions sworn advocates can also act as bankruptcy trustees.<sup>33</sup> In the framework of provision of legal services to a client, sworn advocates also verify for the client transcripts of and signatures on documents to be submitted to the court and other state offices (activity shared with, e.g., notaries). Legal advice, drawing up legal documents and representation in administrative proceedings are not reserved to sworn advocates.

Qualification requirements to become a sworn advocate consist of 5 years master's degree, 3 years of professional experience and an exam organised by the Estonian Bar Association. There are several ways to obtain qualifications, especially as regards accepted professional experience (e.g., experience as a clerk of a sworn advocate, as a judge, notary or prosecutor are accepted). Persons with doctorate degree are exempt from professional experience requirements, while judges of supreme judicial instances (such as Supreme Court or European Court of Justice) are exempt from the Bar exam.

Membership at the Bar Association is mandatory. A sworn advocate shall be at least 24 years old. Every five years, an advocate must submit a report on the continuous trainings (approximately 10 hours per year according to the content determined by the Bar Association).

The allowed corporate forms are: a general partnership, limited partnership, private limited company, public limited company, and a sole proprietor. Only sworn advocates may be the shareholders (thus also controlling all voting rights). A sworn advocate may be a shareholder of only one company of advocates.

There are also certain restrictions on the companies of advocates. Such company shall engage in no other area of activity than the provision of legal services and cannot operate together with other types of companies (e.g. in the same rooms as the law office or generally together with a law office).

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<sup>32</sup> In the courts of lower instances clerks of a sworn advocate ("half-qualified" lawyers who are also members of the Bar Association) and any other persons who have a Master's degree in law can also represent persons.

<sup>33</sup> Acting as a bankruptcy trustee is shared with: (1) persons who have passed a bankruptcy trustee exam and traineeship, (2) bailiffs who have a Master's degree in law and (3) sworn auditors.

Restrictions on individual “*advokaats*” consist of a prohibition to work as a public official or to work as an employee in any other positions than a lawyer, except in a teaching or research capacity or as an employee of the Bar Association. An “*advokaat*” must inform the Bar Association if they participate in the management of a company and such participation must be compatible with the professional activities of an “*advokaat*” and requirements for professional ethics and cannot compromise the lawyer's independence.

Professional indemnity insurance is mandatory. The insurer must be a company which has an authorisation to engage in insurance activities in Estonia. There is a mutual recognition clause with respect to associated members of the Bar Association (i.e., lawyers qualified in other Member States who want to act as lawyers in Estonia without becoming full members of the Bar Association).<sup>34</sup>

### Patent agents

The profession is regulated in Estonia by way of reserve of activities and protected title (“*patendivolnik*”).

Reserve of activities includes representing persons in acts related to trade-marks and patents at the Patent Office and at the Industrial Property Board of Appeal. Patent attorneys are also competent to authenticate translations and copies of documents concerning industrial property which are to be submitted to the authorities (activity that is shared with notaries and sworn translators). In the Supreme Court, patent attorneys can only represent persons in patent and trademark related cases in co-operation with a sworn advocate. In lower instances, patent attorneys may also represent persons in patent and trademark related cases but this is not an exclusively reserved activity (open to all persons with a Master's degree in law).

Qualification requirements consist of a higher education degree (min. of 3 years), 4 years of professional experience and a mandatory exam. Up to two years of work experience at the Patent Office is also taken into account. Registration at the state register of patent attorneys is required.

A company of patent attorneys shall not provide any other services except legal services. There is also a requirement of professional indemnity insurance (without provisions on mutual recognition or equivalence of insurance obtained abroad).

### Real estate agents

The profession is not regulated in Estonia. Instead there is a voluntary certification system run by the Estonian Qualifications Authority, which serves as a label of quality in the market.

The only profession regulated in real estate sector is the profession of land appraiser.

### Tourist guides

The profession is not regulated in Estonia. The tourist guides are subject to the Tourism Act that sets specific requirements for the provision of tourism services and to the consumer protection legislation, supervised by the Consumer Protection Authority. Estonia further notes that the transparency about the quality of services through the use internet and social media disciplines the service providers.

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<sup>34</sup> The following requirements apply to the insurance: (1) the insurer shall be a company which has permission to engage in insurance activities in Estonia; (2) the insured event involves direct patrimonial damage caused in connection with the provision of legal services by the management of a law office or an advocate, regardless of the place of provision of legal services. Liability for intentional breach of official duties need not be insured; (3) the minimum amount of coverage min. 63 910 euros; (4) in case the insurance contract has been concluded with a deductible, the insurer shall compensate for the full amount of the damage and claim the deductible from the policyholder.



FINLAND



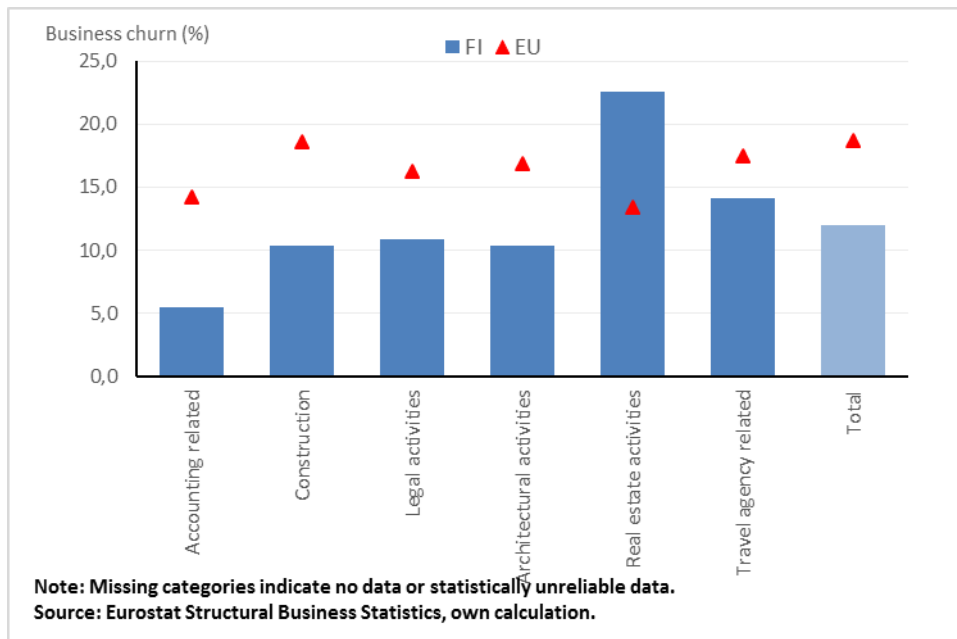
## I. Overview

On 1 November 2016 Finland had submitted information about 141 regulated professions. Among those professions, 11,3% concern business services, 2,1% the construction sector and 0,7% the real estate sector.

According to a recent EU wide survey<sup>35</sup>, 17% of Finish labour force can be considered as working in regulated professions. This is lower than the EU average (21%).

As indicated in chart 1, for all the professions selected with the exception of real estate activities business churn (or turnover) rate<sup>36</sup> is lower in Finland than in the EU on average. This may be interpreted as an indication of the relatively low dynamism and competition within regulated professions present in these sectors in Finland.

**Chart 1: Business churn rate in selected occupations, Finland and the EU, 2013-14 (%)**



Finland has actively participated in the **mutual evaluation exercise**. On 10 October 2016, it still needed to submit general information on 7%, i.e. 5 different regulated professions. The assessment of the proportionality of the regulation applying to these professions has been completed for all professions.

In its **national action plan**, Finland announces very limited changes to the regulation in place. Finland indicates its ambition to review the regulation of professions in the public sector by linking them to competence rather than qualification. It also refers to plans to introduce joint legislation for social and healthcare professionals.

<sup>35</sup> Koumenta M. and M. Pagliero (2016), "Measuring Prevalence and Labour Market Impacts of Occupational Regulation in the EU". See: <http://ec.europa.eu/DocsRoom/documents/20362>

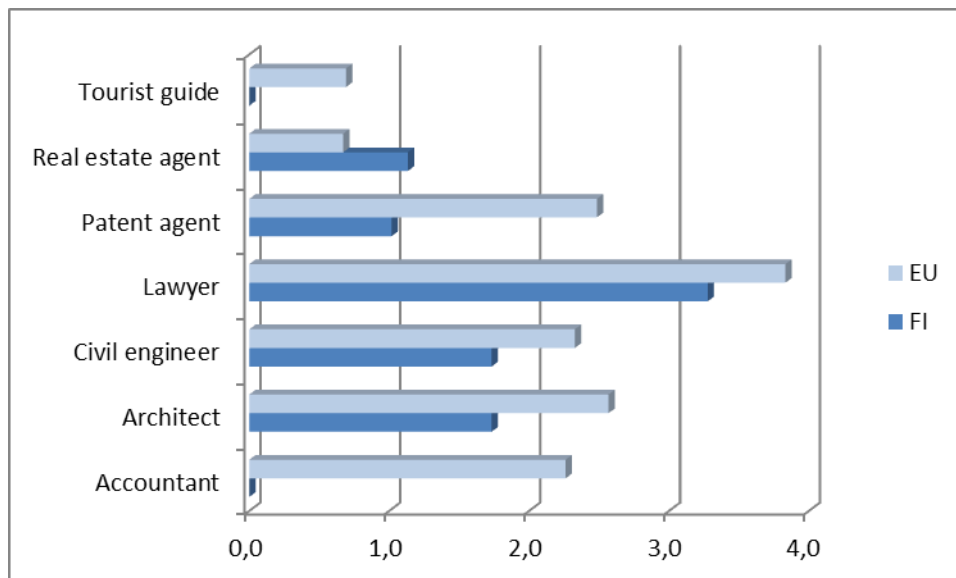
<sup>36</sup> Business churn rate is calculated as the ratio of the sum of newly founded and closed enterprises to the total number of enterprises in year *t*. No data available for patent agent related activities.

## II. Situation concerning the analysed professions

The level of restrictiveness is lower in Finland compared to the EU weighted average except for the profession of real estate agent where it is higher. Amongst the professions analysed, restrictiveness is highest for lawyers.

Chart 2 presents the results of the quantification made by the Commission on the restrictiveness level in the selected professions.

Chart 2: Restrictiveness indicator, 2016, Finland and the EU



Note: for the professions of patent agent and real estate agent the indicator for Finland measures the restrictiveness to carry the protected title

Source: European Commission services

### Architects

The profession of architect is not regulated in Finland.

The party procuring a construction project (clients) bears the responsibility that the building is planned in compliance with the regulations and the permit granted. He needs to ensure that the project meets all requirements and is responsible for hiring the services of competent staff. The architect and other designers are in a private law relationship with their client. Constructions are governed by the Land Use and Building Act and by building regulations which set out requirements regarding safety and health.

Projects are undertaken under lead designers who have responsibilities under law and who must meet eligibility requirements which are assessed by local building authorities. They decide on a project-by-project basis the required qualifications of the lead designer together with the granting of the construction permit. Health, safety and quality factors are also overseen by the local authority. The procedure may vary from municipality to municipality.

Qualification requirements for design tasks are regulated according to their level of difficulty. Access conditions for lead designer, building designer and special designer are defined in the Land use and construction law.

### Civil engineer

The profession of civil engineer is not regulated in Finland.

Construction projects are regulated by the Land Use and Building Act which, since its adoption in 2000, defines the responsibilities of the client and of the building control authority. According to this Act, the compiler of the architectural and engineering drawings must have the education and experience required will vary depending on the type of building project (its intended use, technology used, calculation methods, or environmental requirements). Related tasks are divided into four grades of difficulty. Qualification requirements for designers and site managers are regulated in the Act. The qualification of a designer is assessed on a project-by-project basis. The local building control authority decides on the qualification necessary in function of the building project.

### Accountants

The profession of accountant is not regulated in Finland. Only the profession of statutory auditor is regulated.

### Lawyers

The profession of lawyer (*Asianajaja/advokat*) is regulated by reserves of activities and protected title.

Lawyers who advise on and assist in legal matters can be divided into two categories: members of the Finnish Bar Association (advocates) and non-members of the Bar (jurists). Lawyers who represent clients in the Finnish courts must have a license issued by an independent Board of Licensed Counsels. Representation of clients before courts is a reserved activity for lawyers.

To become a lawyer (advocate) requires a Master of Law degree (5 years), four years of work experience in the legal field, and passing a bar exam. Membership to the Finnish Bar Association is compulsory. As part of their obligations, registered lawyers have to update their professional skills on an annual basis; they may not engage in other activities than those related to their profession and they need to have professional liability insurance. Some restrictions exist as to the corporate form with limited liability. Shareholders of a lawyers' company can only be lawyers except in limited circumstances authorised by the Finnish Bar Association. The same conditions apply for the joint exercise with other professions.

### Patent agents

The profession of patent attorney is regulated by protected title.

Attorneys and agents can operate – even professionally – without authorisation, but only authorised attorneys have the right to use the titles protected by law, such as patent attorney, trademark attorney, design attorney, and industrial property attorney. The authorisation only applies to natural persons, not agencies. The Act on Patent Agents was repealed and replaced on 1 July 2014 by the Finnish Act on Authorised Industrial Property Attorneys. In order to carry the title, candidates need to have their professional skills assessed.

### Real estate agents

The profession of real estate agent (LKV) and letting agent (LVV) are regulated by protected title in Finland.

In Finland, most of transactions involving a real estate agent concern sale and purchase of shares in a house cooperative, which does not require separate endorsement by an official notary. For both professions there is an obligatory examination but no specific training or previous experience is required to sit the examination. The qualification requirement applies

only to the responsible manager and to at least 50% of the staff employed by an real estate agency. The system was reformed in 2013 and the new regulation entered into force in 2016.

### Tourist guides

The profession of tourist guides is not regulated in Finland.

Consumer interests are safeguarded by the Consumer Protection Act which applies inter alia to tourism services offered to consumers by traders or service providers. Mediation is organised by the Consumer advisory services. If the dispute cannot be solved, the consumer can refer it to the Consumer Disputes Board. The education to become a tourist guide is offered at upper secondary level. In higher education institutions there are programs which offer education in tourism research and hospitality management.



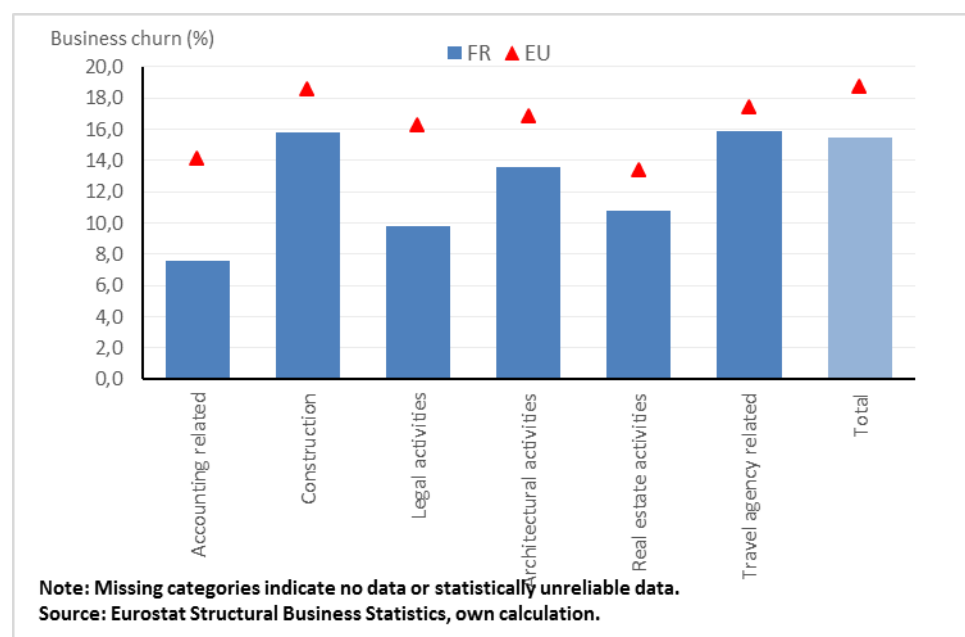
## I. Overview

On 1 November 2016 France had submitted information about 258 regulated professions. Among those professions, 11,2% concern business services, 6,6% the construction sector and 1,2% the real estate sector.

According to a recent EU wide survey<sup>37</sup>, 17% of French labour force can be considered as working in regulated professions. This is lower than the EU average (21%).

As indicated in chart 1, for all professions selected, business churn (or turnover) rate<sup>38</sup> is lower in France than in the EU on average. With the exception of the construction and the travel agency sectors, the churn rates are also lower than the average churn rate for the total French economy. This may be interpreted as an indication of the relatively low dynamism and competition within regulated professions in France.

**Chart 1: Business churn rate in selected occupations, France and the EU, 2013-14 (%)**



France has participated very actively in the **mutual evaluation exercise** and has submitted almost all the general information regarding its regulated professions. 90% of the professions have also been assessed as to the proportionality of their regulation.

The **national action plan** (NAP) submitted by France details the recent changes introduced, as well as the reforms envisaged or planned in the field of regulated professions. Concerning in particular the seven analysed professions in this report, the NAP explains how the recently adopted law on growth, activity and equal economic opportunities (so-called “*Loi Macron*”) and its implementing acts lift several restrictions regarding the legal forms for legal

<sup>37</sup> Koumenta M. and M. Pagliero (2016), "Measuring Prevalence and Labour Market Impacts of Occupational Regulation in the EU". See: <http://ec.europa.eu/DocsRoom/documents/20362>

<sup>38</sup> Business churn rate is calculated as the ratio of the sum of newly founded and closed enterprises to the total number of enterprises in year *t*. No data available for patent agent related activities.

professions and accountants and enlarge some of the activities of lawyers and accountants. The action plan also presents the recent reforms that have been introduced or are about to be introduced for architects and real estate agents. Finally it depicts the reflection process that has been undertaken for the tourist-guide profession. All these changes have been taken into account when describing the specific situation of each profession below.

In 2016, the European Commission addressed a **country specific recommendation** to France in the area of regulated professions:

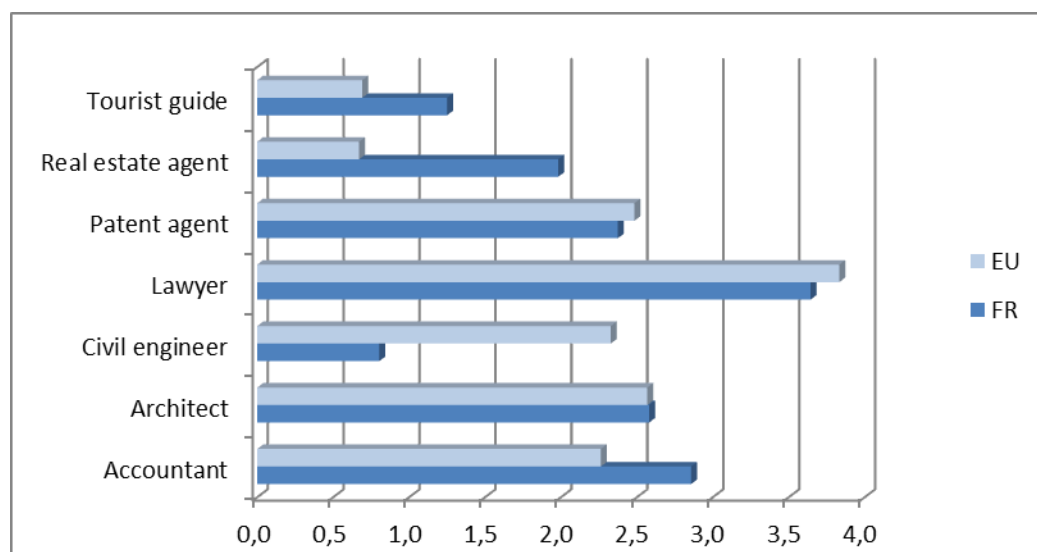
*Remove barriers to activity in the services sector, in particular in business services and regulated professions.*

## II. Situation concerning the analysed professions

The level of restrictiveness is higher in France compared to the EU weighted average for the profession of accountant, real estate agent and tourist guide. Restrictiveness intensity is on the other hand lower compared to the EU average for the patent agent, lawyer and in particular for civil engineer. For the profession of architect, regulation is similar to the EU on average. Amongst the professions analysed, restrictiveness is highest for lawyers.

Chart 2 presents the results of the quantification made by the Commission on the restrictiveness level in the selected professions.

**Chart 2: Restrictiveness indicator, 2016, France and the EU**



Note: for the professions of civil engineer the indicator for France measures the restrictiveness to carry the protected title  
Source: European Commission services

### Architects

Architects are regulated by means of title protection with reserved activities.

An architect is required for architectural projects related to construction projects subject to building permits. The other usual tasks of architects such as construction management, interior design and landscape architecture, technical control and compliance permit, urban design are shared with other professions, e.g. interior architect (that is not a regulated profession). Architects are no more required for internal renovations.

The profession of architects requires 6 years of higher education of which 5 years of studies and 1 year of practical training during which the future architect acquires the authorisation for project management (*habilitation à la maîtrise d'oeuvre (HMONP)*) which will enable him to

sign construction projects. There is no state exam, no territorial restriction or limitation of the number of licences. There is an obligation to register with the regional professional body representing the architects (*tableau regional des architectes*) and to have professional indemnity insurance appropriate for each building site (they may also use an annual professional indemnity insurance that covers all sites). Also, no restrictions exist on corporate forms or regarding the joint exercise of professions. There is however a yearly continuous professional development obligation of which the fulfilment must be communicated to the regional professional body.

Architects are allowed to use all corporate forms, but with specific rules with regards to shareholding requirements and voting rights to make use of the title of architect company.

The specific shareholding requirements and voting rights which apply for architects companies are: Shares should be name shares. More than 50% of the shares and of the voting rights have to be held by professionals. Legal persons as shareholders, that are not architect companies, cannot hold more than 25% of the capital and voting rights of the architects company.

### Civil engineers

France regulates the profession of civil engineering by way of a protected title. Only holders of diploma of certain State-created/recognised and accredited engineering higher education institutions are allowed to wear the title of "*ingénieur diplômé*" ("graduated engineer"). The title guarantees a master level qualification with academic and professional learning outcomes allowing the holders of such diplomas to work as engineers without any other requirements. Besides, the French law provides for a number of construction and urbanistic rules and standards as well as general law principles to be respected when developing a construction project. These are considered sufficient to safeguard security.

However, since 1978, a mandatory technical check by a **technical construction controller** is required for ensuring buildings' soundness and people's security. It is especially required for some buildings which pose particular risks because of their nature (e.g. public buildings), their size (e.g. skyscrapers) or their location or whose functioning is essential for public safety or defence of public order. These technical construction controllers can be either legal or natural persons. They are accredited for a period of 5 years and at least one person in a company needs to have an engineering qualification of at least 4 years and professional experience of at least 3 years to be able to pursue such tasks. They have to be fully independent from the designer and project manager, they have to demonstrate that they undertake continuous professional development and have the material and logistical means to pursue their tasks. If the technical construction controller is a legal person it will have to give to the competent authority the composition of the capital of the company, the list of persons detaining more than 5% of the capital and list of branches of the company and of the shares of the company in other companies, as well as the list of managing staff and external financing sources.

### Accountants

The profession is regulated by way of reserved activities and a protected title.

Accountants are required for revising and assessing companies' and bodies' bookkeeping as well as drawing up annual financial statements and consolidated financial statements for undertakings of which they are not salaried (reserved activity).

Under the reserved activities, accountants review and appreciate accountancy, attest to the truthfulness and conformity of the profit and loss accounts and also keep, centralize, open, close, monitor, recover and consolidate the accounts of companies and organizations to which they are not bound by an employment contract. Recent case law<sup>39</sup> revealed lack of clarity regarding the scope of the reserved activities, concerning in particular simple tasks, such as making accounting entries electronically before approving them.

As shared activities, they can also, as incidental and not main activities, give advice, carry out legal, fiscal or social studies and works and give advice to any authority or public or private body which authorise them if they do bookkeeping for them and if those studies are directly linked to their bookkeeping work.

As non-reserved activities, they can also exercise others activities, like organize the accounts and analyse by the methods of accounting techniques the situation and functioning of companies and organizations in their various economic, legal and financial aspects, help for the creation of a company.

The accountant profession requires minimum 5 years of studies followed by 3 years of traineeship and a successful state exam. There is a compulsory membership obligation with the professional body. The deontological rules contain a general obligation to carry out continuous professional development. To that end the professional body recommends that professionals spend 120 hours on a three-year basis with a minimum of 20 hours per year on continuous professional development.

No restrictions exist as regards territorial validity and number of licences.

The accounting activity is incompatible with any occupation or any act likely to impair the independence of the person exercising it, in particular:

- being an employee, except in companies having as their main purpose the accounting activity,
- any activity of commercial nature, except if exercised accessorially and following the deontological rules of the profession.

Accountants can either work independently, as a sole practitioner, in partnership with other accountants, or as an employee of another accountant or accountants' company – *société d'expertise comptable* (SEC) according to the French terminology, or as a corporate officer (*mandataire social*) of a SEC. In SEC 75% of voting rights have to be held by accountants. However, since 2014, in the SEC, there are no shareholding restrictions. Similarly, accountants can choose from all legal forms governing French companies: civil or commercial corporate forms. The only restriction is the prohibition to constitute a company which, by its legal form, provides the status of trader to their partners, namely three types of companies: *société en nom collectif* (SNC), *société en commandite par actions* (SCA), *société en commandite simple* (SCS).

Regarding multi-professional companies (*sociétés pluri-professionnelle d'exercice* - SPE), an accountant can be member of a (SPE). This is a company whose purpose is the joint exercise of two or more professions among eight other professions: lawyer, lawyer before the supreme courts, bailiff auctioneer, court bailiffs, notary, insolvency practitioner, court-appointed receivers, patent agent and accountant. However, the accountant cannot exercise the auditor's activity in the SPE for ethics reasons. In SPEs all shares and voting rights have to belong to these nine categories of professionals: lawyers, patent agents, accountants, lawyers before the

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<sup>39</sup> See [decision of the Cour de cassation of 24 June 2014](#).

supreme courts, notaries, bailiff auctioneers, court bailiffs, insolvency practitioners or court-appointed receivers. At least one member of the profession practicing within the company, as a partner or employee, must be member of the managing or supervisory Board.

### Lawyers

The legal profession in France includes the *avocat à la cour* (lawyer) and the *avocat au Conseil d'Etat et à la Cour de cassation* (i.e. lawyer before the French supreme courts). The profession is regulated by way of a protected title and a reserve of activity for representing clients in court and during the 'participative procedure'.

For lawyers, the activities of legal advice, of drawing up legal documents (such as contracts, real estate transactions and wills and preparing statements of legal opinions), of trustee and of mediation are shared with other legal professions like notaries. Recent national case-law has clarified the scope of the reserve of activity, by considering that the online production of documents for judicial proceeding where a lawyer is not needed, is not part of the activities reserved to lawyers<sup>40</sup>. However, there is still some legal uncertainty as regards the exact scope of the activities, covered by "legal advice".

The education requirement for lawyers is 5,5 years of training composed of a master degree in French law (minimum 4 years of studies – Master I or “*maîtrise*”), successful entrance into the law school), 18 months of training in a law school, and a final exam organised by each centre but recognised in all the country. Some legal professions such as magistrates, universities professors and doctorates, are exempted from the law school and the certificate of aptitude of the legal profession if they can prove that they have at least eight years of professional experience. Doctorates are exempted from the exam to be accepted into the law school.

For lawyers before the supreme courts the training is 3 years longer and there is also a state exam to complete. The number of authorisations (*offices ministériels*) granted to lawyers before the supreme courts is restricted, but recent law (Law 2015-990 of 6 August 2015) provides that it will be increased progressively after opinion of the French competition authority. Lawyers before the supreme courts are appointed by the ministry of Justice after being recommended by a lawyer practising before the French supreme courts, in addition to the training requirements mentioned above. The conditions, under which lawyers, qualified in other Member States may practise before the French supreme courts remain unclear.

Lawyers have to register with the Bar in the district in which they intend to hold office but it doesn't impede them to practice in all the territory of France. In order to get an authorisation to practice, lawyers also have to demonstrate a clean criminal record and take an oath. For both professions there is an obligation to pursue at least 20 hours of continuous professional development per year which can be earned by several means such as attending 20 hours of courses, teaching legal matters, writing academic articles or attending conferences linked to their professional activity.

Lawyers can either work independently, as a sole practitioner, in a partnership with other lawyers, as an employee or as a '*collaborator liberal*' in a lawyer partnership.

Since 2015 lawyers are allowed to use any corporate forms with the exception of corporate forms that confer the status of trader. Specific rules apply in terms of shareholding and voting rights. Lawyers can also be members of SPE and same shareholding requirements apply as for other professions (see above concerning accountants).

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<sup>40</sup> See Cour d'appel de Paris, Pôle 5 – Ch.12, decision of 21 March 2016

Other than this, no activities of a commercial nature are allowed, and there are general provisions to avoid conflict of interests.

Lawyers are required to obtain professional indemnity insurance for their civil liability and well as for the funds, values or goods received.

### Patent agents

Patent agents are regulated by way of a protected title without reserved activities. Before the National patent Office, they are sharing the activity of representing the client with lawyers and companies linked to the case. Their other activities are not reserved.

In terms of education, patent agents need to follow a master, then obtain a specific diploma, the DEIPI (*diplôme d'études international de la propriété industrielle* delivered by the Center for international intellectual property studies, CEIPI), and gain 3 years of professional experience. After having passed the state exam, patent agents need to be registered in the register of the national patent institute in order to be able to act before the Patent Office.

There are no territorial limitations, nor limitation of licences granted. There is an obligation to have professional indemnity insurance and a financial guaranty for funds and values received.

Registration with the professional body, i.e. "*Compagnie nationale des conseils en propriété industrielle*" is compulsory.

Patent agents can either work independently, as a sole practitioner as an employee or in partnership with other patent agents. They can set up professional civil companies, SEL, SPE, or any other partnership. In this last case however chief executives and the majority of the board will need to be patent agents. When working within a SPE, all shares and voting rights need to be held by patent agents or by other professionals like lawyers, accountants, notaries, etc. (see above concerning accountants).

No activities of commercial nature can be exercised, and there are general provisions to avoid conflict of interests.

There is a mandatory continuous professional development program whereby 20 hours need to be collected per year through several activities such as teaching, attending courses, writing articles, acting as a mediator.

### Real estate agents

Real estate agents are regulated by means of reserved activities.

The reserved activities consist of arranging signing of lease agreements and transfer of property rights, drawing up leasing and sale agreements and estimating costs, establishing contacts and facilitating negotiations with tenants and owners, arranging the sale, purchase, rental and lease of real property and activity of property trustee. All these activities are shared with other professionals, mainly from legal professions such as lawyers, notaries, surveyors etc.

These activities are reserved if there are carried out for the real estate agent's own account. In this case, in order to get a professional card, the real estate agent has to fulfil professional qualifications requirements. Conversely, the exercise of those activities by an employee or a commercial agent authorized by the holder of a professional card is not reserved since it is not conditioned on any qualification requirement.

Four main ways to obtain the qualification which is required for the delivery of a professional card are enounced in the law: either general higher education diploma of at least 3 years in

given domains linked to the activity (e.g. law, economy etc.) or specialised diploma of two years post-secondary education, or school leaving certificate and 3 years professional experience or 4 years of professional experience in the domain as an executive or 10 as a non-executive. There is no obligatory traineeship, nor state exam, nor any obligation of professional experience except in case of the alternative educational pathways mentioned above. There is no territorial restriction or limitation of the number of licences. The employees and delegates of a professional card's owner are not concerned by these requirements, with the exception of the establishment directors who have to fulfil these requirements with a reduced duration of professional experience.

Persons willing to exercise the activity for its own account need to apply for a professional card with the chamber of commerce and industry. The card is delivered for a 3 years period. Employees and delegates of real estate agents owning a card do not have to fulfil this obligation of professional card themselves.

The renewal of the card implies fulfilment of continuous professional development requirements of 14 hours per year that can take the shape of training or attendance of subject related conferences and seminars. Only certain training providers are accredited to give the training. A certification is given after the training that has to be forward to the chamber of commerce and industry. It is to be noted that certain employees or commercial agents not owning the card have also to follow these continuous professional development requirements. The certification given after the training has to be forward to the professional card's owner.

There are no incompatibilities of professions and activities and real estate agents willing to associate are not subject to any restriction on corporate form of type of entity and no shareholding or voting rights requirements are provided by law.

For owners of the professional card there is an obligation to a have professional indemnity insurance for their civil liability as well as a financial guaranty for the goods and values they received.

Real estate agents have to fulfil conditions of morality required by the law. Professional card's owners have to fulfil supplementary conditions of conduct defined by decree and conduct defined by the national council for property management and transactions. Their conduct is monitored through a national monitoring committee for real property management and transactions that can take disciplinary measures against real estate agents.

### Tourist guides

Tourist guides ("*guide conférencier*", i.e. lecturer-guide according to French terminology) are regulated by means of reserves of activities.

The reserves cover the right to accompany and guide groups, part of a journey organised by a tour-operator in national museums and historical monuments. The latest list of national museums dated 8 February 2016 available on the website of the ministry for culture and communication indicates 1220 national museums. The list of monuments is established by *departement* and it seems that in total there are about 44060 classified historical monuments in France.

In practice this means that a guide can only provide his services in national museums and historical monuments of France without having to hold the professional card, if he provides the service on its own behalf and not on behalf of a travel or tour operator. Similarly, a travel or tour operator may only use a guide who does not have the professional card for services in places other than a national museums or historical monuments of France.

Two types of training requirements exist for the profession (professional degree of lecturer guide after a 3 year course or a specialized master degree after a 5 years course including a specific curriculum preparing to carry out the professional activities of a lecturer guide), both including as part of the training a mandatory traineeship of 12 weeks. These requirements are pre-conditions to get the national professional card of tourist lecturer. Otherwise there are no other regulations mentioned. According to the National Action plan, there are currently about 11000 owners of a professional tourist lecturer card. About 3500 persons are practising this profession full-time.

This profession has been subject to a reform in 2011 merging together 4 professions (national lecturer, national guide-interpreter, local guide-interpreter, guide lecturer for art and historical towns) in one. The national action plan submitted in February 2016 mentions a growing need for this profession especially regarding foreign language guiding tours and thus a liberalisation of the profession is envisaged with an easier access to the profession, while maintaining the current standards of knowledge and specific skills requested. The aim is to allow a higher number of people having graduated with a Master degree in any academic matter and able to attest a one-year professional experience in cultural mediation to get the professional card of a lecturer guide. This new regulation is planned to be put in place in January 2017.





GERMANY



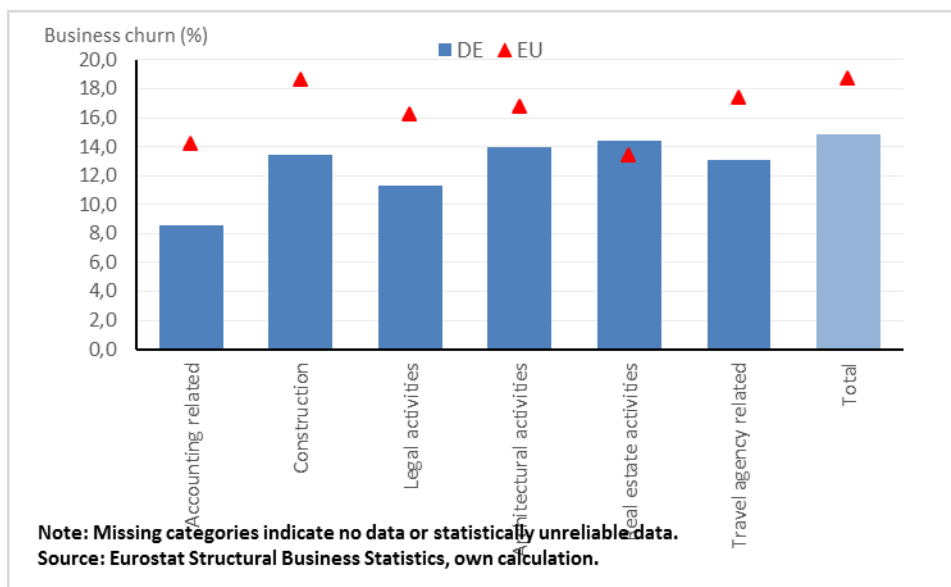
## I. Overview

On 1 November 2016 Germany had submitted information about 149 regulated professions. Among those professions about 16,1% concern business services and 11,4% the construction sector (11,4%).

According to a recent EU wide survey<sup>41</sup>, 33% of German labour force can be considered as working in regulated professions. This is far more than the EU average (21%) and it is the highest amongst all Member States.

As indicated in chart 1, for all professions selected, business churn (or turnover) rate<sup>42</sup> is lower in Germany than in the EU on average with the exception of real estate activities where it is slightly higher. The low business churn rate indicates a rather stable business environment with lower competitive pressure.

Chart 1: Business churn rate of active companies in selected sectors, 2013-2014 (%)



Germany has actively participated in the **mutual evaluation exercise**. However on 10 October 2016, Germany still needs to submit 15 entries (or 10%) of general information on different regulated professions and 37 professions (24%) still need to be assessed as to their proportionality.

In its **national action plan**, Germany announces only a limited number of actions for certain professions, in particular for liberal profession and business services. Planned modifications of regulations concern for instance lawyers and patent attorneys (shareholding and voting rights as well as multidisciplinary restrictions), tax advisers (tariffs and consequences of the latest jurisprudence of the Court) and to a certain extent also architects (shareholding

<sup>41</sup> Koumenta M. and M. Pagliero (2016), "Measuring Prevalence and Labour Market Impacts of Occupational Regulation in the EU". See: <http://ec.europa.eu/DocsRoom/documents/20362>

<sup>42</sup> Business churn rate is calculated as the ratio of the sum of newly founded and closed enterprises to the total number of enterprises in year *t*. No data available for patent agent related activities.

requirements).

In 2016, the European Commission addressed a **country specific recommendation** to Germany in the area of professional services:

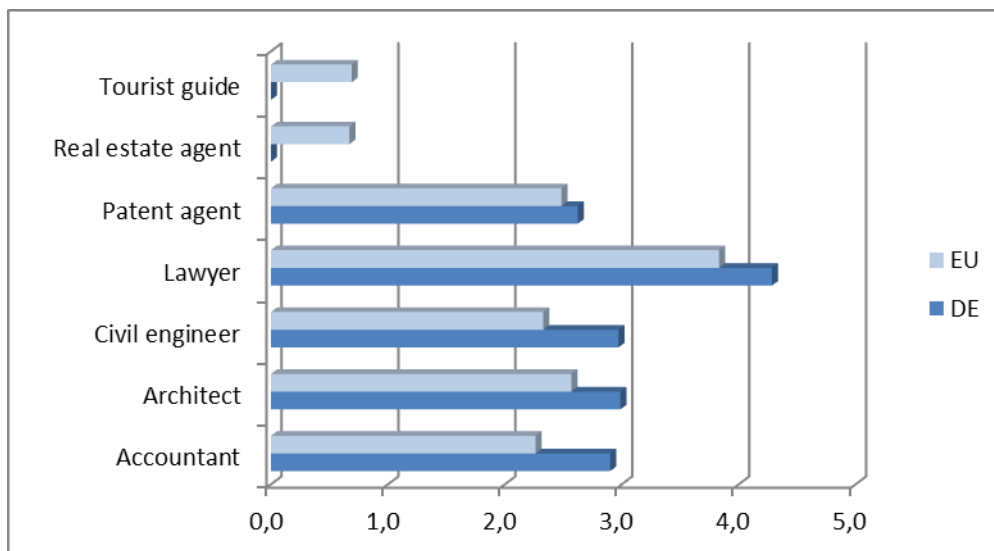
*Step up measures to stimulate competition in the services sector, in particular in business services and regulated professions.*

## II. Situation concerning the analysed professions

The level of restrictiveness is higher in Germany compared to the EU weighted average for all professions analysed (except for tourist guide and real estate agent which are not regulated). Amongst the professions analysed, restrictiveness is highest for lawyers.

Chart 2 presents the results of the quantification made by the Commission on the restrictiveness level in the selected professions.

**Chart 2: Restrictiveness indicator, 2016, Germany and the EU**



Source: European Commission services

### Architects

The profession of architect is regulated at Länder level, meaning there are 16 different laws and corresponding rules and regulations. The activity of drawing up of documents for building permit applications is reserved to architects who share this reserved activity with other professions, including civil engineers. The title of architect is also protected. Registration with the regional chambers is obligatory, including compulsory membership with the chamber. Authorisations are being issued at regional level and according to the relevant regional law with the effect that the authorisation is valid throughout the area of responsibility of the regional chamber. The recognition procedure for registration in other Länder is assured by the law at Länder level.

Restrictions as to the legal form of a company exist for companies wishing to carry the protected title in the name of the company. Equally shareholding requirements (at least 50% to be held by professionals) apply if the protected title is part of the name of the company. Germany announced in its National Action Plan that some Länder are considering a more uniform nationwide approach of shareholding and voting rights requirements. In this context, particularly strict requirements for companies using the protected title could be relaxed.

Appropriate professional indemnity insurance is required although there are no uniform rules as the requirement depends on applicable regional law.

### Engineers

The profession of engineer is regulated at Länder level, meaning there are 16 different laws and the corresponding rules and regulations. A common feature of all those laws is that there are no reserved activities, but only a title protection covering the title of “engineer”. However, presenting building documents to obtain a building permit (“*Bauvorlagenberechtigung*”) is a reserved activity for architects, which they share with civil engineers.

In order to obtain the right to submit building permit applications, the professional needs to prove 2-3 years of professional experience only in the field of planning buildings and apply for registration with the respective chamber. In some Länder such an obligatory membership is not linked to the activity but to the self-employed status of the engineer.

Restrictions as to the legal form of a company exist for companies wishing to carry the protected title in the name of the company. Equally shareholding requirements (at least 50% to be held by professionals) apply if the protected title is part of the name of the company.

Appropriate professional indemnity insurance is required although there are no uniform rules as requirements depend on applicable regional law.

### Accountants

The profession of accountant is not regulated in Germany. However, there is the possibility to obtain the recognised title of "qualified accountant" ("*geprüfter Bilanzbuchhalter*") following a successful examination according to conditions laid down in a federal law.

On the other side, most of the activities concerning tax advice as well as the representation before administrative authorities are reserved to tax advisers in combination with a title protection. Whereas accountants therefore call for a reform of the tax advising law claiming among other things that Austrian accountants can exercise more activities in Germany than German accountants, the tax advisers consider that reservation of activities for tax advisers is necessary due to the fact that accountants do not have the appropriate education to provide assistance in tax matters. It has to be noted that part of the reserved activities, i.e. tax advice, are shared with lawyers and notaries.

Tax consultancy companies need to be recognised as such. A precondition for recognition is that tax advisers having appropriate professional qualifications must manage the company. More than 50% of shareholding and voting rights have therefore to be held by professionals or some similar other regulated (liberal) professions. The law foresees also very strict rules on joint exercise of activities providing in detail that joint professional activities are only allowed with other legal or accounting professionals. Rules are equally strict concerning incompatibilities of activities, excluding any commercial activity, employed status (with some exceptions), in particular employment by the administration of finance. Membership with the professional association of the region of establishment is mandatory.

Concerning the cross border provision of services, it has to be recalled that the European Court of Justice ruled in his judgement in Case C-342/14 *X-Steuerberatungsgesellschaft*, that while EU law does not preclude German law from making access to that activity contingent on the possession of the knowledge and qualifications deemed to be necessary, the legislation of a Member State which defines the conditions of access to the activity of professional assistance in tax matters may not, based on article 56 of the Treaty, restrict the freedom to

provide services of a tax consultancy company — formed in accordance with the law of another Member State in which that company is established, which draws up, in the latter Member State where tax consultancy work is not regulated, a tax return on behalf of a recipient of services in the first Member State and sends that tax return to the tax authority of the first Member State —, without the qualification obtained by that company, or by the natural persons providing services of professional assistance in tax matters for that company, in other Member States being accorded its proper value and being duly taken into account.

In its national action plan Germany announced that the rules on tariffs for tax advisers were under review (see also infringement procedure of the Commission)<sup>43</sup> and that the consequences of the judgment of the Court in case C-342/14 were under examination. In the meantime, the provisions on tariffs for tax advisers have been amended. The Federal Government intends to implement the legal consequences of the jurisprudence of the European Court of Justice via legislation. However, the concrete procedure is not determined yet.

### Lawyers

The profession of lawyer is regulated at federal level by reserving the activity of “legal advice” (including in tax matters) and representation in court to lawyers. Parts of these activities are shared with other regulated professions, namely notaries, tax advisers and patent agents. The title is equally protected and may only be used once authorisation was obtained.

Lawyers need to be trained at university for 4 years followed by an obligatory traineeship of 2 years.

German lawyers and law firms established under German law as private or public limited companies (*Gesellschaft mit beschränkter Haftung* and *Aktiengesellschaft*) must be members of the bar where they are established. Admission to the bar becomes effective with the certificate obtained after having taken the oath before the professional association. Whereas all company forms are possible as long as they do not call into question the obligations of the professional, more than 50% of the shares of the company have to be held by lawyers. Furthermore a lawyer's firm may only include other legal or accounting professionals as shareholders.

However in 2014, the Constitutional Court held that the rule providing that the majority of shares and voting rights must belong to lawyers was unconstitutional. Germany announced in its National Action Plan that the respective provisions will be modified and the restrictions will be repealed. In a more recent decision of February 2016 the Constitutional Court declared that the prohibition of a professional partnership of lawyers with physicians and pharmacists was equally unconstitutional. In its national action plan Germany announces that the necessary measures will be taken following this Court judgement.

There is also an obligation to have professional indemnity insurance.

Special rules exist for the representation before the Federal Court of Justice (*Bundesgerichtshof*): the representation of parties, in civil cases, is an activity reserved to lawyers who are appointed to act before this court. A lawyer appointed to act before the Federal Court of Justice is not allowed any more to act in procedures before lower courts.

Lawyers wishing to be appointed at the Federal Court of Justice must be at least 35 years old and have 5 years of experience as a lawyer. The Federal bar association

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<sup>43</sup> Press release IP 16/323 - [http://europa.eu/rapid/press-release\\_IP-16-323\\_en.htm](http://europa.eu/rapid/press-release_IP-16-323_en.htm)

(*Bundesrechtsanwaltskammer*) and the bar association for the lawyers at the Federal Court of Justice (*Rechtsanwaltskammer bei dem Bundesgerichtshof*) establish a list of candidates which, after a pre-selection through a commission, is presented to the minister of justice which decides on the appointments. All lawyers at the Federal Court of Justice must become member of the bar at the Federal Court of Justice. Concerning legal form and shareholding requirements, lawyers at the Federal Court of Justice can only form a law practice with other lawyers at the Federal Court of Justice and these practices can only be composed of two members. The seat has to be in the city of Karlsruhe.

On the other hand, there are no particular rules for lawyers acting before the Bundesverfassungsgericht.

### Patent agents

Federal law, which reserves the following activities to patent agents, regulates the profession of patent agent: Providing advice and acting as counsel in the field of commercial legal protection (patent law, utility-model law, design law, trademark law, inventor's rights).

It takes usually 7 years of university or comparable studies, even if different kinds of university studies are possible. In addition the law requires at least one year of practical technical training as well as a training of at least 34 months, out of which 26 months by a patent attorney.

Every patent attorney is a compulsory member of the professional chamber and has to subscribe professional indemnity insurance. Admission to the profession is upon request, which can only be refused for reasons explicitly stated in the law and becomes effective with a certificate obtained after having taken an oath before the professional association ("*Patentanwaltskammer*").

And while all company forms with limited liability are possible, there are very strict rules that only other legal or accounting professionals might become partner. In any case patent attorneys have to hold more than 50 % of the shares and the voting rights.

The law also provides for detailed rules on professional cooperation: Joint exercise of activities is only allowed with other legal or accounting professionals (tax advisers, auditors, certified accountants). Rules on incompatibilities are strict and the non-respect can lead to a ban on professional practice ("*Versagung der Berufstätigkeit*").

The decisions of the Constitutional Court of 2014 and 2016 (see above concerning lawyers) and the subsequent modifications to be adopted by the German legislator will also concern patent agents.

Concerning the cross-border provision of services, it has to be noted that Directive 2013/55/EU<sup>44</sup> has not yet been transposed into national law concerning patent agents. Following a complaint, the German authorities admitted that the law on patent agents still had to be modified and adapted. In the meantime Directive 2013/55/EU is being applied directly.

### Real estate agents

The profession of real estate agents is not regulated in Germany.

In order to be able to act as a real estate and property agent a general commercial licence is required as for any other commercial activity in accordance with the German Trade

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<sup>44</sup> Directive 2013/55/EU of the European Parliament and of the Council of 20 November 2013 amending Directive 2005/36/EC on the recognition of professional qualifications and Regulation (EU) No 1024/2012 on administrative cooperation through the Internal Market Information System ( 'the IMI Regulation' )

Regulation. The prerequisite for a licence is a clean criminal record and no insolvency. The authority responsible for granting the licence carries out ex-post checks. There is also a voluntary certification system in place for real estate agents.

However, it appears that there are intentions to regulate the profession. Already during the mutual evaluation exercise, Germany indicated that there was a debate about the introduction of qualification requirements (state exam) and maybe mandatory professional liability insurance for real estate agents.

#### Tourist guides

The profession of tourist guides is not regulated in Germany.

The National Tourist Guide Association offers voluntary certification for tourist guides according to DIN EN 15565 in cooperation with regional and municipal training providers. Courses are subject to a fee and the certificate obtained is valid for three years and can be extended if preconditions are met.

## I. Overview

On 1 November 2016 Greece had submitted information about 153 regulated professions. Among those professions, 22,2% concern business services and 7,2% the construction sector.

According to a recent EU wide survey<sup>45</sup>, 22% of Greek labour force can be considered as working in regulated professions. This is slightly higher than the EU average (21%). No data available on business churn rates for the sectors analysed.

Greece was not active in the **mutual evaluation exercise**. It has not submitted any general information regarding its regulated professions and has not provided any assessment on their professions as to their proportionality. On the other hand Greece has been subjected to a MoU by the troika, and a review and opening of their regulated professions has been on the agenda for a number of years, with varying success.

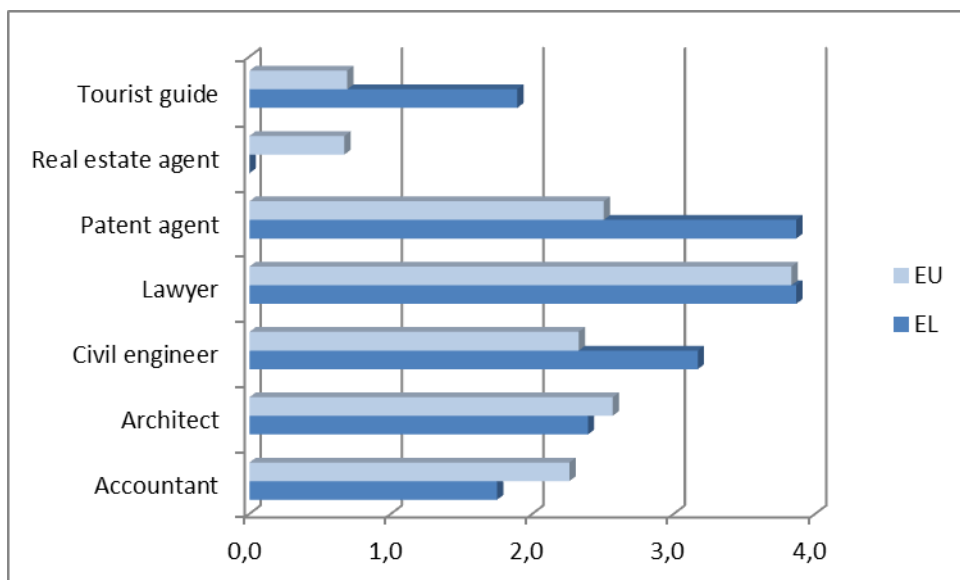
Greece has not submitted any **national action plan**.

## II. Situation concerning the analysed professions

The level of restrictiveness is lower in Greece compared to the EU weighted average for all professions analysed with the exception for the professions of tourist guide, civil engineer and patent agent where it is higher. Amongst the professions analysed, restrictiveness is highest for lawyer and patent agent.

Chart 1 presents the results of the quantification made by the Commission on the restrictiveness level in the selected professions.

**Chart 1: Restrictiveness indicator, 2016, Greece and the EU**



Source: European Commission services

<sup>45</sup> Koumenta M. and M. Pagliero (2016), "Measuring Prevalence and Labour Market Impacts of Occupational Regulation in the EU". See: <http://ec.europa.eu/DocsRoom/documents/20362>

## Architects

Architects are regulated by means of title protection and exclusive and shared reserves of activities. Activities are reserved mainly through rules dealing with construction services and standards. Since graduates of architectural schools in Greece are architects/engineers, most of the services are shared with engineers and, in most cases, with civil engineers. Architects do have an exclusive role in relation to architectural works in relation to specific protected buildings and monuments.

In order to qualify as an architect in Greece, a professional has to undertake a 5 year University training, followed by a post-graduate exam by the Technical Chamber of Greece, and subsequent membership to the Chamber.. No architect is allowed to provide services if not a member of the Chamber. Post-licensing requirements, categorisation and additional authorisation is imposed by Greek law on architects wishing to undertake public works and studies.

Greek law does not provide for general restrictions on corporate forms, shareholdings/voting rights or regarding the joint exercise of architects with other professions. However, there exists a specific register with categories of entities allowed to obtain public works (design and construction works). Inclusion in this register and the listing in specific categories depend on the fulfilment of specific requirements of legal form (for some companies), experience and availability of qualified personnel.

## Civil engineers

Civil engineers are regulated by means of title protection and exclusive and shared reserves of activities. Activities are reserved mainly through rules dealing with construction services and standards. While most of these services are shared with architects and other engineers, civil engineers have an exclusive role as regards structural and seismic calculations and responsibilities for specific complex structures.

In order to qualify as a civil engineer in Greece, a professional has to undertake a 5-year University training, followed by a post-graduate exam by the Technical Chamber of Greece and subsequent membership to the Chamber. No civil engineer is allowed to provide services if not a member of the Chamber. Post-licensing requirements, categorisation and additional authorisation are imposed by Greek law on civil engineers wishing to undertake public works and studies.

Greek law does not provide for general restrictions on corporate forms, shareholdings/voting rights or regarding the joint exercise of civil engineers with other professions. However, there exists a specific register with categories of entities allowed to obtain public works (design and construction works). Inclusion in this register and the listing in specific categories depend on the fulfilment of specific requirements of legal form (for some companies), experience and availability of qualified personnel.

## Accountants/Tax advisers

The profession is regulated in Greece by way of a protected title and distinguishes between two categories of accountants. Access to the entry category of accountants (category B accountants) is available to (a) holders of secondary school certificate together with 7 years of work as assistant accountant, graduates from technical secondary schools (economy branch) with 6 years of work as assistant accountants, and graduates of Accountancy Institutes (IEK) or from ELKEPA with a 5 years of work as assistant accountant, (b) University graduates (AEI and TEI) of economy branches, and (c) persons who obtained



recognition of their foreign qualifications under Greek law transposing the Professional Qualifications Directive. )

The higher category of accountants (category A), is open to those category B accountants belonging to categories (b) and (c ), with a post-licensing experience in accounting of 3 years (with some exceptions), and completion of specific training courses on tax and accountancy issues leading to relevant attendance and evaluation certificates. Since 1 January 2014 there is no compulsory membership obligation to a Chamber. The highest category has a continuous professional development obligation of 40 hours on a yearly basis.

Greek law describes the activities that Accountants A and B can provide respectively, with no clear indication on whether some or all of them are reserved. However, when read in conjunction with fiscal and company law provisions, it appears that certain activities are reserved to licenced accountants. Thus category A and B accountants may sign "single-entry books", category A accountants can also sign "double-entry books" and to co-sign financial statements of double-entry companies. Accountants may also engage in non-reserved activities, such as providing advice, preparing and submitting tax returns.

No restrictions exist on corporate forms, shareholdings/voting rights or regarding the joint exercise of the profession.

### Lawyers

The legal profession is regulated by way of a protected title and a number of reserves of activities, some of which are exclusive and the others are shared. Representing clients in court and the provision of legal advice are the most prominent exclusive ones.

The education requirement is 4 years of legal training and a supervised traineeship of 18 months. A state exam needs to be passed before appointment by the minister of Justice.

Lawyers have to register with a local Bar Association in the district they intend to hold office. In order to get an authorisation to practice, lawyers also have to demonstrate a clean criminal record and take an oath. There is no obligation to collect continuous professional development points per year.

Lawyers can either work independently, as sole practitioners or in a partnership with other lawyers in law firms. Liability and responsibility cannot be restricted and equity in a law firm needs to be held by lawyers.

Lawyers are not required to obtain professional indemnity insurance.

### Patent agents

The profession of patent agent does not exist in Greece as such. However, Greek law expressly reserves the submission of patents and trademarks solely to lawyers who also have the exclusive right to provide legal advice, including on issues relating to patents and trade mark law. In that respect, the conditions in Greece for accessing and for exercising the activities which correspond to those of a patent agent, are those that apply to lawyers. The assessment therefore of the regulatory regime applicable to patent agents should be the one applicable to lawyers.

### Real estate agents

The profession of real estate agent is not a regulated profession in Greece. With the adoption of Laws 4072/2012 and 4093/2012, the profession has been fully liberalized, in alignment with the provisions Law 3919/2011.

### Tourist guides

Tourist guides are a regulated profession. Tourist guides enjoy exclusive activities accompanying tourists and travellers to sights, ancient and historical monuments of all periods, explaining them and in general providing information on ancient and modern Greece. Certain unlicensed persons may provide services in certain circumstances and under certain limitations and strict conditions. Foreign tourist guides providing temporary services benefit expressly from the provisions of PD 38/2010 (and its title II) transposing PQD in Greece.

Access to the profession is currently limited in practice to holders of specific generic diplomas, such as diplomas in Archaeology, History, Social anthropology, Ethnology etc., (normally of a University level). These persons have to follow a short training course of 2 months duration. The law also provides for a more targeted training to be provided by State Tourist Guide Schools of a 2,5 years duration. Such training would in principle be opened to a wider audience but these schools seem no longer to be in operation.

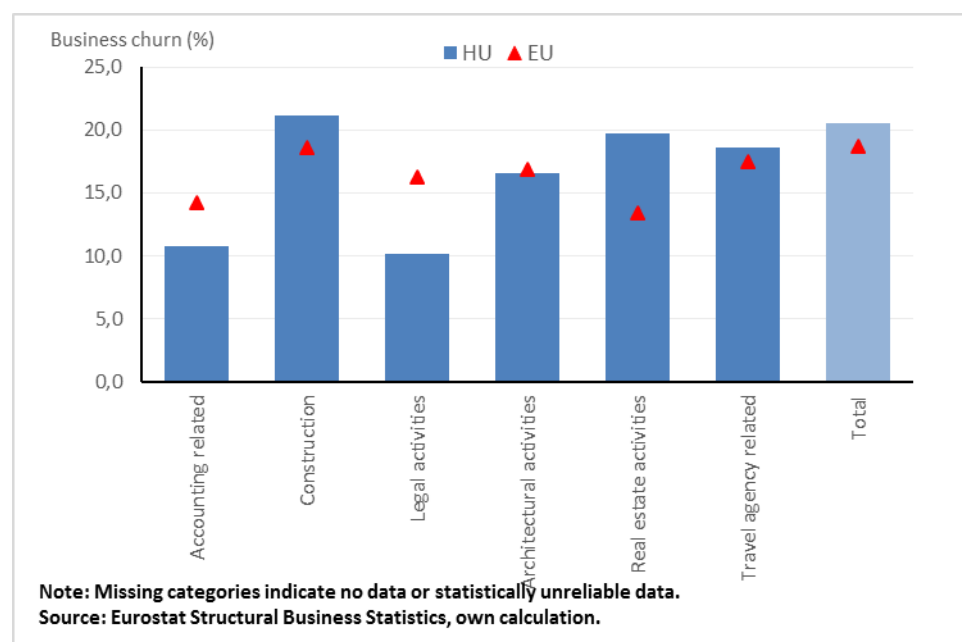
## I. Overview

On 1 November 2016 Hungary had submitted information about 545 regulated professions. Among those professions, 11,2% concern business services, 9,4% the construction sector and 0,7% the real estate sector.

According to a recent EU wide survey<sup>46</sup>, 26% of Hungarian labour force can be considered as working in regulated professions. This is higher than the EU average (21%).

As indicated in chart 1, for accounting and legal activities business churn (or turnover) rate<sup>47</sup> is lower in Hungary than in the EU on average as well as compared to the average for the total Hungarian economy. This may be interpreted as an indication of the relatively low dynamism and competition within regulated professions present in these sectors in Hungary.

**Chart 1: Business churn rate in selected occupations, Hungary and the EU, 2013-14 (%)**



Hungary has been participating relatively actively in the **mutual evaluation exercise**. However on 10 October 2016, Hungary still needs to submit about 15% of the general information on different regulated professions and more than half of the 633 professions still need to be assessed as to the proportionality of their regulation.

Moreover, until this date Hungary has not submitted its **national action plan**.

In 2016, the European Commission addressed a **country specific recommendation** to Hungary in the area of services:

<sup>46</sup> Koumenta M. and M. Pagliero (2016), "Measuring Prevalence and Labour Market Impacts of Occupational Regulation in the EU". See: <http://ec.europa.eu/DocsRoom/documents/20362>

<sup>47</sup> Business churn rate is calculated as the ratio of the sum of newly founded and closed enterprises to the total number of enterprises in year  $t$ . No data available for patent agent related activities.

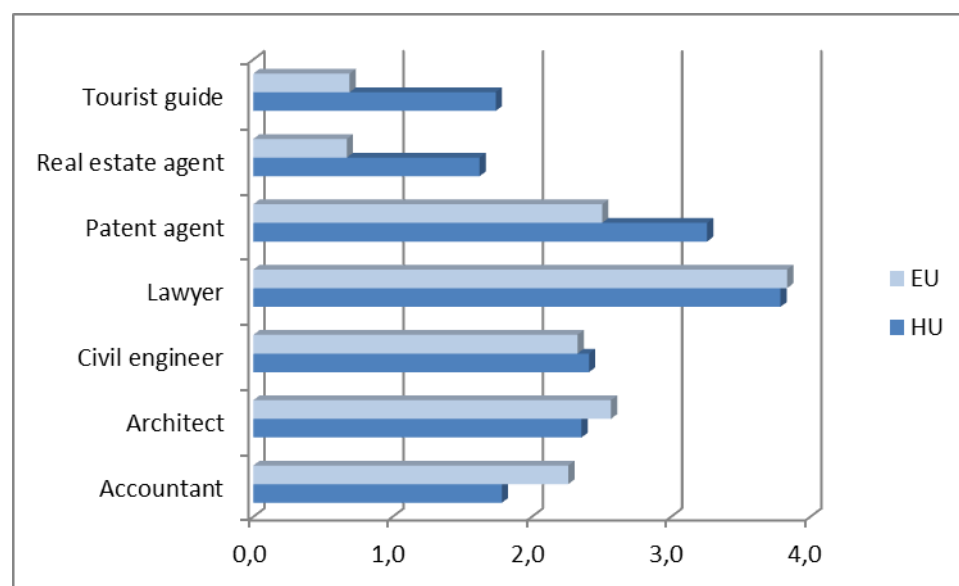
*Improve the regulatory environment in the services sector and in the retail sector by addressing restrictive regulations and ensuring predictability.*

## II. Situation concerning the analysed professions

The level of restrictiveness is higher in Hungary compared to the EU weighted average for all professions analysed except for the professions of architect and accountant where it is lower and for lawyer where it is similar. Amongst the professions analysed, restrictiveness is highest for lawyers.

Chart 2 presents the results of the quantification made by the Commission on the restrictiveness level in the selected professions.

**Chart 2: Restrictiveness indicator, 2016, Hungary and the EU**



Source: European Commission services

### Architects/Engineers

Both generic professions are covered by the same law and by reserves of activities. For the generic category of civil engineers, Hungary has notified 3 separate activities: designing of bridge structures as a specialty, designing of load-bearing structures as a specialty and designing of constructed objects for the water management sector. It is important to note that there are 18 other reserved activities concerning the civil engineer profession.

Both professions require higher education training and traineeships as well. The required state exam is organised by the Chamber. In addition there is a continuous professional development obligation organised and administrated by the Chamber with a 5 years' cycle.

The relevant national Act ('Building Act') reserves activities for Chamber Members who hold a relevant professional qualification. Most of the activities are shared between architects and engineers. The authorisation is valid in the entire territory of Hungary. There is only one exception mentioned in the legislation, when chamber membership is not required: *creating designs for own purpose or for close relatives*.

The Hungarian regulation of these two professions is rather liberal concerning shareholding requirements, voting rights, restrictions on corporate forms or on the joint exercise of the

profession. Moreover, there is no legal obligation to have professional indemnity insurance, but the contract with the client might foresee one.

### Accountants

Hungary regulates two professions under the generic name accountant: chartered accountants and tax advisers, both by way of reserves of activities. This chapter focuses on chartered accountants (*mérlegképes könyvelő*). For chartered accountants the following activities are reserved: Drawing up annual statements/payroll services/representation and assistance before administrative authorities. The latter is shared with tax advisers.

Entry for the specific training of chartered accountants is rather flexible (either a vocational financial qualification or an economist BsC/MA). The specific training is 320-480 hours, without any specific traineeship requirement.

The national registration obliges chartered accountants to be registered (this authorisation requirement also involves fees and clear criminal record). Once an authorisation is obtained it is valid for the entire territory of Hungary. Professionals have to follow compulsory continuous professional development activities on an annual basis.

The Hungarian regulation of this profession is rather liberal concerning shareholding requirements and voting rights (the only condition is to have at least one qualified employee or partner) and also on restrictions on corporate forms or on the joint exercise of the profession.

### Lawyers

Lawyers are regulated in Hungary by reserves of activities and title protection. The relevant Hungarian legislation differentiates between exclusive reserves and activities that are shared with other professionals (e.g. notaries, tax advisers, real estate agents).

The education requirement is a minimum 5 years university study followed by a 3 years traineeship and a series of state exams (in practice it takes at least takes 9 months or rather a year to complete the different modules of the state exam).

Professionals afterwards have to register with the Bar and take an oath there. To get an authorisation lawyers also have to demonstrate a clear criminal record and they need to prove that their premises are in conformity with the requirements. Once the authorisation is obtained a lawyer can work in the entire territory of Hungary. The Bar is organising different continuous professional development activities but they are usually voluntary to attend. However, there is a general, rather "ethical" obligation on lawyers to keep their knowledge up to date.

Lawyers can only establish law firms which are not limited liability companies according to the Civil code. Law firms can only be established by one or more lawyers (with an exception allowing that a former partner might keep his shares in the company even if he loses his right to practice the legal profession). As regards incompatibilities of activities the Hungarian legislation lists a number of conflict of interests (e.g. lawyers cannot be employed or be civil servants, or they cannot represent clients in the same district where they were previously judges, attorneys or police detectives for 2 years).

Lawyers are required to obtain professional indemnity insurance.

## Patent agents

The profession is regulated by exclusive reserves of activities (counselling and representation before the Patent Office or other administrative authorities/drawing up legal documents in intellectual property matters/representation before the courts in intellectual property matters/Performing research in connection with industrial property rights, providing expert opinion, advice and information). A patent agent can be selected by the client or they can also be attributed with the mandate by Courts.

Patent agents need to follow a minimum 5 years (Master level) university training in a number of natural sciences, afterwards they need to complete a specific postgraduate training and have at least 3 years professional experience as a trainee. Finally the trainee agents also need to pass a specific exam of the Patent Office.

The agents need to be members of the Chamber in order to be able to carry out their activities. To obtain their authorisations, similarly to lawyers, a clean criminal record is required and the agents also need to meet the requirements on their premises. There is no obligation to follow continuous professional development activities in order to keep their authorisation.

As regards potential company forms the Hungarian legislation is quite flexible: activities of patent agents might be carried out by sole professionals, by a patent firm (liable), as a company (potentially with limited liability) or by employed professionals (only in exceptional cases as provided by the legislation). However, a patent firm can only have members who are patent agents. In case of a company at least 75% of the shares have to be owned by the patent agent member(s).

As regards personal conflict of interests, a professional cannot be registered as a patent agent if he/she is employed by a Patent court/office. Agents are required to obtain professional indemnity insurance.

## Real estate agents

Hungary regulates two separate professions under the generic category of real estate agents: 'real estate property value assessor and agent' and 'estate agent'. The former has more activities linked to assessing the value of the property. Some of the activities are shared with lawyers.

For both professions, professionals need to follow an up-to 6 months vocational program (including theory and practice), with slightly higher requirements for the value assessors. Afterwards agents can get on a national register of natural/legal persons who are eligible to provide the activities. For this purpose a clean criminal record is required and agents cannot have outstanding public dues.

As regards legal persons, the requirement is to employ at least one qualified and licensed professional. There is no continuous professional development obligation after obtaining authorisation.

The Hungarian regulation of these two professions is fully liberal concerning shareholding requirements, voting rights, restrictions on corporate forms or on the joint exercise of the profession. Moreover, there is no legal obligation to have professional indemnity insurance either.

## Tourist guides

Hungary exclusively reserves the activities of tourist guides for qualified professionals. As a further condition professionals can only provide these activities in languages that they have passed a language exam or can prove otherwise that they are mastering the language. The relevant statute specifically deals with the activities of travel agents (linked to hotel services, travel agent activities and horse tourism). There is a special decree containing the details on the regulation of activities of tourist guides.

The legislation requires the professionals to be registered with the relevant authority (not pre-authorization, only a notification). When the notifications are appropriate, the tourist guides get specific cards (professional card with a photo and a number) issued by the authority and listing the languages that the professional can work in.

The competent authority can prohibit from practice any professional providing tourist guide services without such notification until he proves the legitimacy to pursue the activities concerned. The authority can also prohibit providing services in the related language(s) until proven otherwise, if a professional practices without a verification of language skills. In case of non-compliance with a requirement to prove language skills, a professional can be banned from providing tourist guide services for 3 years and removed from the online register of the relevant authority.

At the moment there is no legal obligation to have professional indemnity insurance or other additional requirements.

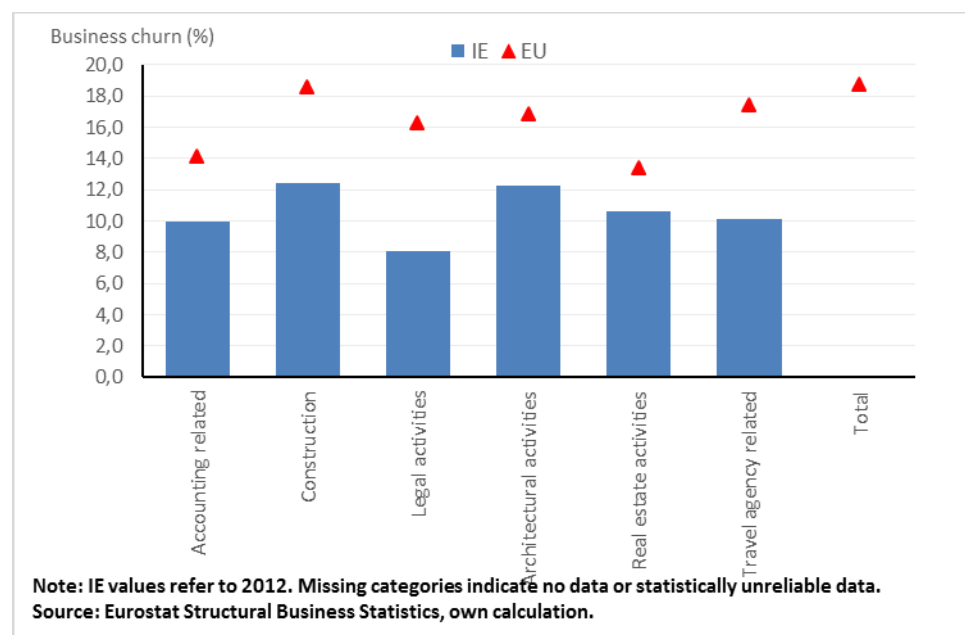
## I. Overview

On 1 November 2016 Ireland had submitted information about 144 regulated professions. Among those professions, 26,4% concern business services, 1,4% the construction sector and 0,7% the real estate sector.

According to a recent EU wide survey<sup>48</sup>, 29% of Irish labour force can be considered as working in regulated professions. This is significantly higher than the EU average (21%).

As indicated in chart 1, for all professions selected, business churn (or turnover) rate<sup>49</sup> is lower in Ireland than in the EU on average. This may be interpreted as an indication of the relatively low dynamism and competition within regulated professions in Ireland.

**Chart 1: Business churn rate in selected occupations, Ireland and the EU, 2013-14 (%)**



Ireland has had some difficulties in giving its full participation to the **mutual evaluation exercise** but database notifications have made good recent progress. On 10 October 2016, Ireland had transmitted almost 60% of the general information concerning its regulated professions as well as the assessment of the proportionality of the regulation of those professions.

No **national action plan** has yet been submitted.

<sup>48</sup> Koumenta M. and M. Pagliero (2016), "Measuring Prevalence and Labour Market Impacts of Occupational Regulation in the EU". See: <http://ec.europa.eu/DocsRoom/documents/20362>

<sup>49</sup> Business churn rate is calculated as the ratio of the sum of newly founded and closed enterprises to the total number of enterprises in year  $t$ . No data available for patent agent related activities.

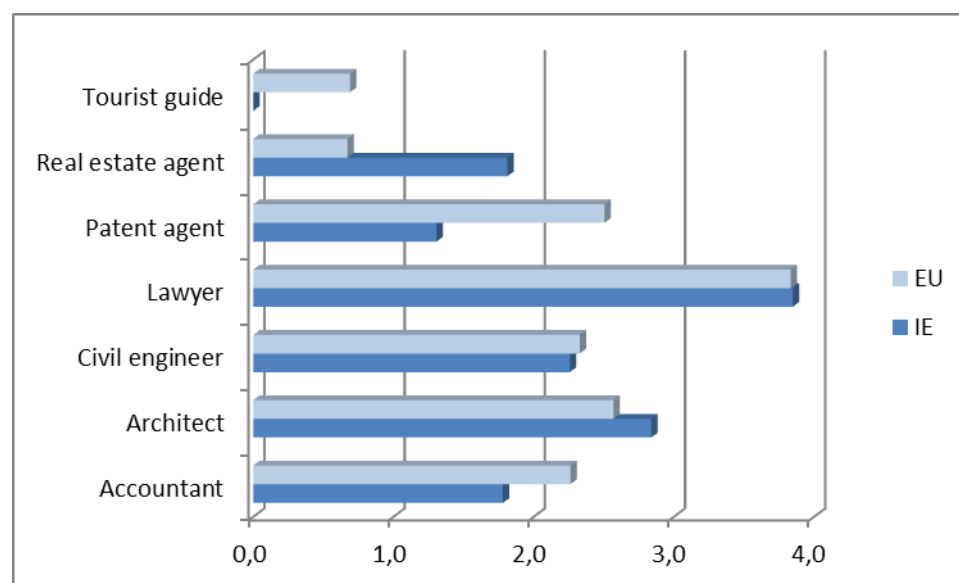


## II. Situation concerning the analysed professions

The level of restrictiveness is higher in Ireland compared to the EU weighted average for the real estate agent and architect professions. It is lower than the EU average for patent agents and accountants and at a similar level for lawyers and civil engineers. Amongst the professions analysed, restrictiveness is highest for lawyers.

Chart 2 presents the results of the quantification made by the Commission on the restrictiveness level in the selected professions.

Chart 2: Restrictiveness indicator, 2016, Ireland and the EU



Note: for the professions of accountant and patent agent the indicator for Ireland measures the restrictiveness to carry the protected title  
Source: European Commission services

### Architects/Civil engineers

These professions are regulated by both reserves on activities and a protected title.

In 2007 a register was introduced for architects and civil engineers alongside title protection. Further in 2014, they also underwent regulatory changes to introduce reserves on activities which they now share and include: building design; mandatory certification of compliance; design and planning feasibility studies; the preparation submission and signing of technical compliance documents; construction, monitoring and supervision of projects / other professionals and; urban/landscape planning.

For architects, 5 years education plus 2 years postgraduate practical professional experience is required. For Chartered Engineers 5 years of education and minimum 3 years of practice is required. Alternative routes are available to applicants based on further learning and professional practice.

Continuous professional development has also been introduced but at 40 hours operated by the Royal Institute of Architects Ireland (RIAI – the registration body) and for Civil Engineers, starting 2017, an annual minimum of 35 hours will be required. This also will be operated by the registration body.

The Commission is aware of issues many 'Architectural Technologists' have had to be able to continue to operate in their profession since the introduction of reserves and especially the

difficulties they have faced to enter the register as an architect or civil engineer through various grandfathering provisions.

### Accountants

The profession is regulated by reserves of activities (statutory auditor, examiner and liquidator – shared). Title is protected, but not on a statutory basis: is conferred by the Accountancy Body.

Ireland applies many cumulative measures, including exercise restrictions, high membership fees for registration and particularly high continuous professional development requirements which vary across the Designated Accountancy Bodies (e.g. 120 hours required over 3 years with a minimum requirement of 30 hours in any one year).

Concerning shareholding requirements, Ireland requires at least 50 % of the shares to be held by professionals.

### Lawyers

The legal profession in Ireland is divided between solicitors and barristers, regulated by both reserves of activities and a protected title.

No database information has been submitted for the professions of barrister or solicitor.

Ireland implements title protection and a high range of reserves on activities as well as a number of other measures.

A barrister is a specialist advocate focusing primarily on court proceedings, but also providing legal advice and opinions on complex areas of law. Barristers also appear as advocates in arbitration and statutory tribunals and other forms of dispute resolution.

On the other hand, solicitors provide legal advice and they may in addition handle clients' funds, provide safe custody of original documents, or administrative services.

For instance, to qualify as a solicitor, one must pass the entrance examination in law in several legal subjects, carry out 2 years period of training in a solicitor's office, follow vocational training courses and pass an examination, organised by the Law Society of Ireland.

Registration with the relevant professional body is compulsory.

The relevant professional bodies are the Law society (for solicitors) and the Bar Council (for barristers). The Legal Services Bill 2011 introduced a Legal Services Regulatory Authority to oversee solicitors and barristers.

Ireland also implements continuous professional development at 10 hours.

Of note in particular is the use of restrictions on corporate forms. For example, as a condition of their membership of the Law Library (Professional Body), Barristers are presently permitted to be sole traders only. Unlike barristers, solicitors are allowed to join together to form partnerships or companies. There are also incompatibilities of activities. Legal practitioners must have professional indemnity insurance

### Patent agents

Patent agents are regulated by way of a protected title.

Ireland does request a qualification period of 6 years, consisting of 3 years of education, and completion of a minimum 3 years traineeship within an office of a Patent Agent, and only offers this one route into the profession. The education period must be in a scientific discipline.

Ireland does not impose any insurance requirements.

#### Real estate agents

This profession has been regulated since 2011 through a reserve of activities.

Ireland implements a high level of reserves (the possibility to provide 'a property service'<sup>50</sup> is reserved only to license holders).

There are 3 routes to obtain a licence: (i) Academic achievement measured through the study of seven specific subjects (Valuations; Marketing/Practice Knowledge; Economics; Law; Property Management; Building Construction/Technical; Business Studies/ Professional Development) with a specific minimum number of ECTS required for each subject (ii) 3 years' experience of lawfully providing the property service in the 5 years preceding the making of licence application or (iii) a combination of education and experience.

Registration in a professional body is compulsory.

There are continuous professional development requirements.

There are no restrictions on corporate form, but the company must be licensed as must each person who provides property services within the business. Real estate agents are prohibited from giving financial advice unless a waiver is signed by buyer and vendor.

#### Tourist guides

The profession is not regulated in Ireland.

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<sup>50</sup> "property service" means the provision, for consideration, in the State, in respect of property located within or outside the State, of any of the following— (a) the auction of property other than land, (b) the purchase or sale, by whatever means, of land, (c) the letting of land (including a letting in conacre or for the purposes of agistment), or (d) property management services,

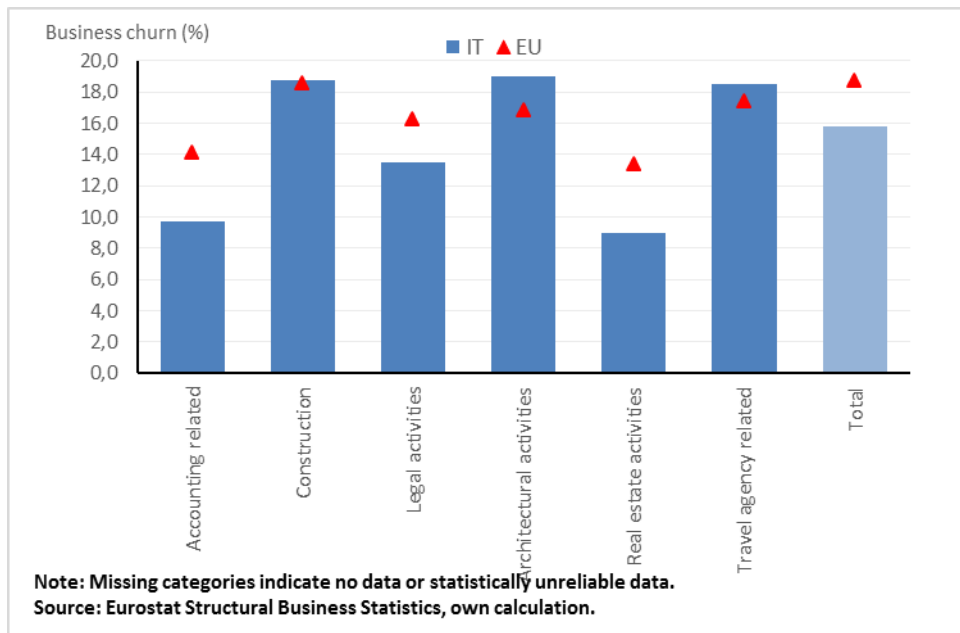
## I. Overview

On 1 November 2016 Italy had submitted information about 176 regulated professions. Among those professions, 26,1% concern business services, 2,8% the construction sector and 0,6% the real estate sector.

According to a recent EU wide survey<sup>51</sup>, 19% of Italian labour force can be considered as working in regulated professions. This is lower than the EU average (21%).

As indicated in chart 1, for accounting, legal and real estate activities business churn (or turnover) rate<sup>52</sup> is lower in Italy than in the EU on average as well as compared to the average for the total Italian economy. This may be interpreted as an indication of the relatively low dynamism and competition within regulated professions present in these sectors in Italy.

**Chart 1: Business churn rate in selected occupations, Italy and the EU, 2013-14 (%)**



Italy has participated actively in the **mutual evaluation exercise** and has completed the submission of information on the regulated professions.

In the **national action plan (NAP)**, Italy defined three horizontal lines of action: the revision of training courses and adaptation of state exams for certain technical professions (engineers, technical consultants) to clarify the scope of reserved activities and competences; the establishment of a technical working group to identify minimum national standards for professions where training is devolved to the regions and to identify all professions regulated at regional level to assess if the regulation is justified and has added value.

<sup>51</sup> Koumenta M. and M. Pagliero (2016), "Measuring Prevalence and Labour Market Impacts of Occupational Regulation in the EU". See: <http://ec.europa.eu/DocsRoom/documents/20362>

<sup>52</sup> Business churn rate is calculated as the ratio of the sum of newly founded and closed enterprises to the total number of enterprises in year  $t$ . No data available for patent agent related activities.

In addition to these horizontal measures, the NAP contains concrete measures for some professions, for instance for professions in the tourism sector (although not always going into the direction of less barriers) and beauticians.

In addition to the NAP, on 15 September 2016, Italy submitted to the Commission its analysis of the National Action Plans & the proportionality assessments prepared and carried out by other Member States announcing that, similar to the NAP from France, Italy was about to review the crafts professions "through the inventory of regional qualifications and creation of a national list to define characterising and specific reserved activities of a determined profession."

In 2016, the European Commission addressed a **country specific recommendation** to Italy in the area of regulated professions:

*Swiftly adopt and implement the pending law on competition. Take further action to increase competition in regulated professions, the transport, health and retail sectors and the system of concessions.*

## II. Situation concerning the analysed professions

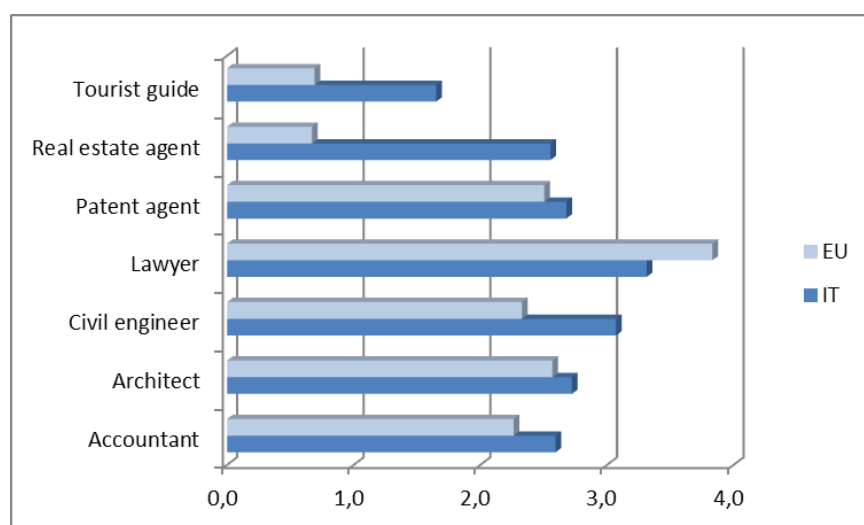
In Italy, certain professions come under the shared competence of the State, the Regions and the Autonomous Provinces. Regions are competent for the professional training required for some regulated professions and for the concurrent regulation of professions alongside the State.

For the professions organised by orders or colleges (liberal professions like architects, engineers, accountants, lawyers), reforms are planned for lawyers through the Competition Law 2015 and for certain technical professions (engineers, technical consultants) with the revision of training courses to clarify the scope of reserved activities and competences which currently overlap in many cases.

The level of restrictiveness is higher in Italy compared to the EU weighted average for all professions analysed with the exception of the lawyer profession where it is less restrictive. Amongst the professions analysed, restrictiveness is highest for lawyers.

Chart 2 presents the results of the quantification made by the Commission on the restrictiveness level in the selected professions.

**Chart 2: Restrictiveness indicator, 2016, Italy and the EU**



Source: European Commission services

## Architects/Engineers

The professions of architect, civil engineer and technical consultant (*architetto, ingegnere, geometra, perito industriale (building)*) are regulated by way of reserves of activities. Given the broad range of reserved activities, no other provider can use the title.

Depending on the complexity and size of the construction, the reserved activities, for instance, construction cost management or monitoring of construction /execution, are shared between five professions (*Architetto, Architetto iunior, Ingegnere Civile-ambientale, Ingegnere Civile-ambientale iunior, Perito industriale (Building) and Geometra*). For instance, the constructions with significant artistic character or renovation and restoration of buildings protected for antiquity and fine art, are exclusively reserved to the architect; however, the technical part of it can be executed by the engineer as well. The "junior professionals" have a role of support and co-operation during the whole building process, starting from the project to the final testing, that remains reserved to architects and engineers.

In its NAP, Italy declares that it is often difficult to trace a clear distinction between the competencies of each profession based on the existing provisions. This is the reason why a revision of training courses for engineers and technical consultants will be undertaken.

Following the Bologna process Italy introduced 3+2 years training programmes (bachelor and master) and the profession of junior architect and junior engineer for graduates of the 3 year cycle.

## Accountants

Two professions have been considered as covered by this chapter: Chartered Accountant and Accounting Expert, both of them regulated by way of reserved activities. Following the Bologna process introducing a university training programme of 3+2 years, the profession of accounting expert was created for graduates of the 3 year cycle.

The authorisation to practice the professions is obtained with passing a State exam after completion of an internship of 18 months.

Registration with a regional order is mandatory. Orders are divided into two sections: A) if enrolled as Chartered Accountants and B) for the registration as Accounting Experts. The activities reserved by law are wide for both professions, but only a Chartered Accountant can, e.g. defend the client in front of the Tax Court. Some activities are shared with other specific professions (e.g. the appointment as curator of bankruptcy procedures is shared with lawyers, appointment as referee for judicial sales can also be for lawyers and notaries). Assistance in matters of social security and social assistance of employees is reserved to Labour law Experts (*Consulenti del lavoro*) but also shared with Accountants and Lawyers. Given the broad range of reserved activities, no other provider can use the titles.

Until 2010, the Chartered Accountant could enrol in the Register of "Statutory Auditors". Under the new legislation, the chartered accountant must have done a specific three-year traineeship with a statutory auditor. Moreover, he must pass a State exam with extra examinations on subjects typical of the auditing profession.

The profession of Accountant is incompatible with the profession of notary, journalist, entrepreneur, public service contractor and merchant banker.

## Lawyers

The legal profession in Italy is regulated by way of reserves of activities covering the representation of clients before courts. The level of qualification required is Master's degree

in law, 18-month professional traineeship, successful completion of a State exam and enrolment to the Bar.

To be admitted to plead before the Supreme Court ("*Avvocato cassazionista*"), a lawyer shall be enrolled in a special register, which is kept by the National Bar Council. To this end, he/she has to prove that he has worked for twelve years at least as a lawyer before the Courts of Appeal and Tribunals.

From 2017, it will be necessary for these lawyers:

- to have passed an exam, not before the expiry of a five-year period of exercise of the profession before the courts of first and second degree, together with a creditable and profitable practice for the same period, with an "*Avvocato cassazionista*";
- Or alternatively, having passed a final verification of eligibility at the end of the school of advocacy (access subject to at least 8 years of registration with a bar), as well as for the effective exercise of the profession.

In 2012, continuous professional development obligations were introduced.

Although a Ministerial Decree of 2013 states that there is the possibility to constitute companies between professionals with no restriction on the corporate form/type of entity to be used to exercise related activities and also no prohibition on joint practices, the National Bar considers that this does not apply to lawyers because it does not respect all guiding principles of the 2012 lawyers' reform (Law 247/2012).

The draft competition law 2015 (at the moment in discussion at the Senate for the final adoption process) proposes to eliminate the constraint for lawyers to belong to only one professional association, to enable multi-professional companies and to open shareholding requirements to non-lawyers. The draft law would reduce the acts for which a notary authentication is required and where acts could be established by other professionals such as lawyers and accountants. The bill also would allow other professionals to prepare acts for real estate transactions which are limited in size and do not relate to property units for residential purposes. However, this possibility, apparently, has been taken out from the draft law.

Following a new decree from February 2016, the District Bar Council will check that each lawyer registered exercises the profession continuously, regularly and prevailing. One of the indicators to measure it is at least five businesses each year, even if the professional assignment is given by another trader". It seems that through this decree the intention is to avoid the "parking" effect of many inactive professionals in the Bar registry (in Italy there is a huge number of lawyers compared to the demand).

There is a significant number of Italian citizens going abroad after their studies in Italy to finalise their training and obtain a professional title in another Member State, in particular in Spain, to then ask for recognition based on the Professional Qualifications Directive. This might be one of the indications that Italian graduates find it particularly difficult to obtain full access to the profession in Italy.

#### Patent agents

The Profession is regulated through reserves of activities. Given the broad range of reserved activities, no other provider can use the title.

Professionals must be members of the "*Ordine dei Consulenti in Proprietà Industriale*".

The reserves of activities cover counselling and representation before the Italian Patent and Trademark Office and the Board of Appeal. This reserved activity is shared with lawyers.

Enrolment in the register of Patent Agents is obligatory.

The order gathers together 2 professions/sections: (1) Patent Section reserved for Agent (qualified to advise on inventions, utility models, designs, new plant variety rights and semiconductor topographies - usually chemists or engineer), and (2) Trademark Section reserved for Agent (qualified to advise on trademarks, distinctive signs, geographical indications and designs).

Based on the assessment, needs of reforming have been detected for the profession of Patent Agent / Trademark agent. This is under analysis of a Commission at the Ministry for Economic Development.

### Real estate agents

The profession of Real Estate Agent in Italy is regulated by way of reserves of activities. Given the broad range of reserved activities, no other provider can use the title.

There is no legal definition of the activities but rather of the real estate agent as a professional who brings together two or more parties to conclude a deal concerning a property, without being tied to any of them through working relationships, employment or representation. This reserved activity is shared with the "Agent with undisclosed agency agreement" (with mandate/delegation for pecuniary interest), but the latter operates as a representative, acts upon a mandate for one of the parties involved from which he receives commissions. Registration in a specific list in the general Chamber of Commerce is compulsory. Everyone exercising the activity of brokering without being registered shall be punished with an administrative sanction.

The professional requirements are:

- to have a secondary school diploma, have completed a training course of minimum 80 hours with the Chamber of Commerce or at training institutions accredited by the Regions and have passed an examination designed to ensure aptitude and professional ability; or
- to have obtained a secondary school diploma and have carried out a practical period of at least twelve consecutive months with the compulsory attendance of a specific training course (though this method of access is not yet applied).

Recent reforms introduced the obligation to provide appropriate insurance covering professional risks. It has also been established that the practice of brokering sales is incompatible with: 1) any public or private employment, except in enterprises or companies whose purpose is brokering; 2) the exercise of business and professional activities, not including mediation activities in sales still exercised; 3) legal representation of companies whose activity is incompatible with the mediation in sales. The incompatibility is supposed to guarantee the operator's impartiality.

### Tourist guides

Tourist guides are regulated by means of reserves of activities. In Italy there also exists a regulated profession of Tour Manager (*accompagnatore turistico*) who accompanies individuals or groups of people on journeys through the country or abroad, and provides significant news and information concerning transit zones which are interesting from a touristic point of view and do not belong to the scope of competence of the tourist guide.

To become a tourist "licensed" guide in Italy, one has to pass a public examination. Some Regions organise vocational training courses to prepare for it. The call for the exam is usually published every two years by the province or municipality. The degree in Arts (with specialization in archaeology, art history) or equivalent degree exonerates from the public examination when requesting the licence.



It has to be noted that, since the entry into force of the European Law 2013, tourist guides from other Member States could exercise their activities in the whole territory whereas tourist guides established in Italy were limited by the regional validity of their authorisation to exercise the profession. A transitional rule was introduced in 2015 to remedy the lack of recognition of tourist guide license on the whole national territory for the Italian tourist guides already authorized at regional level. In 2015 a new decree was adopted establishing a list of sites of special historical, artistic or archaeological interest, reserved to tourist guides having acquired a specific authorisation. This decree affects tourist guides established in Italy as well as the cross-border provision of services.

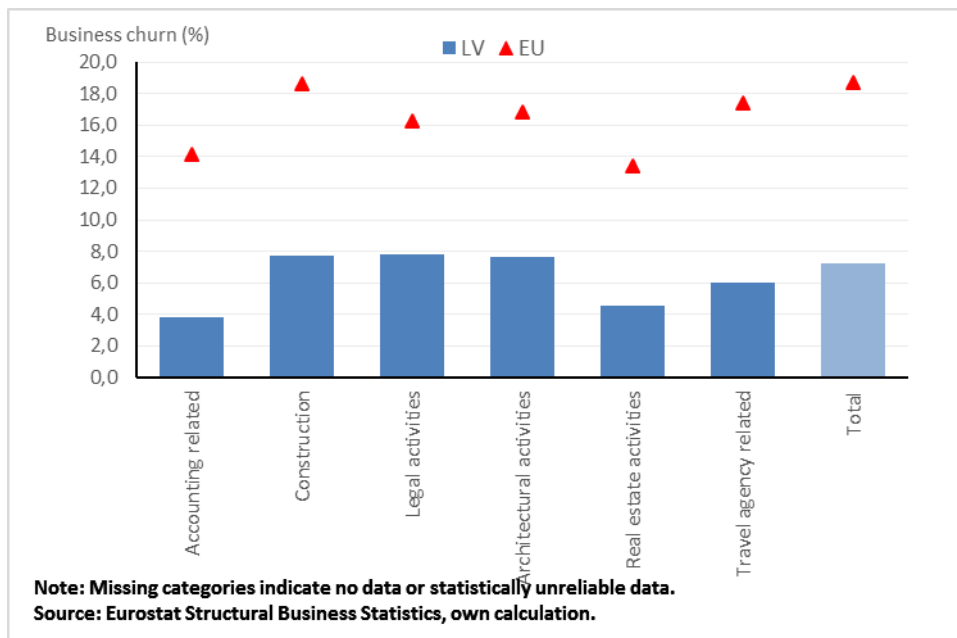
## I. Overview

On 1 November 2016 Latvia had submitted information about 267 regulated professions. Among those professions 4,1% concern business services, 4,1% the construction sector and 0,4% the real estate sector.

According to a recent EU wide survey<sup>53</sup>, 15% of Latvian labour force can be considered as working in regulated professions. This is significantly lower than the EU average (21%).

As indicated in chart 1, for all professions selected, business churn (or turnover) rate<sup>54</sup> is significantly lower in Latvia than in the EU on average. This may be interpreted as an indication of the relatively low dynamism and competition within regulated professions in Latvia.

**Chart 1: Business churn rate in selected occupations, Latvia and the EU, 2013-14 (%)**



Latvia has provided all the requested information in the context of the **mutual evaluation exercise**. In its **national action plan**, Latvia presented a comprehensive overview of the regulatory framework announcing a limited number of changes.

General actions focus on ensuring cooperation in policy planning, quality control through independent accreditation of study programmes, raising public awareness, identifying data for evidence-based policy planning, evaluating the scope of Law on Regulated Professions (to the extent that it includes professions covered by other sectoral EU directives and/or international conventions); clarification (in 2016-2017) of the scope of activities, certification

<sup>53</sup> Koumenta M. and M. Pagliero (2016), "Measuring Prevalence and Labour Market Impacts of Occupational Regulation in the EU". See: <http://ec.europa.eu/DocsRoom/documents/20362>

<sup>54</sup> Business churn rate is calculated as the ratio of the sum of newly founded and closed enterprises to the total number of enterprises in year  $t$ . No data available for patent agent related activities.

and registration requirements for certain professions<sup>55</sup>, development of professional standards for certain regulated professions and maintenance of classification of occupations, and increase in quality of certification/recognition of qualifications.

For a few professions, new regulation is under review (e.g., psychologists, downhill ski instructors) or the regulation has been abolished (i.e., teacher of security advisers, hydrographers).

## II. Situation concerning the analysed professions

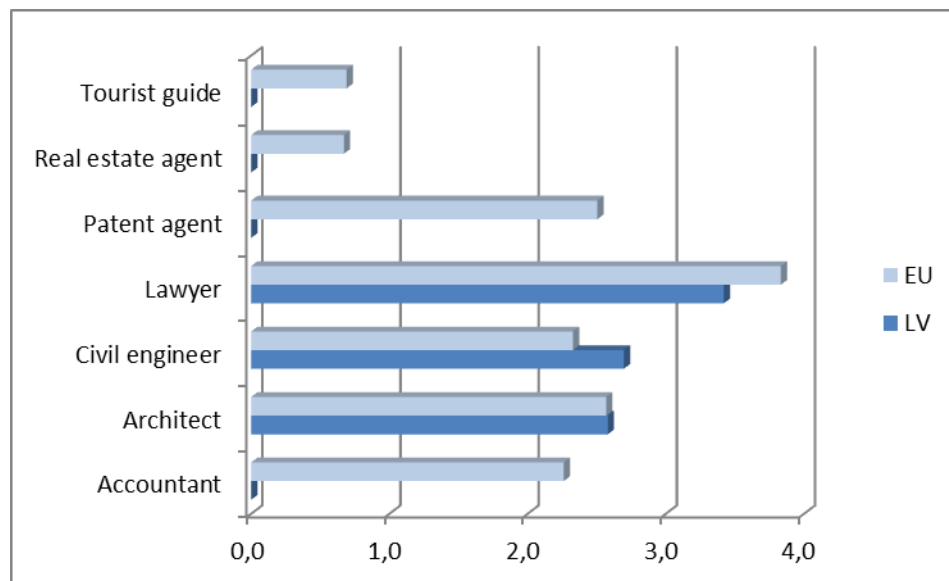
There is significant number of specialties regulated in Latvia, especially in the health and transport areas.

In order to start independent activities generally there is a requirement to obtain a certificate or to undergo a certification process with the professional organisation in the sector concerned (or the state authority, as relevant). The use of titles of regulated professions is protected by Section 5 of the Law on regulated professions. Where validity of certificates is limited in time, the professionals are usually required to re-certify every 5 years.

The level of restrictiveness is lower in Latvia compared to the EU weighted average for the profession of lawyer. It is however higher in the case of the civil engineers and at a similar level for architects. Amongst the professions analysed, restrictiveness is highest for lawyers.

Chart 2 presents the results of the quantification made by the Commission on the restrictiveness level in the selected professions.

**Chart 2: Restrictiveness indicator, 2016, Latvia and the EU**



Source: European Commission services

### Architects/Engineers

In the area of construction, Latvia regulates architects, civil engineers and site managers.

The legislation lays down the requirements for obtaining certificates for construction specialists in the areas of architecture and construction. Certification for construction specialists covers around 80 different types of certifications in the area of construction,

<sup>55</sup> Medical practitioners, sworn auditors, security employees, expert for protection of species and biotypes, surveyor, welder of metal materials, and non-destructive testing specialists.

namely 16 certifiable areas of activity within each of the following specialties: design, construction work management, and construction supervision; 32 certifiable areas of activity within the specialty of construction expert examination. A person may obtain a right to professional practice in one or more of the certifiable areas. However, construction expert examination can be carried out only in such fields in which the professional has also obtained a right to practice.

Evaluation of competencies and supervision of construction specialists is entrusted with accredited private legal entities (“personnel certification bodies”). Information about certified construction specialists is entered in the register of the state construction information system.

Professional activities of construction specialists are grouped into the following areas: architect practice, design, building, construction work management, construction supervision, and construction expert examination.

Most certifiable activities appear to be shared amongst the certified specialist having education in architecture, civil engineer (or a related engineering program) and required professional experience. The activities are shared especially for large scale projects, including preparation of feasibility studies, construction cost management, monitoring of construction, examination of design and related documentation, preparation of technical control and compliance documentation etc. The activity exclusively reserved to architects is leadership of development of architectural design, and the activity reserved only for civil engineers is construction expertise. Interior design is not regulated (i.e. not subject to qualification requirements).

Training requirement for civil engineers is generally 4 years of education, i.e., either level 1 (non-university) or level 2 (university education) in a study programme in construction engineering, followed by at least 3 years of professional experience, and an exam. Level 1 engineer can obtain certificates only in certain fields (construction work management and construction supervision). Certification procedure is carried out by the Latvian Association of Civil Engineers.

Training requirement for architects consist of architectural studies at university level (generally 5 years) and professional experience of at least 3 years under direct supervision of an architect, and the competence test (on 3 theoretical issues and a practical task). Certifications are organised by the Certification Board of the Latvian Association of Architects .

Construction specialists have a duty to raise their professional expertise each year in accordance with the list of topics and the scope of expertise-raising events published on the website of the relevant expertise inspection body. This can be done by participating in continuous professional development programmes, attending informational seminars and carrying out any other continuous professional development activities in the area of certification. In the event of non-compliance with this requirement, institution evaluating the expertise may suspend validity of the certificate or even revoke it.

Professional indemnity insurance is required in cases of permanent establishment.

### Accountants

The profession of accountant is not regulated in Latvia. Only the profession of “sworn auditor” is regulated in the area of accounting and auditing.

## Lawyers

The activities of sworn advocates (as well as assistant sworn advocates) are regulated by the Advocacy Law by way of reserves of activities and the protected title.

An advocate is an independent and professional lawyer who provides legal assistance in defending and representing the lawful interests of persons in court proceedings and pre-trial investigations, provides legal consultations, prepares legal documents and performs other legal activities. Advocates are persons belonging to the court system for conducting cases in any court and in pre-trial investigation institution of the Republic of Latvia upon being commissioned and chosen by the parties, the accused and other participants (clients) of the case, as well as in cases specified in the Law upon being commissioned by court judges, chairpersons of pre-trial investigation institutions and the Latvian Council of Sworn Advocates. Advocates shall also provide other legal assistance in accordance with the procedures specified by law.

A number of activities are shared with other related professions: drawing up legal documents (prosecutor, judges, notaries, legal advisers, bailiffs), legal advice (including in tax matters), representation before administrative authorities (including tax authorities) is shared with legal advisers.

Mandatory qualification requirements consist of state-recognised diploma of second-level higher education in law science and have obtained the professional qualifications of a lawyer and professional experience of 3 years (as judge), 5 years (as prosecutor, sworn bailiff, sworn notary, or an assistant to sworn advocate) or 7 years (as academic personnel specialised in law at an institution of higher education or in any other position with juridical specialty), followed by an advocate examination (Holders of Doctors' degree in Law Science are exempt from the exam).

Advocates are required to comply with the following: faultless reputation, age of at least 25 years, fluency in Latvian at the highest level, absence of trusteeship established over them, no declaration by court as insolvency debtors, clean criminal record (not being suspects or defendants in the criminal proceedings for committing an intentional crime, etc.); no disciplinary sanctions in the last 5 years of being dismissed from the position of judge, sworn bailiff, assistant to a sworn bailiff, sworn notary or assistant to a sworn notary, etc.; no occupations that are incompatible with the position of sworn advocate (due to ethical reasons as regarded by the Council of Sworn Advocates) or being employed in state administrative institution, except for teaching staff and duties of legal adviser.

Sworn advocates must practice individually or in collaboration exclusively with other sworn advocates. Sworn advocates may establish offices of sworn advocates, registered in the Latvian Council of Sworn Advocates. It is permitted to employ other non-legal staff (technical, administrative, financial) under employment contracts.

Latvian national action plans provides that in February 2015 a working group has been set up for improving the quality of the institute of advocacy. The working group has pointed to a need for amendments to the Advocacy law to address the following matter: legal status of lawyer's offices, clarify/raise the quality and education requirements (review of advocate examination), provide for liability for non-compliance with continuous professional development requirements, introduction of mandatory indemnity insurance.

## Patent agents

The profession is not regulated in Latvia.

### Real estate agents

The profession of real estate agent is not regulated in Latvia. The proposal to regulate real estate agents was rejected as it was widely criticised by the professional organisations.

Latvia has notified regulation of profession “real estate appraiser” regulated by way of reserve of activities. As from September 2014 real estate appraisers determine a market value of real estate in all real estate property in accordance with the Latvian National standard "Property valuation" (LVS 401: 2013), the European and International Valuation Standards and the requirements of the regulatory enactments of the Republic of Latvia. This is a recent change to prior regulation where appraisals were only required for deals with pledged mortgage loans. Such extension of reserved activities was aimed at solving the problem of real estate market distortion. Professionals are certified by the Latvian Association of Property Appraisers.

Qualifications required consist of 3-4 year academic course (at postsecondary level), one year of postgraduate studies in the field of real estate appraisal (only if post-secondary studies were not in real estate field, but rather in technical sciences or economics), and at least 3 years of traineeship; typically the time necessary to obtain these qualifications is 6 to 7 years.

### Tourist guides

There are no regulated professions in the tourism sector in Latvia.

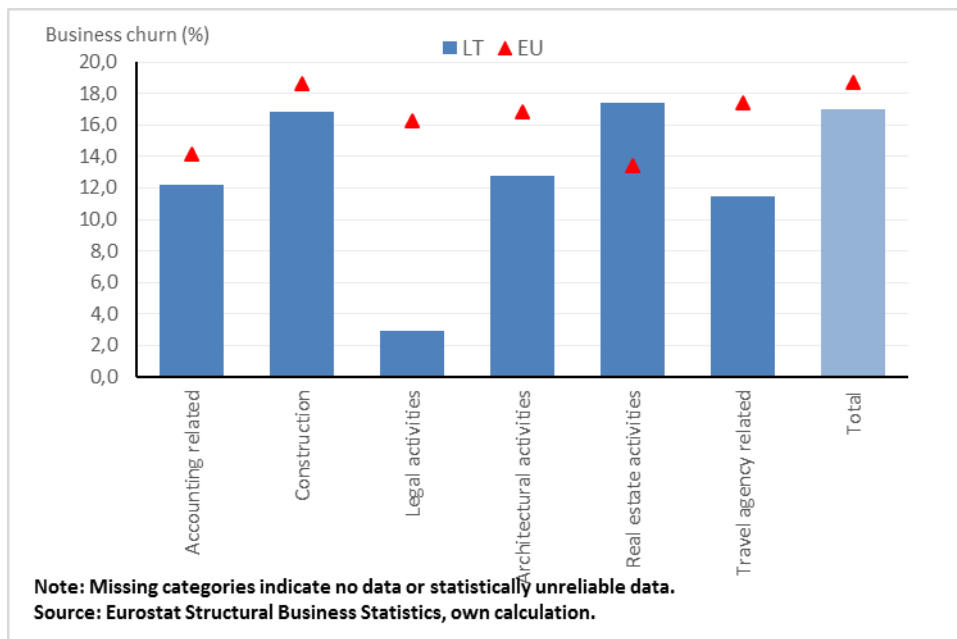
## I. Overview

On 1 November 2016 Lithuania had submitted information about 76 regulated professions. Among those professions, 9,2% concern business services, 1,3% the construction sector and 1,3% the real estate sector.

According to a recent EU wide survey<sup>56</sup>, 18% of Lithuanian labour force can be considered as working in regulated professions. This is lower than the EU average (21%).

As indicated in chart 1, for accounting, legal, architectural and travel agency activities business churn (or turnover) rate<sup>57</sup> is slightly or significantly lower in Lithuania than in the EU on average as well as compared to the average for the total Lithuanian economy. This may be interpreted as an indication of the relatively low dynamism and competition within regulated professions present in these sectors in Lithuania.

**Chart 1: Business churn rate in selected occupations, Lithuania and the EU, 2013-14 (%)**



Lithuania was active in the **mutual evaluation exercise** and has provided the requested information. On 10 October 2016, Lithuania had submitted all the general information concerning regulated professions and has also assessed all the professions as to the proportionality of their regulation.

In its **national action plan**, Lithuania presents an overview of the regulatory framework of the regulated professions. The action plan is largely supported by the findings of an independent screening study commissioned by the government and suggests overall little need for major reforms. While the number of regulated profession is relatively low, over the last five years three new regulated professions were introduced (i.e., bankruptcy

<sup>56</sup> Koumenta M. and M. Pagliero (2016), "Measuring Prevalence and Labour Market Impacts of Occupational Regulation in the EU". See: <http://ec.europa.eu/DocsRoom/documents/20362>

<sup>57</sup> Business churn rate is calculated as the ratio of the sum of newly founded and closed enterprises to the total number of enterprises in year  $t$ . No data available for patent agent related activities.

administrators, restructuring administrators, and property or business appraisers). More regulation has also been foreseen in health care and education sectors. Since 2013, no profession has benefitted from a reduction in regulatory requirements.

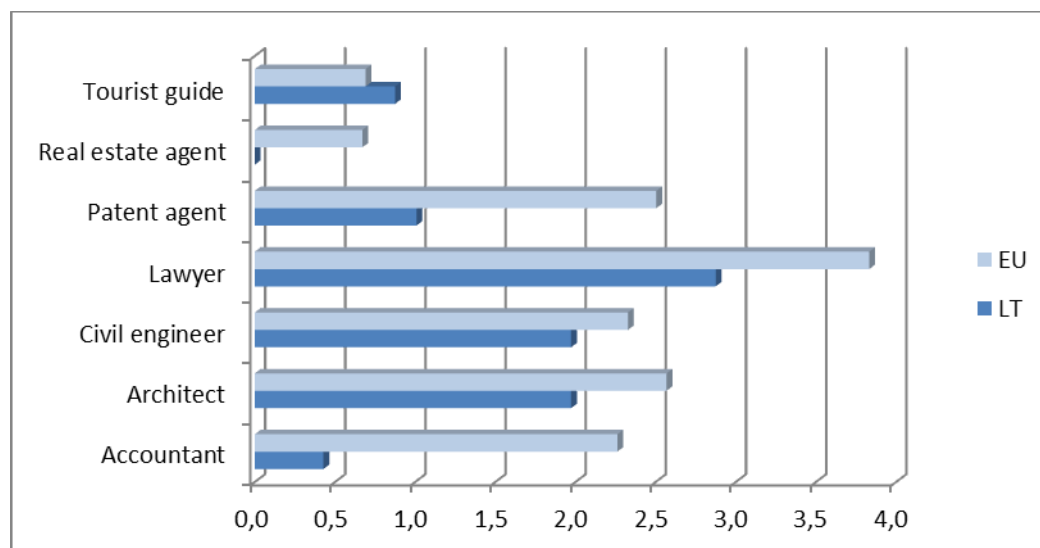
## II. Situation concerning the analysed professions

The list of professions regulated in the Republic of Lithuania is approved by order of the Minister of Economy; it includes the following professions covered by the present document: architect, civil engineer, advocate, property and business valuator, and a tourist guide.

The level of restrictiveness is lower in Lithuania compared to the EU weighted average for all professions analysed except for tourist guide where it is higher. Amongst the professions analysed, restrictiveness is highest for lawyers.

Chart 2 presents the results of the quantification made by the Commission on the restrictiveness level in the selected professions.

**Chart 2: Restrictiveness indicator, 2016, Lithuania and the EU**



Source: European Commission services

### Architects/Engineers

Both professions are covered by the same law and can be grouped into two main categories: “unattested” architects (or civil engineers) and “attested” architects (or civil engineers). While unattested professionals need to comply with established qualification and professional experience requirements in order to pursue the activities reserved to them, attested architects and civil engineers shall undergo a mandatory certification procedure and obtain a qualification certificate.

The Law on Construction defines the following key areas of technical construction activities: construction investigation, building design and building project supervision, construction project expertise and building expertise, construction works, and technical supervision of building construction.

Managing these key areas of construction activities in the structures of exceptional significance (as well as activities in territorial planning) is reserved to “attested” architects and/or civil engineers. Managing key areas of construction activities in the structures of non-exceptional significance can be carried out by both unattested and attested professionals.



Certain activities are exclusively reserved. In particular, only architects can be in charge of architectural part of the design documentation and of its supervision, and only civil engineers may act as a head construction works of buildings/engineering structures.

The activities in the interior design/interior decoration as well as those concerning tender and contract administration are not reserved.

The Law on Construction defines the architect as a natural person who is a graduate of university studies of the study area in architectural field and has a higher university or equivalent education. Unattested architects shall obtain a Bachelor degree and 3 years of professional experience, or a Master's degree and 1 year of professional experience.

Civil engineers shall hold a qualification degree in civil engineering or construction technologies, or other compliant qualification degree or any other education, and the work experience established by legal acts, corresponding to no less than Level VI of Lithuanian Qualifications Framework and allowing to engage in the activities comprising one, several or all the main areas of technical construction activities. In general, 3 years of training is required (higher education either at a university or college level). For managerial functions in key construction activities there are also professional experience requirements (2-3 years).

Mandatory attestation procedure for architects applies with respect to managing key areas of construction activities in the buildings of exceptional significance as well as in the objects related to the nuclear energy. In addition to general qualification requirements, more professional experience is necessary for attested architects (3-5 years). Depending on the functions to be performed, there might be further professional experience requirements or a need to prove specific professional knowledge (such as on knowledge on fire safety). For civil engineers (mostly for activities with structures of exceptional significance) a mandatory attestation procedure covers education and additional professional experience requirements (in the range of 3-5 years). Both attested architects and civil engineers as well as the holders of EU qualifications shall pass the test of legal knowledge (the holders of EU qualifications may be exempted from this requirement only in case they want to be in charge of architectural part of the design documentation and of its supervision).

The Law on Construction that comes into force on 2017-01-01 requires mandatory attestation procedure for architects and civil engineers carrying activities in respect of structures of non-exceptional significance.

Mandatory attestation for civil engineers is carried out by the Construction Production Certification Center (SPSC), while the Chamber of Architect is in charge of the certification of architects (membership in Chamber of Architects is voluntary and open to attested architects. The draft law is under preparation envisaging extending mandatory membership in Chamber of Architects to attested architects).

Attested architects and civil engineers must update their professional knowledge at least every 5 years (min. 20 hours of training and test of legal knowledge, if relevant. Since 2017-01-01 under the Law on Construction the test of legal knowledge is not required).

Civil liability insurance is required only in a few instances specified in the Law on Construction, namely for being a designer of construction works and being a technical supervisor of the construction. Compliance with insurance requirement is verified at the stage of issuing construction permits and at the stage of completion of construction works, as relevant, depending on the activity concerned. The municipality in charge of issuing building permits would typically check compliance with this requirement for designing activities. The Construction Completion Commission would verify if other participants of construction have

the required insurances. Insurance is not mandatory for simple constructions and repairs, and in cases of "self-dependent/own" constructions.

The Law on Construction sets out some key requirements for civil liability insurance (e.g., insurance can cover each construction project separately or it can be based on the overall extent of construction works per year of a company). However, there are no provisions on mutual recognition in place and no comparability mechanisms established to assess the equivalence of insurance from another Member State.

### Accountants

The profession is not regulated in Lithuania. The Law on Accountancy contained a requirement for state examination for chief accountants, which had to enter into force on 1.1.2016. This was eventually abolished after the stakeholder consultation carried out by the Ministry of Finance, demonstrating that intended mandatory certification would not have improved qualifications, but would have rather increased company's costs and the administrative burden.

### Lawyers

The profession is regulated by reserves of activities and protection of the title ("*Advokatas*"). The requirements to practice as "*Advokatas*" are set out in the Law on Advocacy. There is a two-step procedure before an attorney can exercise a profession under the Lithuanian title "*Advokatas*": (1) recognition and award of the title of "*Advokatas*" (this step consists of check of qualifications, reputation, language, Bar exam, and fitness of health), (2) provision of a licence to practice as "*Advokatas*" (this step involves check of compliance with the legal form requirements, indemnity insurance, and a solemn declaration/oath).

The university level education (Bachelor and Master's degree in law, or Law degree of 5 years) followed by 5 years of professional experience in the field of law or 2 years as an assistant attorney are required qualifications to become "*Advokatas*". Multiple other qualifications are also accepted: 7 years as a judge, 10 years as a public prosecutor or a Phd in Law. The acceptance to the Bar is subject to passing the Bar exam. It should be noted, that examination of such persons does not cover all legal fields, but rather subjects particular to activities of practice of "*Advokatas*", for example: subjects of professional ethics, work organisation and etc.

Exclusive reserved activities of "*Advokatas*" include: (i) appearing in front of criminal courts, (ii) signing a cassation appeal in civil matters; (ii) participation in a certain civil cases (i.e., cases concerning investigation of activities of a juridical person and cases concerning forced sale of shares). Other activities (such as providing legal advice, drafting of documents, representation on legal matters) do not appear to be reserved. In addition, "*Advokatas*" is allowed to provide some specific regulated activities (acting as bankruptcy administrator, restructuring administrator or patent agent) after having complied with the specific requirement set out in the relevant laws (there is no automatic access to these activities for "*Advokatas*").

"*Advokatas*" is subject to mandatory continuous professional development requirements of 3 or 6 continuous professional development points per year, depending on the professional experience acquired. The points are attributed depending on the type of training activity undertaken, e.g. 1 point for a training of less than 4 academic hours, 2 points for training of more than 4 academic hours, etc. Costs are fixed only for the trainings organised by the Bar Association (e.g., 14,48 EUR for a seminar of less than 6 academic hours).

There are three permitted legal forms: (i) individual activity; (ii) partnership without establishing a juridical person; (iii) establishment of an attorney's partnership as a juridical person. The partners in the latter form of enterprise enjoy unlimited liability only with respect to obligations that are not related to the provision of legal services of "Advokatas". Membership and voting rights in attorney's partnerships are exclusively reserved to "Advokatas". Joint practices of advocates and other professionals are not allowed.

"Advokatas" must be ensured for damages to clients over 290 EUR. Mutual recognition clause to assess the equivalence of insurance from another Member States is in place. The Lithuanian Bar Association evaluates the sum of insurance and the insurance period.

### Patent attorneys

The profession is regulated by way of reserve of activities.

Patent attorney shall be a natural person representing at the State Patent Bureau of the Republic of Lithuania foreign natural persons who are not permanently residing in the Republic of Lithuania nor in any other EEA Member State, and representing foreign legal persons who have no subsidiaries nor representations registered in Lithuania, nor headquarters, subsidiary nor representation in any other EEA Member State. Patent attorney may provide to Lithuanian and foreign natural and legal persons other services in the area of intellectual property protection and in implementing rights to objects of industrial property. There are no special provisions on the rights to represent clients in courts (general rules on Civil Code apply) as well as no specific rules apply regarding representation before other administrative national authorities.

Patent attorneys are required to register in the Register of Patent Attorneys of the Republic of Lithuania (hereinafter – the Register). To be registered in this Register, they must meet these conditions: to have a citizenship of the Republic of Lithuania or another country of the European Union; to hold at least the university degree in technical, nature sciences, mathematics, computer science, or law and demonstrate 5 years of practical experience in industrial property field and also pass a qualification exam. The calculation of practical experience whereof cannot start earlier than the date when the person has been awarded a university degree. In general, continuous performance of functions in carrying out assignments related to industrial property protection, work at a state institution or an international organisation registering objects of industrial property is treated as practical work experience in the sphere of industrial property protection.

Persons having gained the qualification of a patent attorney in another Member State are allowed to pursue the activities in Lithuania without any procedures of recognition, but they also are required to be registered in the Register if they want to provide the services of patent attorneys.

### Real estate agents

The profession of real estate agents is not regulated. The activities of real estate agents consist of voluntary mediation between the seller and the buyer; real estate agents do not determine the value of the property nor approve sale and purchase agreements.

The activities of real estate agents are subject to the general legal norms, such as those concerning the contract with clients set out in the Civil Code as well as consumer protection laws. The applicable laws provide for both judicial and non-judicial possibilities (mediation) to protect the rights of service recipients. In addition, voluntary membership in the Lithuanian Association of Real Estate Agencies implies compliance with professional standards. Lithuania has also transposed the international standard "Services of Real Estate Agents.

Requirements for the provision of Services of Real Estate Agents” (EN 15733:2009)”, which are of voluntary application.

In the past, the stakeholder associations have suggested regulating the profession of real estate agents by the way of licencing and qualification requirements. However, in view of the Government such mandatory licencing system would not have met the principles of proportionality, as less restrictive means (such as self-regulation and education of consumers) were found to be sufficient to remedy the problems in this area.

#### Property or business valuator

In the context of transparency screening, in 2015 Lithuania has included in the list of regulated professions the profession of property or business valuator, which is regulated by way of reserve of activities. Valuers can carry out valuations only in the certain fields reflecting their qualifications, i.e. real estate, immovable property, or business evaluation. Valuers evaluate the property (in some specific cases property valuation is required by law), while purchase and sale transactions are approved by the notaries (who also ensure compliance with legislative and property registration requirements).

The Law requires that property or business valuator is of good repute; has a university degree (4 years) in various specified areas (e.g., mathematics, statistics, informatics, engineering, economics, business managements for immovable property valuers); has experience of at least three years as an assistant property valuator or as an assistant business valuator; and has passed a qualification examination of a property or business valuator. Valuers shall also obtain professional indemnity insurance and shall comply with continuous professional development obligations (every 3 years, minimum 35 h of training).

According to Lithuanian authorities, these requirements were established to ensure the necessary level of knowledge (including practical skills), the high quality of services, and to reduce possible risk of errors and damages. The activities of property or business valuers require particular training, expertise, experience and thorough knowledge of valuation methodology.

#### Tourist guides

The profession of tourist guide is regulated by way of reserved activities and title protection.

The reserved activities focus around the listed tourism objects, where only official travel guides are permitted to provide tourist information services (the list includes various museums, national parks, historical old towns). Other types of excursions are not exclusively reserved to licenced tourist guides. Tourist guide is understood as a natural person, they can work on the basis of employment contract or on the basis of individual activity licence.

Professional qualification of a tourist guide is awarded to persons who have completed higher education having attended a special guide training course totalling no less than 250 academic hours and covering methods of preparing and conducting a tour, rhetoric, professional ethics, communication, psychology, Lithuanian culture, history, and geography disciplines and having passed a practical tour guidance exam.

Tourist guides may be awarded second, first, or highest category (similar to a professional title) taking into account their professional experience, ability to work in different languages, and the number of tour routes they are able to guide.

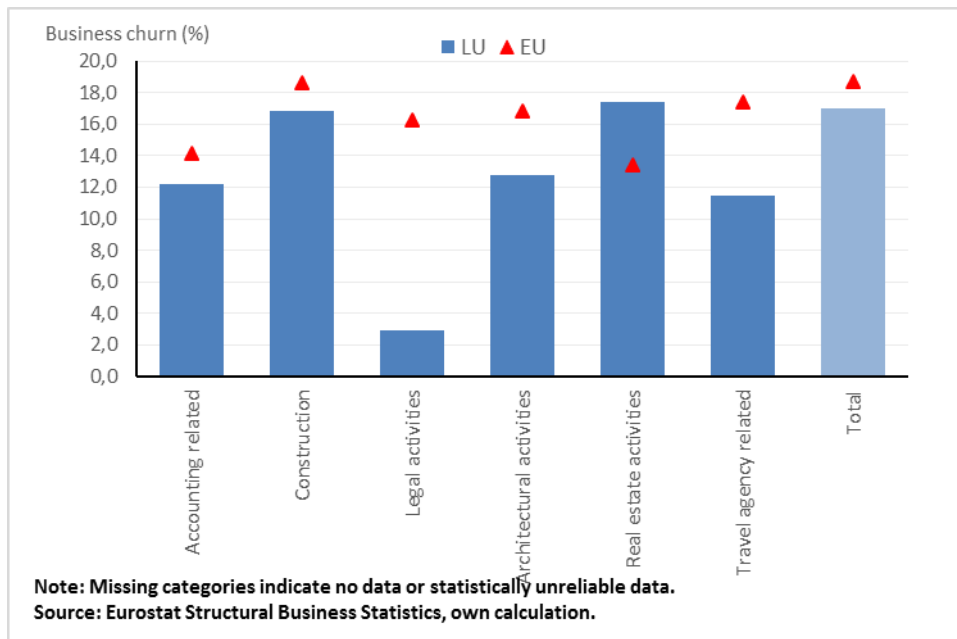
## I. Overview

On 1 November 2016 Luxembourg had submitted information about 105 regulated professions. Among those professions, 8,6% concern business services.

According to a recent EU wide survey<sup>58</sup>, 21% of Luxembourg's labour force can be considered as working in regulated professions. This is just as much as the EU average (21%).

As indicated in chart 1, for all professions selected with the exception of real estate activities, business churn (or turnover) rate<sup>59</sup> is lower in Luxembourg than in the EU on average and also lower than the average churn rate for the total Luxembourgish economy. This may be interpreted as an indication of the relatively low dynamism and competition within regulated professions in Luxembourg.

**Chart 1: Business churn rate in selected occupations, Luxembourg and the EU, 2013-14 (%)**



Concerning the **mutual evaluation exercise**, on 10 October 2016, Luxembourg had only submitted information on 67 of their 162 regulated professions and only one profession has so far been assessed as to its proportionality. Moreover, Luxembourg has still not introduced in the database of regulated professions more than a hundred of professions in the area of craft, commerce and industry.

In its **national action plan**, Luxembourg only refers to the 12 professions discussed during the mutual evaluation meetings for which there are no plans to adapt existing regulation. Furthermore it announces some simplification measures for the recognition of professional qualifications, in particular for the access to the teacher profession. It also refers to the

<sup>58</sup> Koumenta M. and M. Pagliero (2016), "Measuring Prevalence and Labour Market Impacts of Occupational Regulation in the EU". See: <http://ec.europa.eu/DocsRoom/documents/20362>

<sup>59</sup> Business churn rate is calculated as the ratio of the sum of newly founded and closed enterprises to the total number of enterprises in year  $t$ . No data available for patent agent related activities.

foreseen adoption of measures to ease SMEs' administrative burdens as well as to the preparation of a programme to simplify and improve the regulation, although no specific deadlines are given.

However, it is interesting to note that Luxembourg conducted already in 2011 a reform to facilitate access to the professions of arts, craft and industry as well as to some liberal professions (architect, interior designer, landscape architect or landscape engineer, engineering construction, independent engineer (discipline other than construction), surveyor, planner, accountant, chartered accountant, economic council, council, council in intellectual property) which resulted in the adoption of the law of 2 September 2011. This law brings changes to facilitate the access to the professions covered with simplified administrative procedures and also to enlarge the scope of activities of the professions.

Comparing the 15 months after the reform with the 15 months preceding the reform it was found that the number of permits issued for new businesses increased by 19% and the number of permits issued for existing businesses due to the broadening of activity increased by 172%. A total of 30 to 40% of companies have benefited from the reform.

In 2016, the European Commission addressed a **country specific recommendation** to Luxembourg in the area of professional services which was to reduce administrative and regulatory barriers for investments, such as restrictive authorisation requirements and restrictions on legal form and shareholding, and impediments to setting up interdisciplinary companies, in particular in the area of services.

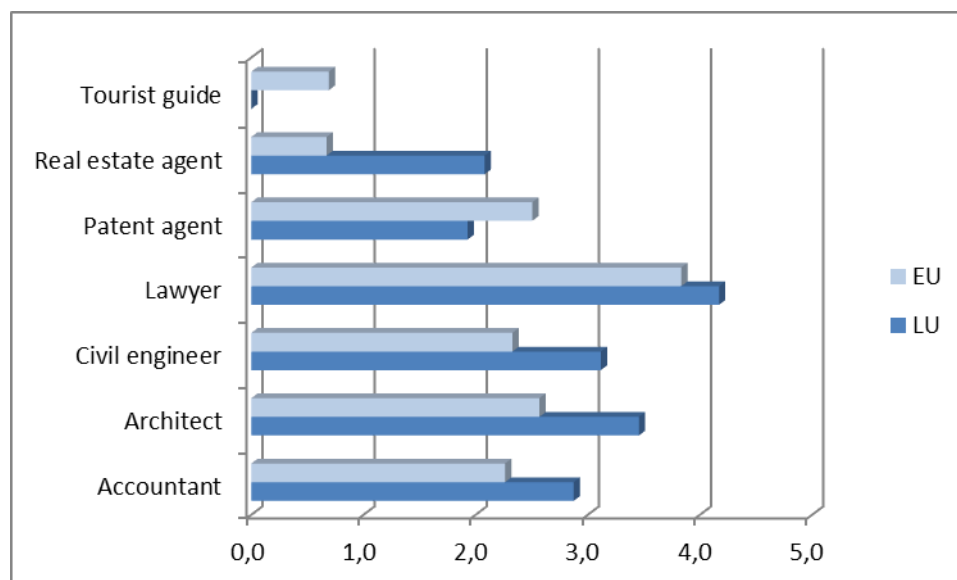
## **II. Situation concerning the analysed professions**

The conditions of access to and exercise of regulated professions are defined by the State. One particularity of the Luxembourg Higher Education system is that a number of professional training courses giving access to regulated professions are not available in the Luxembourg territory (e.g. for architects).

The level of restrictiveness is higher in Luxembourg compared to the EU weighted average for all the professions analysed except for the profession of patent agent where the opposite is true and for the profession of tourist which is not regulated. Amongst the professions analysed, restrictiveness is highest for lawyers.

Chart 2 presents the results of the quantification made by the Commission on the restrictiveness level in the selected professions.

Chart 2: Restrictiveness indicator, 2016, Luxembourg and the EU



Source: European Commission services

### Architects/Engineers

Both professions benefit from a reserve of activities and a title protection. The Luxembourg authorities justify the regulation by the need to guarantee the quality and safety of constructions.

Only architects may establish architectural projects. Anyone wishing to undertake work subject to a building permit or plans or urban design and planning work must call on the services of an architect to draw up an architectural project. This concerns namely "residential, administrative, education, research and healthcare buildings and any other current construction not presenting any specific technical issues. The architect's scope of activity includes that of landscape architect and interior designer.

Concerning civil engineers, anyone wishing to undertake work subject to a building permit or urban design or landscaping plans must call on the services of an engineer to draw up a technical project. The law does not define "civil engineer" as a profession, but it defines the work of a "consulting engineer", within which it makes a distinction between "construction consulting engineers" and "other engineers". The activities reserved for construction consulting engineers consists of "the design of a technical, urban design or landscaping project, drawing up the associated plans and coordinating the various activities taking part in the realisation of the project. This applies in particular to projects relating to "roads, railways, bridges, tunnels, barrages, dams, supporting structures, reservoirs, water supply, removal and treatment works, river management and energy and telecommunications projects. "

Architects and civil engineers (construction consulting engineer) share some activities like those concerning works on industrial facilities such as factories, power plants, halls and agricultural buildings, as well as works and territory organisation.

For both professions a Master degree of 5 years in the discipline is required, followed by a professional practice of 2 years with respectively an architect or a civil engineer.

The Association of Architects and Consulting Engineers organizes the professions. Registration is mandatory for both professions.

## Accountants

Two professions are regulated in Luxembourg: Chartered accountant (*Expert comptable*) and accountant. Both professions benefit from reserves of activities but only the title of Chartered accountant is protected. The reserved activities of accountants are shared with Chartered accountants and company auditors. However, the activities of Chartered accounts are reserved exclusively to Chartered accountants.

Chartered accountants organize, assess and adjust the accountings of all kinds of accounts, establish balance sheets and analyse, by the methods of accounting techniques, the position and operation of companies and organizations in their various economic and financial aspects.

Accountants achieve, within the limits imposed by law on the public accounting profession, to third parties, the organization of accounting services and advice in these matters. They ensure the opening, keeping, centralization and the closure of accounting records necessary to the preparation of accounts, determination of results and they draft the financial statements in the form required by the legal provisions on the matter.

To become accountant, secondary education general or technical is required. A Bachelor degree in economics, financial studies, management, business law, or equivalent is required to qualify as Chartered accountant. The academic training must be completed by a professional practice of 3 years, one of the 3 years being with an authorised chartered accountant. Then there is a final examination on some Luxembourg legislation for accountants.

Registration with a professional body is mandatory for chartered accountants.

Chartered accountants must hold the majority of voting rights in a professional company. The majority of directors must be chartered accountants.

Only joint practices composed of accountants, chartered accountants and economic consultants are possible. The chartered accounting profession is incompatible with any activity having an impact on the professional independence.

No such restrictions have been identified for accountants.

## Lawyers

Lawyers benefit from a reserved of activities and a protected title. Only lawyers can assist or represent parties and plead before the courts of any kind, receive their parts and titles to represent them before the judges, and sign the acts necessary for the regularity of the process and put the matter in a state to receive judgment. No person shall, directly or through an intermediary give, on a regular basis and against remuneration, legal advice, or write on behalf of a third party private deeds, if this person is not authorized to exercise as a lawyer

To become a lawyer it is required to hold a diploma attesting end of legal studies + 6 months theoretical courses in Luxembourg legislation. This academic training must then be completed by a professional practice of 2 years attested by an examination at the end.

Membership in the Bar is compulsory. The professional body also organises continuous professional development conference cycles.

The profession can be exercised through a legal person. However, shares can only be held by lawyers. The exercise of the profession is incompatible with salaried employment, notarial or bailiff functions, as well as with the professions of chartered accountant or accountant, trade or craft, as well as any activity undermining the independence of the profession.



Professional indemnity insurance is mandatory. Other requirements have not been identified.

#### Patent agents

Patent agents (*conseil en propriété industrielle*) benefit from reserved activities and protected title. They have to be registered with the Office of Intellectual Property.

They have exclusive reserved activity for guiding, assisting and representing constituents in the field of industrial property, in particular in obtaining, maintaining, defending and contesting private rights consisting of patents, trademarks and designs.

A Master degree in legal, scientific or technical studies or equivalent is required for the exercise of the profession. This academic training must be completed by a professional practice of 3 years with a patent agent attested by a national examination on the Luxembourg legislation relating to patents and the Benelux Convention on Intellectual Property (Trademarks and Designs) of 25 February 2005.

Joint exercise of activities does not appear to be allowed. Other requirements have not been reported.

#### Real estate agents

The profession of real estate agent is regulated by way of reserved activities and title protection. The reserve covers, in particular, the exclusive activity of acting as agents in transactions involving properties. This intermediation is usually performed as a broker in the sense that the real estate agent connects two people for the conclusion of a contract for properties. The Luxembourg authorities justify the regulation by the complexity of operations involved and the financial issues at stake which require consumers' protection.

In order to have access to the profession, it is required to hold either a qualification, consisting of 3 years professional education including practical training of at least 12 weeks, or a professional experience of 3 years or to have followed an accelerated training of more or less 40 hours delivered by the Chamber of Commerce. This initial training must be completed by a training of around 50 hours on some Luxembourg legislation in relation to real estate attested by an examination.

In an analogous way Luxembourg regulates access to the activities of property managers and "syndics" of common properties.

Professional indemnity insurance is mandatory. There are also general conditions for good repute.

#### Tourist guides

This profession is not regulated in Luxembourg

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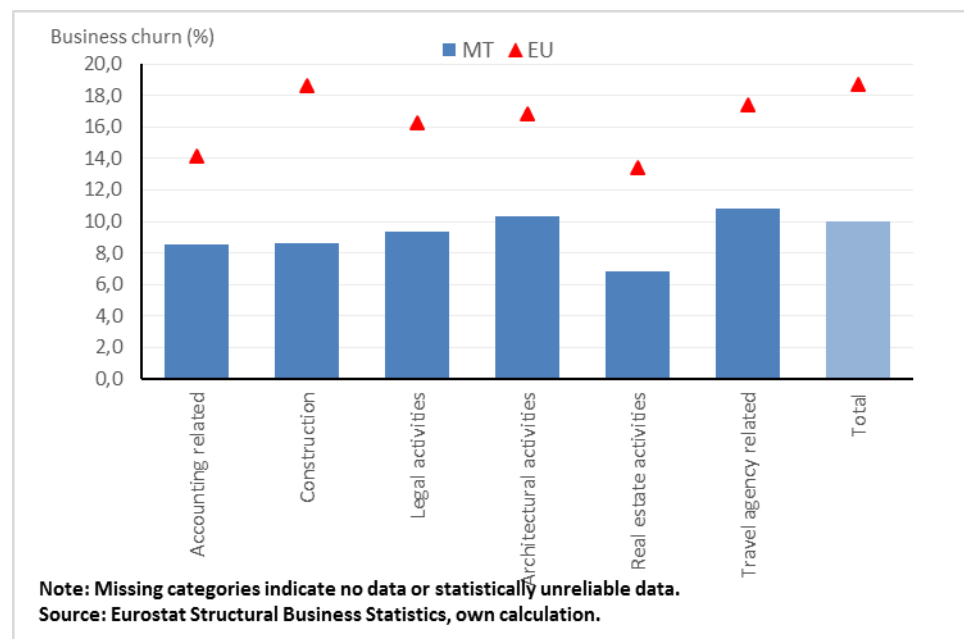
## I. Overview

On 1 November 2016 Malta had submitted information about 138 regulated professions. Among those professions, 8,7% concern business services and 1,4% the construction sector.

According to a recent EU wide survey<sup>60</sup>, 17% of Maltese labour force can be considered as working in regulated professions. This is lower than the EU average (21%).

As indicated in chart 1, for all professions selected, business churn (or turnover) rate<sup>61</sup> is significantly lower in Malta than in the EU on average. This may be interpreted as an indication of the relatively low dynamism and competition within regulated professions in Malta.

**Chart 1: Business churn rate in selected occupations, Malta and the EU, 2013-14 (%)**



As regards the **mutual evaluation exercise**, while Malta has submitted some information, on 10 October 2016, Malta still needs to submit 70% of the transparency and screening information on the different regulated professions and almost all professions still need to be assessed as to the proportionality of their regulation. Comprehensive information, was, however, submitted for the selected professions of accountant, architect/civil engineer, lawyer, patent agent, real estate agent and tourist guide following *ad hoc* information/verification requests by the Commission during the second and third quarters of 2016.

<sup>60</sup> Koumenta M. and M. Pagliero (2016), "Measuring Prevalence and Labour Market Impacts of Occupational Regulation in the EU". See: <http://ec.europa.eu/DocsRoom/documents/20362>

<sup>61</sup> Business churn rate is calculated as the ratio of the sum of newly founded and closed enterprises to the total number of enterprises in year *t*. No data available for patent agent related activities.

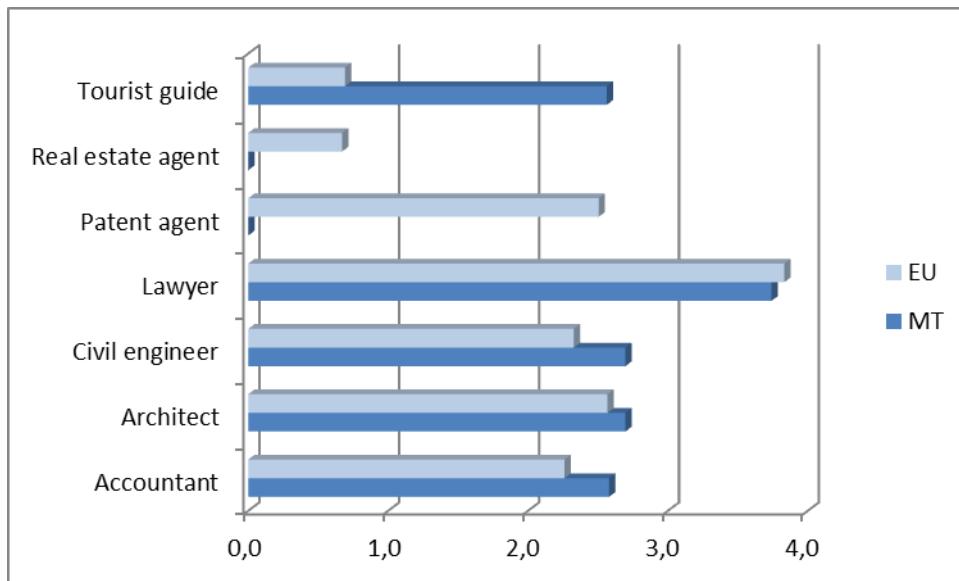
Malta also has not yet submitted its **national action plan** on reform needs regarding its regulatory framework for regulated professions.

## II. Situation concerning the analysed professions

The level of restrictiveness is higher in Malta compared to the EU weighted average for all the professions analysed except for lawyer where it is slightly lower and for real estate agents and patent agents, not regulated in Malta. The profession of lawyer is also the profession with the highest restrictiveness level.

Chart 2 presents the results of the quantification made by the Commission on the restrictiveness level in the selected professions.

**Chart 2: Restrictiveness indicator, 2016, Malta and the EU**



Source: European Commission services

### Architects/Civil engineers

Both professions are covered by the same law on '*Periti*' and they are regulated by way of a protected title and a reserve of activities such as aspects of technical control and valuation of buildings and land. The reserved activities are not listed in one act. Instead, references to the '*Periti*' as the only professional that can perform and assume responsibility for certain activities can be found in different legal acts.

There is a 6 years education requirement composed of 4 years of study and 2 years of training or 5-years' study and 1 year of training followed by a state examination.

There is no mandatory registration obligation with the professional body, no limitation to the number of licences granted and the current Periti Act does not require continuous professional development although amendments envisaged foresee to include such an obligation.

A restriction on the use of a corporate form by the profession exists in the sense that a company cannot carry the liability as a legal person; the warranted professional needs to be identified within the corporate structure at all times in order to carry the professional liability. Concerning shareholding, voting rights and joint exercise of the profession, it has to be noted

that civil partnerships can only be formed by professionals and have to have as exclusive object to practice the profession. No other shareholders are allowed.

The *Periti* is not required to take out professional indemnity insurance although amendments envisaged to the main Act foresee to include such an obligation. There is a certain limitation to the joint exercise of different professional activities to avoid potential conflict of interests.

### Accountants

The profession of accountant is regulated by way of a protected title and a reserve of activities such as the drawing-up of financial statements and issuing of independent reports on share valuations or valuation of businesses.

The required education is 5 years of study and a mandatory traineeship of 3 years without the need to pass a state exam. Registration with the professional body is voluntary and no restrictions exist on the use of corporate forms.

Concerning shareholding and voting requirement, more than 50% of the shares of an accountancy firm need to be held by licenced accountants. There are no restrictions on joint exercise of professions or professional activities as long as the provisions on conflicts of interest found in the Code of Ethics are followed.

All holders of a licence to practise the profession must spend at least 40 hours per calendar year on continuous professional development activities and the majority of the voting rights/shares in an accountancy firm need to be held by those licenced accountants.

There is a mandatory professional indemnity insurance that needs to be taken out according to national professional indemnity rules.

### Lawyers

The legal profession is regulated by way of a reserve of activity for the representation of clients in court. The title of '*Advocate*' and '*Legal Procurator*' are as such not protected.

The education for Advocates is composed of 6 years of study and one year of training at the office of a practising advocate at the Bar of Malta and sittings of the superior courts. Legal Procurators need to follow 3 years of study and one year of training at the office of a practising advocate. Both professions need to pass a state examination.

Lawyers can only engage in a professional partnership with other lawyers and can only form civil partnerships. Accordingly voting rights are limited to lawyers as well.

There are restrictions on the joint exercise of the profession of lawyer and the compatibility of professional activities where conflict of interests may arise.

There is no obligation for lawyers to be registered with the professional body, to take out professional indemnity insurance or to follow continuous Professional Development activities.

### Patent agents

Patent agents are not regulated in Malta.

### Real estate agents

Real estate agents are not regulated in Malta. There are no requirements to open up or engage in this professional activity. No rules of conduct or professional liability insurance apply except those requirements which apply to general businesses. Consumer protection is guaranteed under the consumer -and civil law provisions and jurisprudence.

### Tourist guides

Tourist guides are regulated by means of a protected title and a reserve of activity for "*guiding and interpreting the cultural and natural heritage of Malta*".

The education is composed of a 2 years' course provided by the Institute of Tourism Studies. No mandatory traineeship, state examination, registration with the professional body exists for tourist guides. However a continuous professional development requirement needs to be satisfied otherwise the licence can be suspended or revoked.

No restrictions exist on the use of corporate forms, holding of shares/voting rights, the joint exercise of professions/professional activities and there is no obligation to have a professional indemnity insurance.

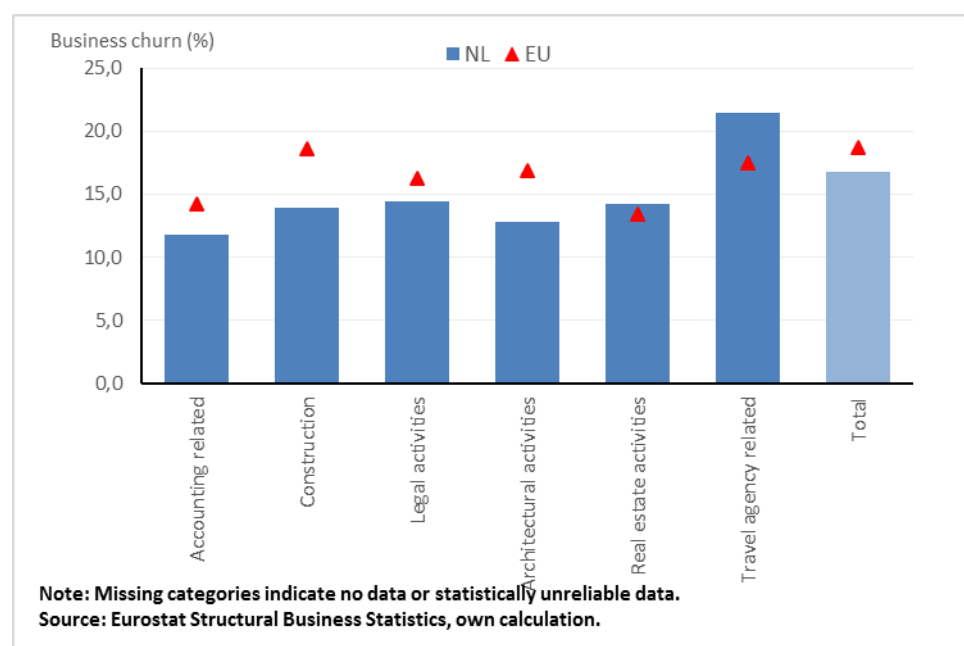
## I. Overview

On 1 November 2016 the Netherlands had submitted information about 147 regulated professions. Among those professions, 19% concern business services and 4% the construction sector.

According to a recent EU wide survey<sup>62</sup>, 25% of Dutch labour force can be considered as working in regulated professions. This is higher than the EU average (21%).

As indicated in chart 1, for accounting, construction, architectural and to a lesser extend legal activities business churn (or turnover) rate<sup>63</sup> is lower in the Netherlands than in the EU on average as well as compared to the average for the total Dutch economy. This may be interpreted as an indication of the relatively low dynamism and competition within regulated professions present in these sectors in the Netherlands.

**Chart 1: Business churn rate in selected occupations, The Netherlands and the EU, 2013-14 (%)**



The Netherlands have participated very actively in the **mutual evaluation exercise** by having submitted the general information regarding all its regulated professions and having assessed all professions as to their proportionality.

In its **national action plan**, the Netherlands presents the development of a new instrument for the proportionality assessment of every new legal act aiming at additional occupational regulation. The action plan however only announces changes for a limited number of professions on the account that no serious access restrictions to regulated professions

<sup>62</sup> Koumenta M. and M. Pagliero (2016), "Measuring Prevalence and Labour Market Impacts of Occupational Regulation in the EU". See: <http://ec.europa.eu/DocsRoom/documents/20362>

<sup>63</sup> Business churn rate is calculated as the ratio of the sum of newly founded and closed enterprises to the total number of enterprises in year  $t$ . No data available for patent agent related activities.

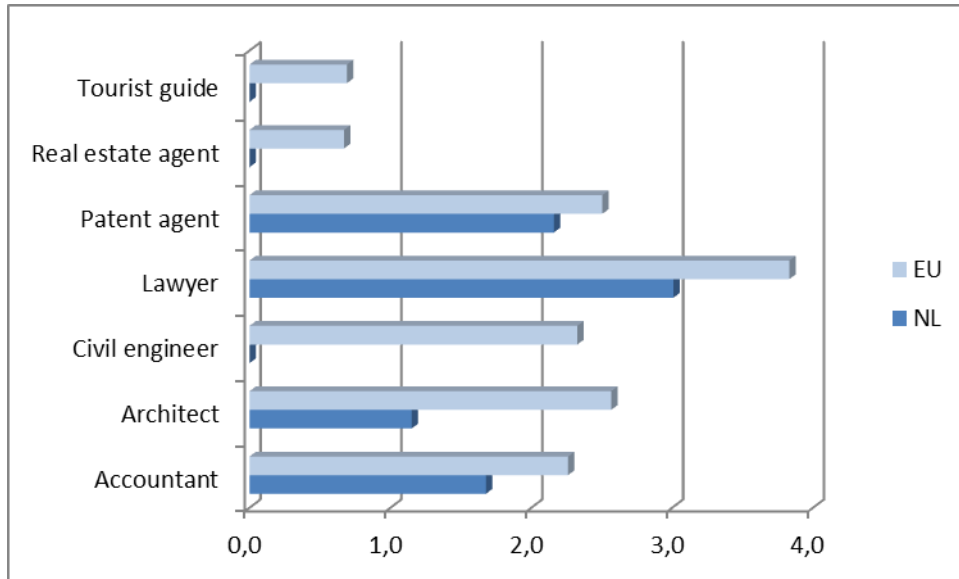
currently exist in the Netherlands. The professions for which reforms are planned are accountants, lawyers and architects.

## II. Situation concerning the analysed professions

The level of restrictiveness is lower in the Netherlands compared to the EU weighted average for all the professions analysed. Highest restrictions were found for lawyers.

Chart 2 presents the results of the quantification made by the Commission on the restrictiveness level in the selected professions.

**Chart 2: Restrictiveness indicator, 2016, Netherlands and the EU**



Note: for the professions of accountant and architect the indicator for the Netherlands measures the restrictiveness to carry the protected title  
Source: European Commission services

### Architects

Architects are regulated by means of title protection without reserving certain activities to the professional. In addition to the generic title, the Netherlands regulates the professions of garden/landscape/urban planning architect and interior design architect.

Architects require 7 years of higher education training of which 5 years of study and 2 years of traineeship. There is no state exam, no obligation to be member of a professional body or to have professional indemnity insurance. Also, no restrictions exist on corporate forms, shareholdings/voting rights or regarding the joint exercise of professions. There is however a continuous professional development obligation of 16 hours per year of which the fulfilment must be clearly communicated to the client.

### Civil engineers

The Netherlands does not regulate the profession of civil engineering although safeguards are in place to protect the general interest objective at stake through 5 year training courses at Master level, a system of construction quality standards and a system of voluntary certification systems usually applicable to the engineering profession at large.

### Accountants

The profession is regulated in the Netherlands by way of a protected title and requires minimum 3 years practical training concluded by an exam. There is a compulsory membership obligation of the professional body and a continuous professional development

obligation of 40 hours on a yearly basis. No restrictions exist on corporate forms, shareholdings/voting rights or regarding the joint exercise of professions.

### Lawyers

The legal profession in the Netherlands is regulated by way of a protected title and a reserve of activity for representing clients in court.

The education requirement is 8 years of training composed of a bachelor of 3 years, a master of 2 years and a traineeship of 3 years and it seems that a state exam needs to be passed.

Lawyers have to register with the Dutch Bar Association in the district they intend to hold office. In order to get an authorisation to practice, lawyers also have to demonstrate a clean criminal record and take an oath. There is an obligation to collect 20 continuous professional development points per year which can be earned by way of attending 20 hours of courses, teaching 10 hours, writing academic articles or doing other activities eligible for earning credits.

Lawyers can either work independently, as a sole practitioner or in a partnership but the liability and responsibility cannot be restricted and almost all shares of a legal practice need to be held by lawyers or practitioners of an authorised profession<sup>64</sup>. Although there are no restrictions on the compatibility of activities, except for general provisions to avoid conflict of interests, lawyers may only enter into a partnership with a closed list of professions such as registered notaries, tax advisers, patent attorneys and members of the tax registry.

Lawyers are required to obtain professional indemnity insurance which can be taken out in the Netherlands or another Member State on the condition that it has the necessary minimum and territorial coverage. The Dutch legislation has no specific mutual recognition clause or procedures in place.

### Patent agents

Patent agents are regulated by way of a protected title and reserved activities. Together with lawyers, patent agents are the only ones that can represent clients before the Patent Office.

In terms of education, patent agents need to follow 8 years of training composed of a 5 years' master training and 3 years of traineeship. After having passed the state exam, patent agents need to be registered at the Dutch Bar association of patent agents in order to act before the Patent Office.

There is no obligation to have professional indemnity insurance and no restrictions exist on corporate forms, shareholdings/voting rights or the joint exercise of professions. There is however a mandatory continuous professional development program whereby 16 points need to be collected per year through several activities such as teaching, attending courses, writing articles, acting as a mediator. A general restriction exists on the compatibility of activities for patent agents in the Netherlands in order to avoid conflict of interests.

### Real estate agents

Since 2001, the profession of real estate agent is no longer a regulated profession in the Netherlands because of new developments in the real estate market. The rise of internet and new technologies made it possible to offer more real estate services online providing information on home sales/purchases to the customer directly. The traditional role of a real estate agent who brings together supply and demand therefore changed significantly no

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<sup>64</sup> Persons working at a legal practice who are not lawyers or practitioners of an authorised profession can collectively acquire an economic entitlement to the profits of the legal practice to a maximum of 10% without the right to any voting rights.



longer justifying the protection of this professional title on the basis of a reason of public interest. The market is now in charge for developing certification schemes and applicable dispute resolution systems. There are 3 professional associations who have developed private certification schemes which include a certain quality check of professional qualifications.

#### Tourist guides

In the Netherlands, tourist guides are not a regulated profession as it was considered that sufficient safeguards exist for the protection of customers through consumer protection law, contract law and the voluntary certification of tourist guides.

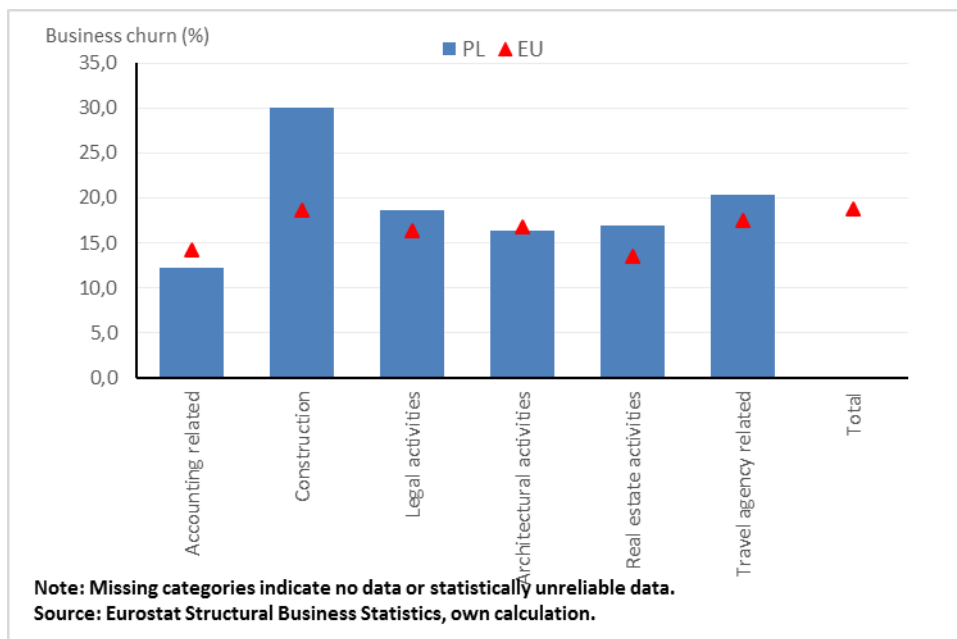
## I. Overview

On 1 November 2016 Poland had submitted information about 350 regulated professions. Among those professions, 9,1% concern business services, 11,4% the construction sector and 0,3% the real estate sector.

According to a recent EU wide survey<sup>65</sup>, 21% of Polish labour force can be considered as working in regulated professions. This is just as much as the EU average (21%).

As indicated in chart 1, for all sectors reviewed, with the exception of the construction sector, business churn (or turnover) rates<sup>66</sup> in Poland are similar to those in the EU on average. This may be interpreted as an indication of the relatively high dynamism and competition within regulated professions present in these sectors in Poland.

**Chart 1: Business churn rate in selected occupations, Poland and the EU, 2013-14 (%)**



Poland was very active in the **mutual evaluation exercise**. In particular Poland provided detailed information on proportionality of its national regulation with regard to all the 350 regulated professions.

In its **national action plan**, Poland described the wide-ranging reforms of professional regulation that it undertook as from the end of 2011. It has assessed 260 professions which equals 1 million employees (6% of workforce). The subsequent reforms covered 248 professions. For 70 of them, barriers have been completely abolished, while for others the existing barriers have been partially abolished (e.g. by lowering educational requirements or shortening the certified professional experience period or lifting the professional entry

<sup>65</sup> Koumenta M. and M. Pagliero (2016), "Measuring Prevalence and Labour Market Impacts of Occupational Regulation in the EU". See: <http://ec.europa.eu/DocsRoom/documents/20362>

<sup>66</sup> Business churn rate is calculated as the ratio of the sum of newly founded and closed enterprises to the total number of enterprises in year *t*. No data available for patent agent related activities.

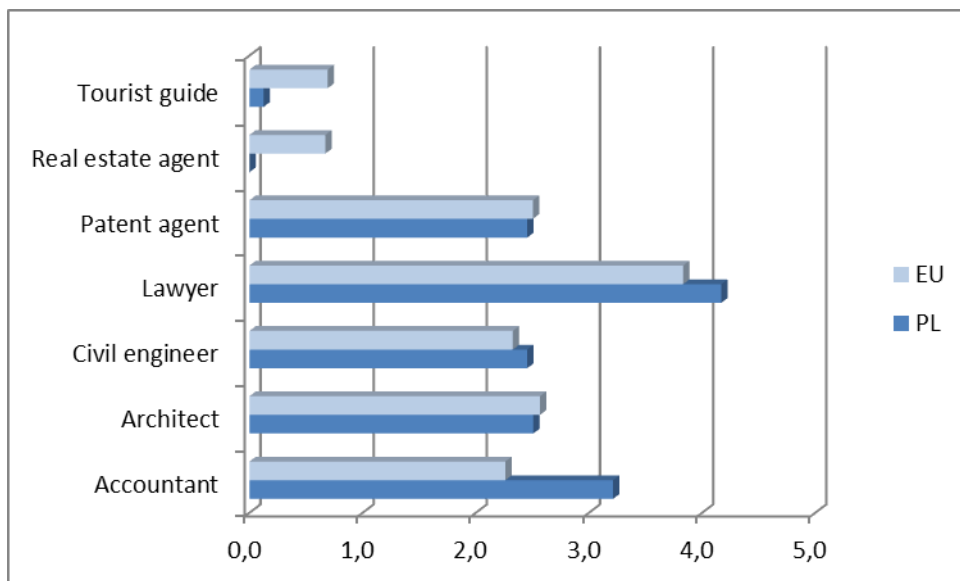
examination). Polish authorities estimate that a complete deregulation will affect professions and activities accounting for almost 0.5 million professionals. The reforms were divided into three steps: 1<sup>st</sup> adopted in June 2013 (51 professions incl. lawyer, legal adviser, notary, bailiff, land surveyor, sport instructor and coach, driving instructor, real estate professions: agent, manager and valuer, taxi driver, tourist guide, physical and technical protection workers), 2<sup>nd</sup> adopted in May 2014 (96 professions, incl. architects, urban planners, civil engineers, tax advisers, auditors), 3<sup>rd</sup> adopted in August 2015 (101 professions, incl. patent attorneys, geologists, stockbrokers). The reform has already started showing some positive results in terms of employment and entrepreneurship in certain professions. The National Action Plan submitted to the Commission in January 2016 does not indicate any major actions going beyond the recent reform.

## II. Situation concerning the analysed professions

The level of restrictiveness is higher in Poland compared to the EU weighted average for lawyers, civil engineers and accountants/tax advisers. It is slightly lower in the case of patent agents and architects and significantly lower for tourist guide. Amongst the professions analysed, restrictiveness is highest for lawyers.

Chart 2 presents the results of the quantification made by the Commission on the restrictiveness level in the selected professions.

Chart 2: Restrictiveness indicator, 2016, Poland and the EU



Source: European Commission services

### Architects/Engineers

The professions of architect and engineer are regulated by way of reserves of activities.

There are 4 regulated professions in the category architect: 1) Architect with full licence (*magister inżynier architekt*); 2) Technician Architect (*technik architekt*) having a building license in speciality of architecture; 3) Architect having a building license in speciality of structure and construction and 4) Architect having a building license in speciality of architecture. There are 6 regulated professions in the category engineer 1) Civil engineer having building license in speciality of architecture; 2) Civil engineer having building license in speciality of structure and construction; 3) Civil engineer having building license in speciality of railway engineering with regard to railway construction work; 4) Civil engineer

having building license in speciality of railway engineering with regard to railway traffic control; 5) Civil engineer having building license in speciality of engineering of roads; 6) Civil engineer having building license in speciality of engineering of bridges.

The access to the regulated professions in the category of architect is subject to the following conditions: from 4 years secondary education to 5 years university education, depending on the regulated profession; from 1,5 year to 4 years of professional training, depending on the regulated profession and on the length of the education, followed by a state exam.

The access to the regulated professions in the category of engineer is subject to the following conditions: from 3,5 to 5 years university education, from 1,5 to 3 years professional training, depending on the length of education, followed by a state exam.

Registration in the respective professional chambers is required for both categories of professions.

Both architects and engineers are obliged to regularly update their professional competences (continuous professional development). There seem to be no restrictions with regard to corporate form, shareholding and voting rights.

#### Accountants/Tax advisers

The profession of tax adviser ("*doradca podatkowy*") is regulated by way of reserves activities and title protection.

The activities of tax adviser consist of 1) providing advice, opinions and explanations to taxpayers, tax remitters and tax collectors (also third parties liable for tax arrears and universal tax successors), commissioned by them or for them, on their tax and customs obligations and in administrative execution matters relating to these obligations, 2) providing bookkeeping services, on behalf and on account of taxpayers, tax remitters and tax collectors, and providing assistance in this regard, 3) preparing tax declarations on behalf of taxpayers, tax remitters and tax collectors or providing assistance in relation to it, 4) representing taxpayers, tax remitters and tax collectors (also third parties liable for tax arrears and universal tax successors) in tax proceedings before public administrative bodies and regarding judicial control of decisions and other administrative acts in their tax and customs obligations and in administrative execution matters relating to these obligations.

Only the first and fourth activity is reserved to persons with certain qualifications and can be exercised by tax advisers, legal advisers and advocates. Furthermore, all the activities apart from the representation can be exercised by statutory auditors ("*biegły rewident*").

In this regard, it should be noted that the profession of tax adviser was recently subject to reforms. The changes in regulation of this profession included limitation of activities reserved to tax advisers, lightening of entry examination requirements, and shortening of obligatory professional practice from 2 years to 6 months.

Thus, the access to the profession of tax adviser is currently subject to the following conditions: 3 years university education, a state exam, and 6 months professional training.

Registration in the professional chamber is required, provided the candidate has legal capacity, clean criminal record and takes an oath.

Tax advisers can exercise the profession in different corporate forms in multidisciplinary teams. However, in case of limited liability companies, at least 51% of the board members must be tax advisers, and if the management board consists of no more than 2 people, one of them must be a tax adviser.

## Lawyers

The access to legal professions of advocate (adwokat) and legal adviser (radca prawny) is regulated by means of reserves of activities and title protection.

The reserved activities shared by both professions are the following: 1) drawing up legal documents (such as contracts, and preparing statements of legal opinions); 2) legal advice (including in tax matters); 3) representation before administrative authorities (including tax authorities); 4) representation before courts; 5) counselling and representation in proceedings before the Patent Office in relation to trademarks. With regard to industrial property matters, the following activities are shared with the patent agent: drawing up legal documents, representation before administrative authorities, courts (except for penal procedure) and Patent Office (only regarding trademarks). Furthermore, provision of legal opinions and assistance in tax matters as well as representation in tax matters is also shared with the profession of tax adviser.

The access to the professions of advocate and legal adviser is in principle subject to the following conditions: 5 years university education in law and 3 years of training under supervision, followed by a state exam.

The requirement of 3 years training under supervision and state exam is not applied, *inter alia*, to: professors and holders of a *doktor habilitowany nauk prawnych* degree; persons with 3 years of experience as bailiff or (senior) lawyer at State Treasury Solicitors' Office (STSO); persons that have worked as a judge, prosecutor, advocate or legal adviser, notary; persons that have at least 2 years of work experience as assessor in court (*asesor sądowy*); persons that have passed examination to become judge, prosecutor or notary, under certain conditions, and have 3 years out of 5 of professional experience in law as further specified, or hold *doktor nauk prawnych* degree and have 3 years out of 5 of professional experience in law as further specified in the Polish legislation.

Mandatory registration in the professional chamber is conditioned upon legal capacity, clean criminal record and taking an oath.

Advocates and legal advisers are obliged to follow continuous professional development training organized by the respective chambers, financed from the annual membership fees.

The professions of legal adviser and advocate have been covered by the recent reforms. The changes in regulation of these professions included: extending the number of professions in association or partnership with whom advocates and legal advisers can exercise their profession (currently advocates and legal advisers not only can create a multi-disciplinary company with other advocates and/or legal advisers but also with patent attorneys and tax advisers); opening of the advocate and legal adviser profession to other professions (such as judges, public prosecutors) and also to holders of academic degrees of *profesor* and *doktor habilitowany nauk prawnych*; opening a possibility for legal advisers to represent clients in criminal trials (under the condition that they are not employed).

Advocates and legal advisers can exercise the profession as sole practitioners or in different corporate forms including civil partnership, registered partnership, professional partnership, limited partnership and limited-joint stock partnership but not in a limited liability company and joint-stock company. Advocates and legal advisers can create multidisciplinary companies only with patent agents, tax advisers and foreign lawyers and there seem to be no limits with regard to minimum shares that must be held by those professionals.

### Patent agents

The profession of patent attorney is regulated by means of reserves of activities and title protection. The activities reserved to patent attorney consist of: counselling and representation before the Patent Office or other administrative authorities, drawing up legal and technical documents in intellectual property matters and representation before the courts in industrial property matters (except for the penal procedure). The counselling, representation before the Patent Office as well as drawing up legal documents in relation to trademarks only is shared with professions of advocate and legal adviser. For other aspects of industrial property, this activity is exclusively reserved to patent agent. The representation before courts is shared with advocates and legal advisers for all matters regarding industrial property.

The access to the profession of patent attorney is subject to the following conditions: university diploma in an area relevant for exercising this profession, in particular law or engineering (5 years), 3 years training, followed by a state exam.

Mandatory registration in the Chamber is conditional upon legal capacity, clean criminal record and taking an oath.

Patent agents can exercise the profession as sole practitioners or in different corporate forms: 1) in civil partnership, registered partnership, professional partnership, limited partnership and limited–joint stock partnership, in multidisciplinary teams with advocates, legal advisers, foreign lawyers and tax advisers provided that at least half of partners are patent agents; 2) in limited liability company and joint-stock company provided that, *inter alia*, the majority of shares and voting rights belongs to patent agents.

The profession of patent agent was covered by the reform of 2015. The changes included *inter alia* reduction of fees for state exam and obligatory training, broadening of conditions on which one can be dispensed from the 3 years training, removal of oral exam. Furthermore, it brought changes with regard to representation before the Patent Office, allowing advocates and legal advisers to exercise this activity along with the patent agent with regard to cases concerning trademarks.

### Real estate agents

The profession of real estate agent is not regulated.

The profession has been covered by the recent reforms and qualification requirements for access to the profession have been abolished.

The security of real estate transactions is ensured by the notary; under Polish law, the transfer of real estate property must be done in form of a notarial act (with few exceptions). Furthermore, real estate agents (and persons acting under their supervision) must be covered by professional indemnity insurance. Finally, the deregulation of the profession prompted some umbrella organisations to introduce voluntary certification schemes.

### Tourist guides

The profession of tourist guide is not regulated. The activities of tourist guide are exercised by city and country guides as well as by mountain guides. Only the profession of mountain guide is regulated in Poland.

Furthermore, the activity of tourist guides might be limited in museums (and areas belonging to museums such as excavation areas) and similar facilities where usually the museum's employees guide tourists.

The profession of tourist guide, as well as the profession of guiding tours operator, has been covered by the recent reforms and the qualifications requirements for access to these professions have been abolished. The requirements for access to these professions are secondary level education and a clean criminal record. These requirements are not verified by any public administration body but only by the employer/person ordering the service.



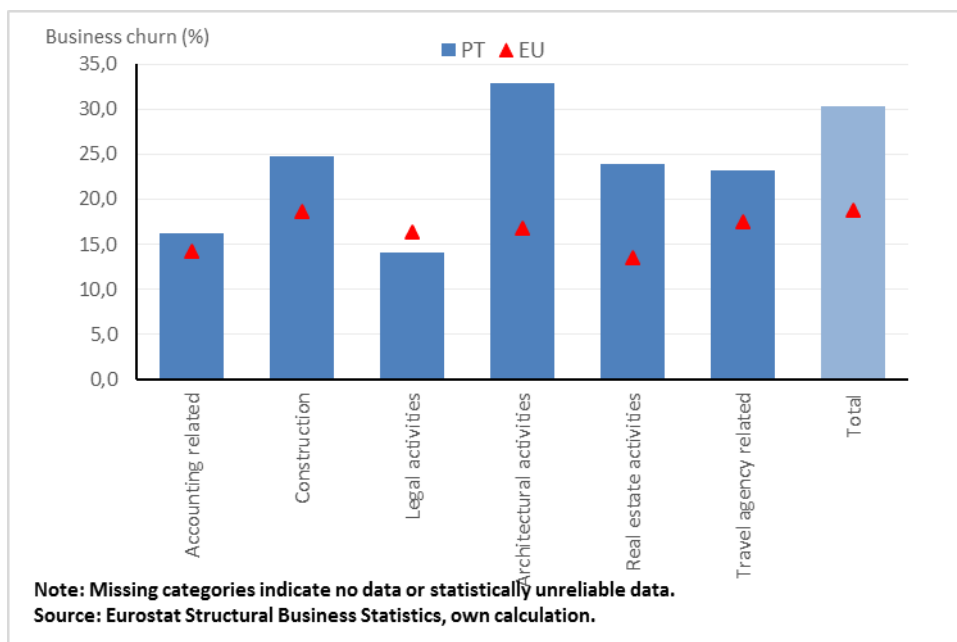
## I. Overview

On 1 November 2016 Portugal had submitted information about 239 regulated professions. Among those professions, 23% concern business services, 8,8% the construction sector and 0,4% the real estate sector.

According to a recent EU wide survey<sup>67</sup>, 17% of Portugal's labour force can be considered as working in regulated professions. This is lower than the EU average (21%).

As indicated in chart 1, for all the professions selected with the exception of legal activities, business churn (or turnover) rate<sup>68</sup> is higher in Portugal than in the EU on average. This may be interpreted as an indication of the relatively high dynamism and competition within regulated professions present in these sectors in Portugal. In the case of legal activities, the churn rate is on the contrary lower than the one for the EU average and for the Portuguese economy in general.

**Chart 1: Business churn rate in selected occupations, Portugal and the EU, 2013-14 (%)**



Portugal has been participating relatively actively in the **mutual evaluation exercise**. On 10 October 2016, Portugal had submitted almost all of the general information on different regulated professions. However 30% of the professions still need to be assessed as to the proportionality of their regulation.

In its **national action plan** (NAP), Portugal explains that, as major reforms and review of the regulated professions have been done since 2011, they do not expect major modifications in the coming years. Since 2011, 188 professions have been deregulated. The NAP gives a

<sup>67</sup> Koumenta M. and M. Pagliero (2016), "Measuring Prevalence and Labour Market Impacts of Occupational Regulation in the EU". See: <http://ec.europa.eu/DocsRoom/documents/20362>

<sup>68</sup> Business churn rate is calculated as the ratio of the sum of newly founded and closed enterprises to the total number of enterprises in year  $t$ . No data available for patent agent related activities.



succinct presentation of regulated professions distinguishing between those regulated only by law (non-highly regulated) (139 in total) and those regulated also under professional organisations (highly regulated) (100 in total). The latest legislative developments are the horizontal law for professional associations (2013), new horizontal law for non-highly regulated professions in 2015 and new law on professional companies (2015).

In 2016, the European Commission addressed a **country specific recommendation** to Portugal in the area of professional services:

*By the end of 2016, improve and accelerate administrative and licensing procedures, accelerate tax litigations and reduce regulatory barriers, especially in business services.*

## **II. Situation concerning the analysed professions**

Regarding professions regulated by law (non-highly regulated) there is a legal mechanism for the implementation of the principle of proportionality of regulation of professions. It prescribes that professional requirements must be evaluated periodically to ensure the removal of barriers which are unjustified, inadequate or unnecessary to access and exercise a certain profession or activity. This general law will be applicable only to new laws and regulations governing access and exercise of professions.

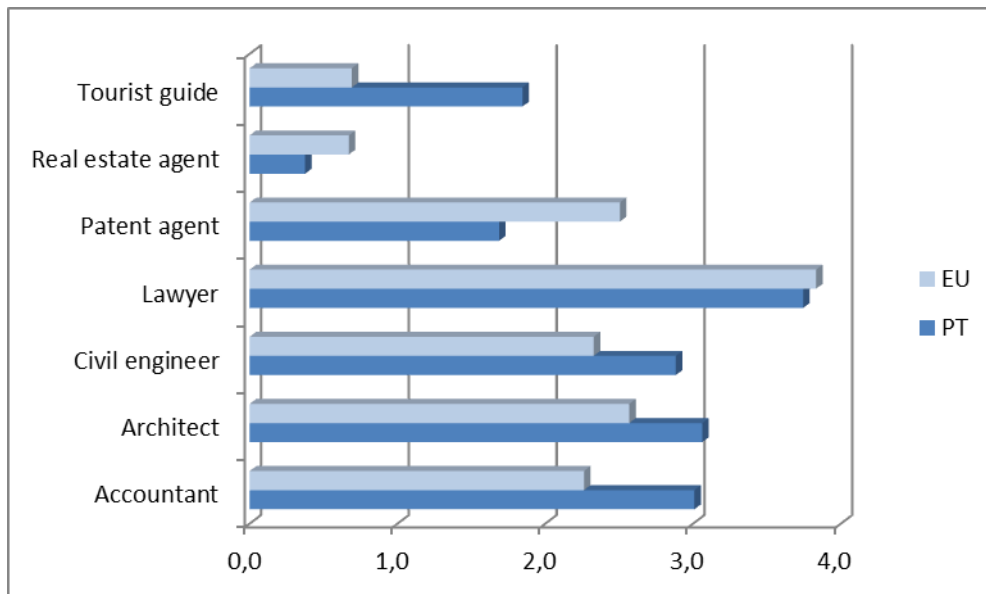
Regarding professions regulated by professional organisations (highly regulated), a horizontal framework was adopted in 2013 establishing the legal framework for the creation, organisation and functioning of public professional organisations and access and exercise to the professions in question. Further to the adoption of the law, by-laws of professional organisations were supposed to be adopted to ensure compliance with this legislative framework.

The law on professional companies from 2015 implements the possibility to establish professional companies, introduced for most of the highly regulated professions by the framework law, in parallel with regular companies, and in accordance with any legal form of types of companies available under Portuguese Law. However, the professional companies need to ensure that 51% of the shares are owned by professionals and that one manager is a professional as well. Additionally the law introduces also a restriction on legal persons owning shares in more than one professional company.

The level of restrictiveness is higher in Portugal compared to the EU weighted average except for all professions under review except for real estate agents and patent agents where it is lower and for lawyers which is similar to the EU level. Highest restrictiveness level is observed for lawyers.

Chart 2 presents the results of the quantification made by the Commission on the restrictiveness level in the selected professions.

Chart 2: Restrictiveness indicator, 2016, Portugal and the EU



Source: European Commission services

### Architects

The profession of architect is regulated by way of reserves of activities and protected title.

The activities of architectural design and planning, and of feasibility studies are reserved exclusively to architects. The activities of construction control surveyors, project/work director, project author and project coordinator are shared with other professionals (engineers).

The length of the training is of 5 years plus a professional traineeship of 12 months, without State exam.

In order for the company to be registered in “*Ordem dos Arquitectos*”, bearer or endorsable stock are not allowed for 51% of "professionally held" shares with voting rights. If the company is not registered in "Ordem dos Arquitectos" a responsible Architect is required.

### Engineers

The following professions coexist in the construction and civil engineering sector: control surveyors, project/work director, project author and project coordinator can be performed either by civil engineers (and engineers from other specialties) or by civil technical engineers (and other specialties), as well as architects, depending on the nature of unlicensed technicians in construction. The profession of civil engineers is regulated by way of title protection and reserves of activities and that of civil technical engineers by title protection. The protection of title for civil engineers is done through registration with the professional order.

The length of the training for all engineers is 5 years plus traineeship (between 12 and 18 months) without State exam, except for civil technical engineer (3 years plus traineeship). The professions of construction control surveyors, project/work director, project author and project coordinator may require a qualification as engineer (not necessarily civil engineer) or as architect, in which case the training requirements referred to above apply.

In order to become a member of the Engineers Order, i.e. in order to obtain the title of Engineer, a candidate must fulfil the following obligations:

- holding a first cycle degree in Engineering from a Portuguese Institution of Higher Education, or its equivalent (Level N1 member) plus 6 months traineeship (traineeship - exemption for those who have 5 years of professional experience);
- holding a second cycle degree or an Integrated cycle in Engineering from a Portuguese Institution of Higher Education, or its equivalent (Level N2 member) plus 18 months traineeship (traineeship - exemption for those who have 6 years of professional experience).

Regarding the scope of the reserves of activities, it seems that the professions of construction control surveyors, project/work director, project author and project coordinator are complementary. Some of them are also compatible: one could qualify both as project/work director and construction control surveyor, but cannot exercise both titles for the same building, for instance. However as certain activities are exclusively reserved to civil engineers, one could not perform as project/work director and perform those activities without having the title of civil engineer. The same applies also for other engineering specialities.

Professional companies providing civil engineering need to be owned for least 51% of capital by professionals and the manager needs to be established in Portugal. No restrictions as such for the other professions; however if the qualifications of architect or civil engineer are required then the restrictions related to these professions would apply.

#### Accountants

The profession of accountant is regulated by way of reserves of activities and protected title.

Certain activities are reserved only to accountant (for instance, signing of financial statements or representation before tax authorities for certain specific issues) while other are being shared with other professionals (tax advice is shared with lawyers and auditors).

The qualification requires a 3-year secondary education and a maximum 18-month professional internship (commonly 8 to 12 months duration) finalised with an exam. No alternative pathways to obtain this qualification are possible. As regulated, professional internship can be substituted by minimum three years relevant professional experience or by specific higher education course units, accepted under agreement between professional organization and the school/university.

Accountants can perform in commercial company or professional companies. For the latter at least 51% of the capital has to be owned by accountants, the purpose of the company should also be the provision of accounting services and one manager needs to be established in Portugal.

Joint provision of legal services and accounting services is prohibited.

#### Legal professions

- Lawyers

The profession of Lawyer (attorney-at-law) has reserved activities and is protected by title. The enrolment at the Portuguese Bar Association is mandatory. In order to use the title of Lawyer the membership must be active.

The activities, reserved to attorneys are: 1. Drawing up legal documents; 2. Legal advice; 3. Representation before administrative authorities (including tax authorities); 4. Representation of clients before all courts (judicial courts – civil and criminal, administrative, appeal courts, Supreme Court of justice, constitutional court)

Part of legal activities is shared with legal agents. Other activities, such as practice simple recognition and special mentions for authentication of private documents, as well as make and certify translations of documents under the notarial law are also shared with notaries.

The level of qualifications for attorney is Bachelor degree in law (4 years), plus 18-month professional traineeship, followed by successful completion of a national exam organized – prepared and corrected - exclusively by the Bar Association.

Professional companies – law firms, may be incorporated in accordance with any legal form of types of companies available under Portuguese Law. Every law firm has to be registered in the Bar Association. All the partners Law firms are entities with the exclusive object/purpose of joint exercise of the legal profession; all the partners must be Lawyers or law firms. Multidisciplinarity is not allowed, this means the joint exercise of professions within a company is forbidden in order to protect clients' interests and guarantee professional secrecy.

The establishment of European professional companies – European law firms is allowed under the condition that 51% of the shares are owned by lawyers, who must also have vote majority All the managers and partners have to be established in Portugal, being enrolled as “*Advogados*” or simple being register in the Portuguese Bar Association using their own home titles.

- Legal Agents

*Solicidador* (legal agent) is regulated by way of reserves of activities and protected title.

The level of qualification for legal agents is Bachelor degree in law (4 years) or *solicitadoria* degree (3 years) followed by 12 to 18 months internship finalised with an exam.

Professional companies may be incorporated in accordance with any legal forms or types of companies available under Portuguese Law. The establishment of professional companies is allowed under the condition that 51% of the shares are owned by lawyers, and 100% by legal agents. For lawyers, only one manager needs to be established in Portugal. For legal agents, all managers need to be established in Portugal. Non-professional companies are barred from providing legal agent services. The joint exercise of professions within a company is forbidden for lawyers and legal agent.

#### Patent agents

The profession of patent agent is regulated by way of reserves of activities and protected title. The reserved activities are counselling and representation before the Patent Office or other administrative authorities and representation before the courts in intellectual property matters. Both activities are shared with lawyers. There is no obligation to be member of a professional organisation.

#### Real estate agents

The profession of real estate agent has been deregulated in Portugal in 2013, following an assessment of the proportionality of the legislation in force. It was thus decided that the protection of consumer's interests cannot justify keeping this profession as regulated.

#### Tourist guides

Portugal considers that the profession of tourist guide is not regulated. However, according to the information available, two regions established regulation of access and exercise of this profession (Madeira and Azores regions).

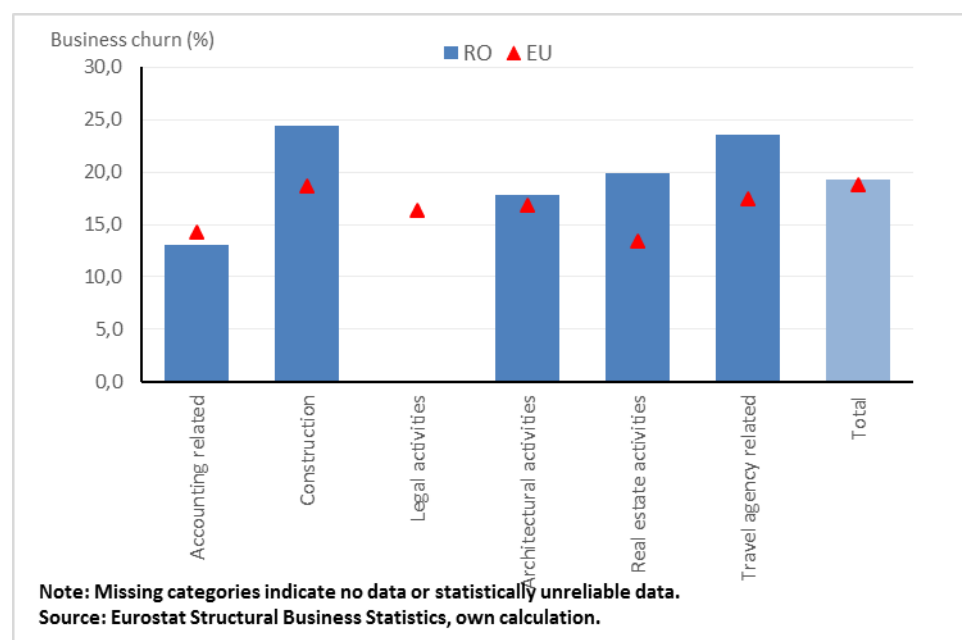
## I. Overview

On 1 November 2016 Romania had submitted information about 189 regulated professions. Among those professions, 22,2% concern business services, 4,8% the construction sector and 0,5% the real estate sector.

According to a recent EU wide survey<sup>69</sup>, 22% of Romanian labour force can be considered as working in regulated professions. This is slightly higher than the EU average (21%).

As indicated in chart 1, for all the professions selected, business churn (or turnover) rate<sup>70</sup> is higher or similar in Romania than in the EU on average. This may be interpreted as an indication of the relatively high dynamism and competition within regulated professions present in these sectors in Romania.

**Chart 1: Business churn rate in selected occupations, Romania and the EU, 2013-14 (%)**



Romania has been participating relatively actively in the **mutual evaluation exercise**. However on 10 October 2016, Romania still needs to submit 20% of general information on different regulated professions and about 1/3 of the professions still need to be assessed as to the proportionality of their regulation.

In its **national action plan (NAP)** Romania gives an overview of the evaluation exercise undertaken by the Ministry of Education and Research in cooperation with the competent authorities. The Romanian authorities indicate that compared to 2004 the number of regulated professions has grown from 45 to 156 in 2015, the greatest number being registered in the transport sector. However the authorities explain that in this specific sector the regulation was

<sup>69</sup> Koumenta M. and M. Pagliero (2016), "Measuring Prevalence and Labour Market Impacts of Occupational Regulation in the EU". See: <http://ec.europa.eu/DocsRoom/documents/20362>

<sup>70</sup> Business churn rate is calculated as the ratio of the sum of newly founded and closed enterprises to the total number of enterprises in year  $t$ . No data available for patent agent related activities.

imposed based on EU and international obligations. The NAP gives a clear overview of the legislative framework of the regulated professions, but only announces limited changes for certain professions.

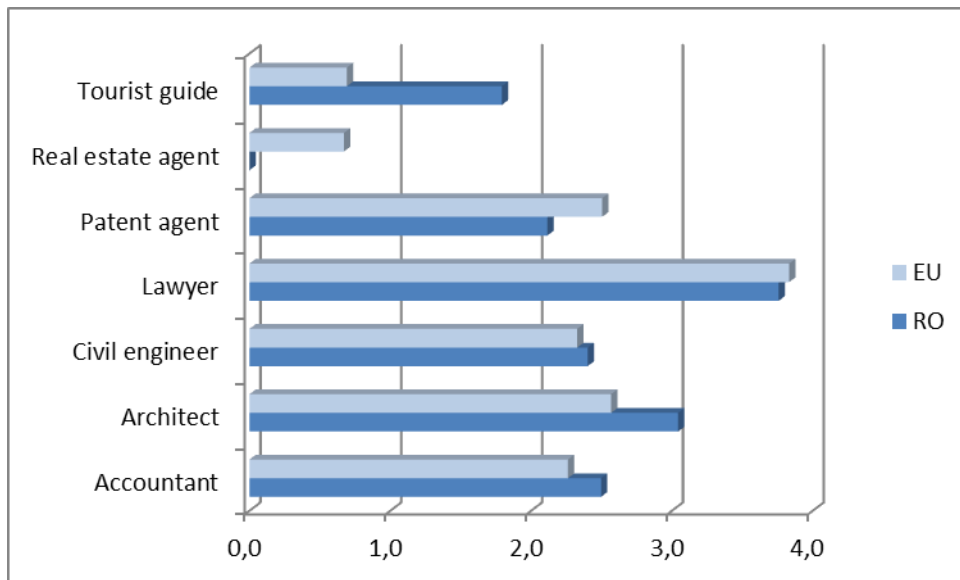
## II. Situation concerning the analysed professions

The list of regulated professions and corresponding competent authorities is annexed to Law 200/2004 on the recognition of diplomas and professional qualifications for regulated professions in Romania as last amended in 2015 to incorporate the transposition of Directive 2013/55/EU.

The level of restrictiveness is higher in Romania compared to the EU weighted average except for all professions under review except for patent agent where it is lower and lawyer which is similar to the EU level. Real estate agents are not regulated in Romania. Highest restrictiveness level is observed for lawyers.

Chart 2 presents the results of the quantification made by the Commission on the restrictiveness level in the selected professions.

**Chart 2: Restrictiveness indicator, 2016, Romania and the EU**



Source: European Commission services

### Architects

The regulation of the profession of architect is done by protection of title and reserves of activities. While architects can provide a wide range of reserved activities, in general they are shared with other professionals. Architects maintain however the exclusivity for certain activities. For instance, architectural design and planning, and provision of feasibility studies are shared with structural and mechanical engineers; buildings of “lower importance” can also be designed by architectural technologists. On the contrary, for the feasibility studies of the historical monuments/protected areas, the architectural component can be done only by the architects who own also a certificate in this respect, issued by the Romanian Ministry of Culture. While the submissions of documents is not a reserved activity, the architectural design included in the technical documentation for the building permit are elaborated, signed and sealed only by architects.

The education requirement is 6 years of academic studies and 2 years of mandatory traineeship. The authorization (the right of signature) of architects is given by the professional chamber after passing an evaluation.

Registration with a professional body is mandatory for architects with right of signature. Registration is also open to architects without right of signature.

The continuous personal development national plan elaborated by the professional organisation, based on Article 22 of the Professional Qualification Directive, indicate important requirements: 96 hours/year, 5 year cycles, 6 cycles during the career. The renewal of right of signature is pending upon complying with these requirements.

Architects can work individually or in associative forms (associate office, professional civil company, commercial company of design). The individual office, the associate office and the professional civil company can be established only by architects with right of signature. The commercial company of design should have as main object of activity the architectural design and it should include at least one architect with right of signature (or instead have signed a contract with architectural office or other commercial company of design that includes an architect with right of signature). Professional indemnity insurance has not been indicated as being compulsory.

### Civil Engineers

In the national action plan, Romania justifies the need to regulate the profession in this sector by the high environmental risks in the country (one of highest seismic risks in Europe).

In Romania, there are four regulated professions covered by the generic profession of civil engineer: 1. Construction site coordinator; 2. Technical Execution Responsible; 3. Quality verifier of construction projects; 4. Certified technical expert. For all four professions the legal framework establishes reserves of activities and protected title. The mentioned professionals can intervene in relation to the same construction: for instance, the activity of project management, construction cost management, monitoring of construction/ execution of the project has to be done by a Construction Site Coordinator (representing the beneficiary of the construction) and by a technical responsible with the execution (representing the constructor), according to specific tasks stipulated in the procedures and legislation.

The education requirements for Construction Site Coordinator and Technical Execution Responsible varies depending on the domain(s) and subdomain(s) of authorisation. For instance, a professional experience between 3 and 10 years is also required depending on the classification of construction according to its importance.

The certification for Construction Site Coordinator and the Technical Execution Responsible is done by the State Inspectorate for Construction.

For the other two professions, it is required to have an engineer or architect diploma plus professional experience.

All professions require passing a certification exam.

There are no restrictions on the legal form and shareholding of companies. Apart from clean criminal record, no additional authorisation requirements have been identified.

### Accountants

Three different professions are covered by the generic profession: expert (chartered) accountant, licensed accountant, and tax consultant, noting that the expert and licensed accountant professions are regulated and managed by the Body of Expert and Licensed

Accountants of Romania (CECCAR), while the tax adviser profession is regulated and managed by the Chamber of Tax Advisers. All three professions are regulated through protection of title and reserves of activities.

The distinction of reserved activities between the profession of chartered accountant and tax consultant is not very clear. For instance, the activity of tax advice is an activity for tax consultants; however the expert (chartered) accountant can provide supervise and perform accounting and financial record keeping activities, perform economic and financial analyses and asset appraisals and provide technical expertise for the creation and restructuring of trading companies. The licensed accountant shares all the activities with the expert accountant (book-keeping and preparing the documents for financial statements), while the latter are exercising also other activities, which are shared with other professionals.

The level of qualification is different for the expert (chartered) accountant and licensed accountant. The certification of the expert (chartered) accountant implies holding a bachelor degree in economic field and a 3-year theoretical and practical training completed within the CECCAR. For the licensed accountant, certification implies holding a high school graduation diploma and a period of 3-year theoretical and practical training completed within the CECCAR. For the tax consultant the education requirement is of 3 years Bachelor degree, but prior experience in the field is required (5 years).

Membership in a professional association is compulsory.

Joint exercise with other professions is allowed.

There are no restrictions regarding the legal form, but the main activity of the company should be accounting, respectively tax advice, while at least 51% of the shareholders need to be chartered accountants/licensed accountant (while only one shareholder in company providing tax advice should be tax consultant). Professional liability insurance is compulsory.

### Lawyers

The regulation of the profession of lawyers is done through protection of title and reserves of activities. The reserves of activities cover representation in court, legal advice, filing legal requests, drafting legal acts, mediation, fiduciary activities etc., however none of them is exclusively reserved to lawyers. For instance, notaries can also draft legal acts or perform legal advice. The legal framework for provision of online services and operation of online platforms is unclear. However, several online platforms are functioning.

The level of qualification required is: Law degree, exam to enter the profession, 2 years professional traineeship and final exam. Several alternative ways to become lawyer exist. For instance, based on the professional experience (e.g. 5 years' experience as a judge), an attorney having passed the exam to enter the profession can be exempt of the obligation to pass the final exam. The exams are organised by the competent authority which is the National Union of Romanian Bars (UNBR).

Registration with the Bar is mandatory. Unclear legislation adopted post-1989 has led to the creation of parallel Bars both in Bucharest and at regional level. While those Bars were not considered as official by the Government, they were however tolerated. However, after Romania's accession to the EU in 2007, the recognition of professional qualification of lawyers registered with the parallel and unofficial Bars have become an issue and a substantial number of complaints has been received by the Commission in the period 2007-2015. The legal framework seems to be clear now, especially after decisions of the Supreme Court, declaring that members of parallel Bars are subject to criminal sanctions for illegal exercise of the profession.



The regulation on legal form and shareholding requirements applicable to lawyers is very restrictive. While lawyers can provide services also in companies with limited responsibility, the choice of legal form is limited, shareholding by other professionals than lawyers is not possible and joint exercise of professions is prohibited. Professional liability insurance is compulsory.

#### Patent/trademark agents

The profession is regulated through protection of the title and reserves of activities. The reserves of activities are shared with other related professionals (lawyers and legal advisors).

The qualification can be acquired through various ways, by holding a Bachelor degree and then passing an exam with the State Office for Patents and Trademarks and therefore specialising in different fields of patent regulation/industrial property. A prior experience of at least 3 years in the field of diploma (technical, legal, scientific) and 3 years in the field of patent regulation/industrial property is required but the two periods can coincide.

Incompatibility rules are also foreseen: in order to avoid conflict of interest, some activities cannot be performed (for instance, representing clients with opposed interests; trade; activities that could lead to unfair competition). Only three legal forms of practice seem to be allowed. Other requirements include clean criminal record.

#### Real estate agents

The profession is not regulated in Romania. Consumers' interests are guaranteed through consumer protection and criminal law. The training is regulated.

#### Tourist guides

There are three categories of tourist guide, namely local guide, national and specialized guide (e.g. mountain guide).

The profession is regulated through reserves of activities, which are not shared with any other profession. The reserves of activities have a broad definition: *“Tourist Guide is the person who leads and guides a group of tourists or visitors, offering the necessary explanations on the places visited, and ensuring the performance in the best conditions of the contracted tourist program”*.

While there are no territorial restrictions for practising the profession of tourist guide in Romania, only national tourist guides can accompany groups of Romanian tourists outside Romania.

To become a local tourist guide one should follow a training of at least 1080 hours. An additional training of 180 hours is necessary in order to become national tourist guide. The legal framework establishes an age limit of 62 years old for specialised guide and 65 years old for national to subscribe to the qualification / training to obtain the tourist guide certificate, but not for the exercise of the profession.

Additional requirements include clean criminal record, knowledge of a foreign language and medical certificate.



SLOVAKIA



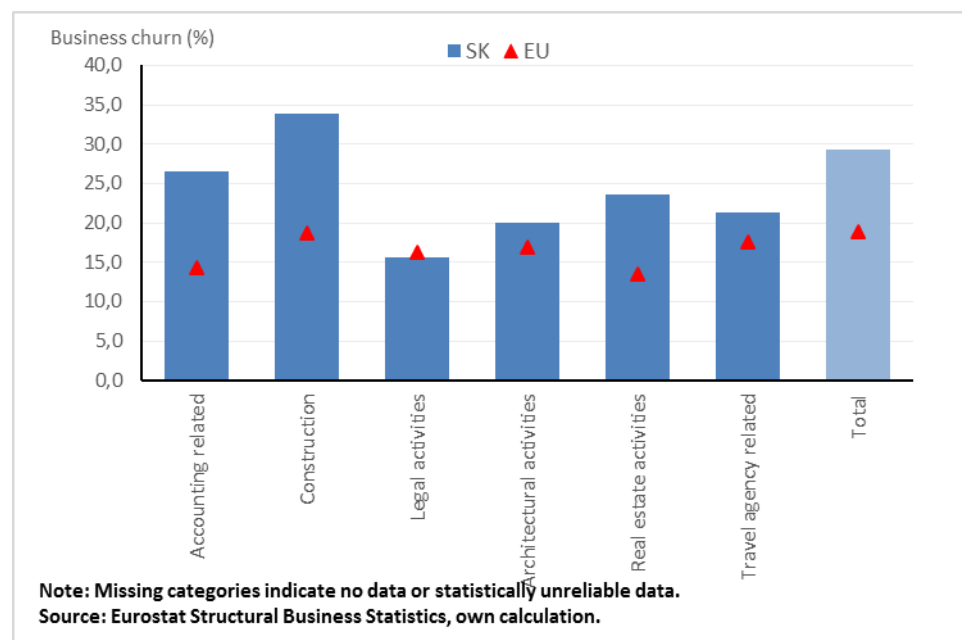
## I. Overview

On 1 November 2016 Slovakia had submitted information about 311 regulated professions. Among those professions, 14,1% concern business services, 6,1% the construction sector and 0,3% the real estate sector.

According to a recent EU wide survey<sup>71</sup>, 27% of Slovakia's labour force can be considered as working in regulated professions. This is higher than the EU average (21%).

As indicated in chart 1, for all the professions selected, business churn (or turnover) rate<sup>72</sup> is higher or similar in Slovakia than in the EU on average. This may be interpreted as an indication of the relatively high dynamism and competition within regulated professions present in these sectors in Slovakia.

**Chart 1: Business churn rate in selected occupations, Slovakia and the EU, 2013-14 (%)**



Slovakia has been active in the **mutual evaluation exercise** and has provided the requested information.

On 10 October 2016, Slovakia had submitted vast majority of the general information and information on proportionality of regulation with regard to its regulated professions.

In its **national action plan**, Slovakia informs the Commission that recently all relevant Slovak competent authorities have reviewed the Slovak regulation of professions in light of the definition of a regulated profession and concluded that many professions notified to the Commission in the past do not fall under Directive 2005/36/EC, as amended. Furthermore, Slovakia has identified some duplication in the professions notified to the Commission

<sup>71</sup> Koumenta M. and M. Pagliero (2016), "Measuring Prevalence and Labour Market Impacts of Occupational Regulation in the EU". See: <http://ec.europa.eu/DocsRoom/documents/20362>

<sup>72</sup> Business churn rate is calculated as the ratio of the sum of newly founded and closed enterprises to the total number of enterprises in year *t*. No data available for patent agent related activities.

before. Following this review, Slovakia has identified 242 professions that in its view are regulated in this country.

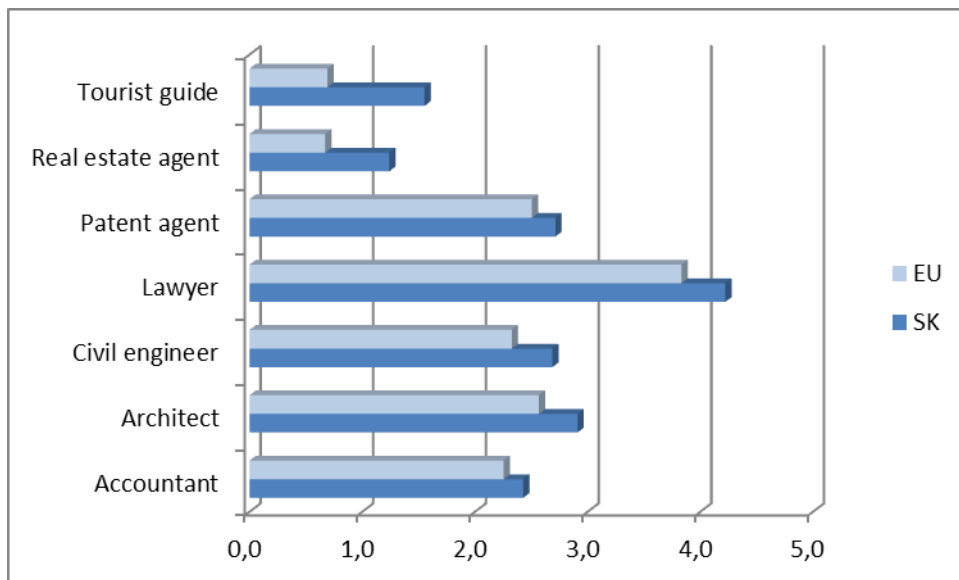
Furthermore, in its action plan Slovakia presents an overview of the regulatory framework of the regulated professions and announces changes in regulation mainly linked to transposition of EU legislation. It also informs about recent amendment of the Trading Act by which certain requirements for access to trading professions have been removed as well as about amendments to the Sport Act that resulted *inter alia* in merging 20 regulated professions in the field of sport into two new professional categories. Finally, it announces plans to introduce regulation for the profession of estate agent.

## II. Situation concerning the analysed professions

The level of restrictiveness is higher in Slovakia compared to the EU weighted average for all the professions under review. Restrictiveness is highest for lawyers.

Chart 2 presents the results of the quantification made by the Commission on the restrictiveness level in the selected professions.

**Chart 2: Restrictiveness indicator, 2016, Slovakia and the EU**



Source: European Commission services

### Architects/Engineers

Slovak legislation regulates separately the profession of chartered civil engineer, construction manager and construction supervisor.

Around half of reserved activities of architects and engineers are shared with another profession.

For architects, the access to the professions is subject to the following conditions: 5 years of university education in architecture or 4 years of university education in architecture and 2 years mandatory traineeship that can start at the earliest after the completion of the 3<sup>rd</sup> year of studies; followed by 3 years traineeship and an exam.

For chartered civil engineers, the qualification consists in 5 years of university education, 3 years mandatory traineeship and passing an exam.

Construction managers and construction supervisors are considered to be fully qualified after obtaining: a) university education of 3 years in electro-technics or engineering and 3 years professional experience in construction design or b) university technical education of 3 years and 5 years professional experience, or c) technical high school education and 5 years professional experience as construction supervisor or construction manager. It is compulsory to pass an exam.

Registration with the relevant professional chamber is compulsory for all the above-mentioned professions.

Architects and engineers are obliged to pass again the state exam if there was a serious misconduct in the exercise of the profession, if the profession was not exercised for 5 years or if the law has significantly changed.

Only architects are obliged to follow mandatory training organised by the Chamber and reach 20 credit points within 5 years.

Architects and engineers can exercise their profession as sole practitioners or via legal forms. Joint exercise of profession is limited to architects and engineers. Furthermore, there are shareholding and voting restrictions in Slovakia (at least 51% of shares/votes must belong to architects or engineers).

No limitations of the licences granted or territorial restrictions have been identified. Professional liability insurance for architects and chartered civil engineers is compulsory. Other authorisation requirements include legal capacity, clean criminal record and taking an oath.

#### Accountants/Tax advisers

The profession of tax adviser is regulated by way of reserves of activities.

The activities of tax adviser consist of "providing advice in determining the tax base and taxes and in tax planning" (not shared with any other profession) and "giving opinions and explanations to clients on the application of legislation in the field of taxation" (shared with advocate).

The access to the profession of tax adviser is subject to the following conditions: 5 years university education in Economics or Law, 5 years of practice in economics or law or, alternatively, 3 years of practice as Assistant Tax Adviser and a state exam. Registration with the Slovak Chamber of Tax Advisers is compulsory.

The tax adviser is obliged to attend mandatory yearly training. Failure to fulfil this obligation may result in suspension from practice. For 2016, there is an obligation imposed by the Chamber to follow at least 3 days of training.

The most recent reforms concerning regulation of this profession resulted from an investigation by the European Commission opened in 2012 and concerned Slovak restrictions on corporate form and shareholding/voting rights. As a result, Slovakia revised the Tax Advisers Act and allowed tax advice services to be provided in any corporate form. It has also reduced from 75% to 50% the minimum obligatory shareholding and voting rights in tax advice companies. Other authorisation requirements include legal capacity, clean criminal record and taking an oath before the President of the Slovak Chamber of Tax Advisers.

#### Lawyers

The profession of advocate is regulated by way of reserves of activities and title protection. The activities of advocate consist of drawing up legal documents such as contracts, real estate

transactions and wills and preparing statements of legal opinions; legal advice (including in tax matters); representation before administrative authorities (including tax authorities); representation of clients before courts. All four activities are reserved and shared with (an)other profession(s).

The access to the profession of advocate is subject to the following conditions: 5 years university education in law; 5 years of legal practice as Trainee Advocate; completion of special training set by the Chamber to be followed during the 5 years Trainee Advocate's training and a state exam. Registration with the Bar is mandatory.

Advocates may practice only: as sole practitioners, in association with other lawyers (advocates), in a Partnership (Public Limited Company) as a Partner, in a unlimited Partnership (Commandite Company), as an unlimited Partner (Complementary) or in a Limited Liability Company as an Administrator. Shareholders/Partners in all legal forms must be advocates.

With regard to joint exercise of professions, an advocate may practise either independently or in association with other advocates.

Advocate shall not be employed elsewhere or having similar activity, except for pedagogical, literary, scientific, artistic or sport activity, member of government advisory body or other activity that is not incompatible with the exercise of advocacy, to be decided by the Chamber.

Professional liability insurance is compulsory. Additional requirements include legal capacity, clean criminal record and taking an oath before the President of the Slovak Chamber of Advocates.

#### Patent agents

There are two professions governed by the same legal act: patent attorney and assistant patent attorney. The first one is regulated by means of reserves of activities, the latter Slovakia considers as non-regulated under Directive 2005/36/EC.

The activities of patent attorney consist of: counselling and representation before the Patent Office or other administrative authorities; drawing up legal documents in intellectual property matters; representation before the courts in intellectual property matters. All three activities are reserved and shared with the profession of advocate.

The access to the profession of patent attorney is subject to the following conditions: university diploma (3 years), 3 years specialised practice as Assistant Patent Attorney or 4 years of specialised practice in the area of IPR, followed by a state exam.

Registration with the Chamber is compulsory

A patent attorney can practice as a sole practitioner, associated with other patent attorneys or in a patent agents' business company. A patent agents' business company is a company where the patent agent is a partner, shareholder or employee. Incompatibility rules impose absence of conflict of interests.

Other authorisation requirements for patent attorneys include legal capacity, clean criminal record, absence of disciplinary proceedings, and clean bankruptcy record (5 years) and taking an oath.

Assistant patent attorney is supposed to be involved in the work of patent attorney which should help in preparing for the state exam to become a patent attorney.

There are certain requirements with regard to access to the profession of assistant patent attorney: university diploma (3 years), legal capacity, clean criminal record, employment

contract with a patent attorney, inscription in the list of assistant patent attorneys list at the Chamber for Patent Attorneys. Holders of diplomas from other Member States have to undergo an academic recognition procedure instead of recognition for professional purposes before being able to exercise this profession in Slovakia. Slovak legislation foresees the application of the academic recognition procedure in case of access to non-regulated professions by foreign diploma holders.

#### Real estate agents

Slovakia considers that the profession of real estate agent is not regulated; however, it defines the activities of "Brokering of sale, lease and purchase of property (real estate activities) as regulated trade. In its National Action Plan, Slovakia announces that it is currently assessing the possibilities of regulating the profession of real estate agent. Voluntary certification is also under consideration.

There are the following requirements in the Slovak Trade Act with regard to access to/exercise of the activities of "Brokering of sale, lease and purchase of property (real estate activities)": minimum age of 18, legal capacity, clean criminal record, acquiring a trading licence which results in automatic registration in the Trade Register, university degree in economics, law, engineering or architecture or, a complete secondary education with school-leaving examination and 5 years' experience in the field. Holders of diplomas from other EU Member States have to undergo an academic recognition procedure before being able to exercise these activities in Slovakia. It appears that Slovakia does not consider this profession as being regulated although, as mentioned above, Slovak legislation foresees the application of the academic recognition procedure for foreign diploma holders.

#### Tourist guides

The profession of tourist guide is regulated by way of reserves of activity.

The activities of tourist guide consist of accompanying and guiding tourists on cruises and sightseeing tours and interpreting the cultural and natural heritage of a specific area. Both activities are reserved and not shared with any another profession.

The access to the profession of tourist guide is subject to the following conditions: general or vocational secondary education, training of minimum 300 hours and attestation of competence obtained at the end of the training.

No additional requirements have been reported.



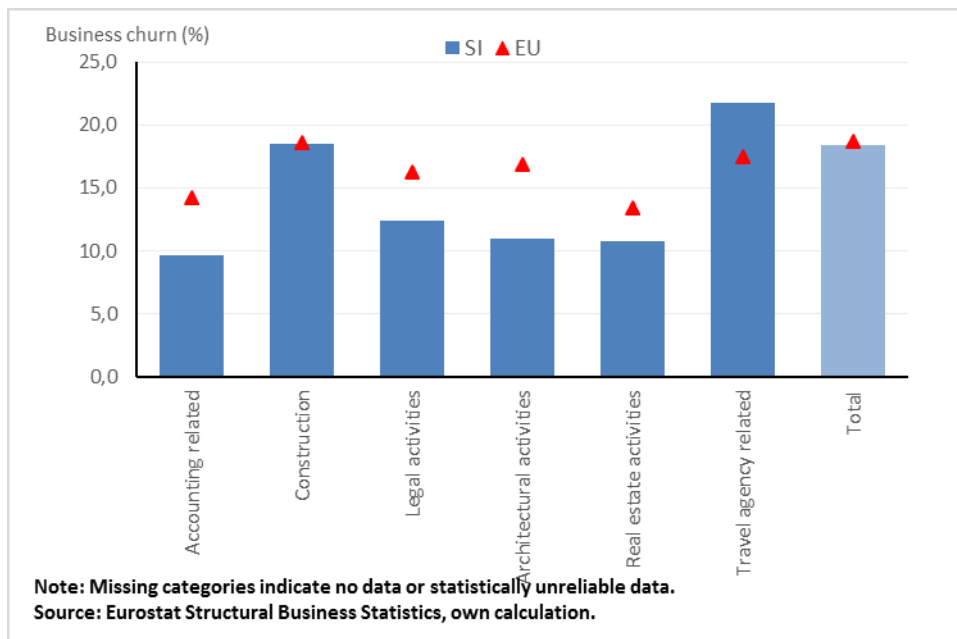
## I. Overview

On 1 November 2016 Slovenia had submitted information about 264 regulated professions. Among those professions, 10,6% concern business services, 6,4% the construction sector and 0,8% the real estate sector.

According to a recent EU wide survey<sup>73</sup>, 20% of Slovakia's labour force can be considered as working in regulated professions. This is very close to the EU average (21%).

As indicated in chart 1, for accounting, legal, architectural and real estate activities business churn (or turnover) rate<sup>74</sup> is lower in Slovenia than in the EU on average as well as compared to the average for the total Slovenian economy. This may be interpreted as an indication of the relatively low dynamism and competition within regulated professions present in these sectors in Slovenia.

Chart 1: Business churn rate in selected occupations, Slovenia and the EU, 2013-14 (%)



As regards the **mutual evaluation exercise**, there is still a considerable amount of information missing. In particular, Slovenia had not yet submitted general information (such as qualifications requirements) to the Commission with regard to around 70% of its regulated professions while the proportionality of the regulation has not yet been assessed with regard to around 90% of its regulated professions.

Furthermore, Slovenia has not yet submitted its **national action plan** to the Commission.

In 2012, Slovenia announced ambitious plans for wide-ranging reforms of its regulated professions and it indeed has reformed its crafts sector (40 professions have been opened up);

<sup>73</sup> Koumenta M. and M. Pagliero (2016), "Measuring Prevalence and Labour Market Impacts of Occupational Regulation in the EU". See: <http://ec.europa.eu/DocsRoom/documents/20362>

<sup>74</sup> Business churn rate is calculated as the ratio of the sum of newly founded and closed enterprises to the total number of enterprises in year *t*. No data available for patent agent related activities.

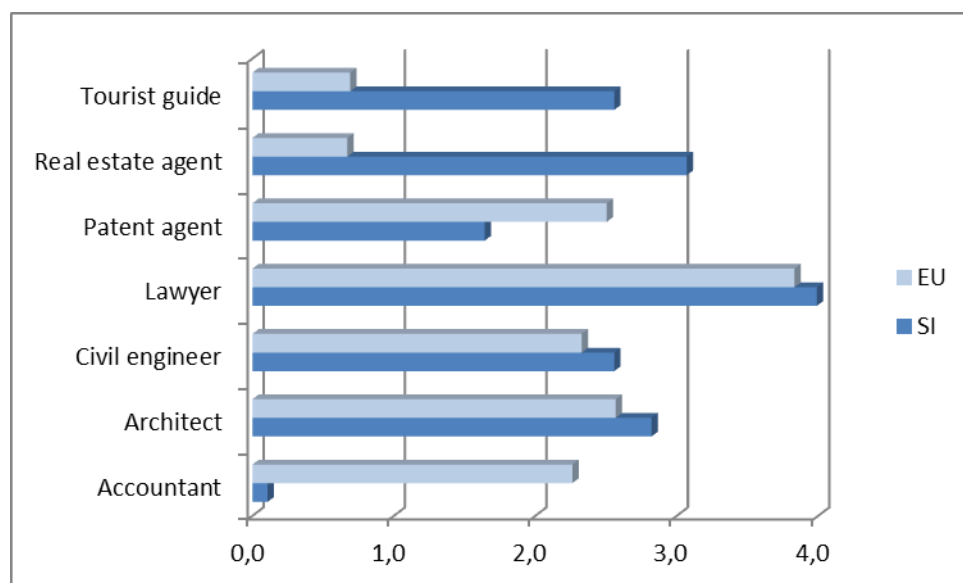
however, in the following years the reforms did not advance further. It seems that in 2015 there has been certain progress.

## II. Situation concerning the analysed professions

The level of restrictiveness is higher in Slovenia compared to the EU weighted average for all professions analysed except for patent agents and accountants where it is lower than compared to the EU average. Amongst the professions analysed, restrictiveness is highest for lawyers.

Chart 2 presents the results of the quantification made by the Commission on the restrictiveness level in the selected professions.

Chart 2: Restrictiveness indicator, 2016, Slovenia and the EU



Source: European Commission services

### Architects/Engineers

The professions under the generic title of architect are regulated by way of reserves of activities and title protection and those under the generic title of engineer are regulated by way of reserves of activities.

Slovenia informed the Commission that it regulates three profession in the category architect: architect, landscape architect and spatial planner (*Arhitekt, krajinski arhitekt in prostorskih načrtovalce*) and four in the category of civil engineer: responsible project designer (*Odgovorni projektant*), responsible supervisor (*Odgovorni nadzornik*), responsible revisor of the design documentation (*Odgovorni revident*) and responsible building contractor (*Odgovorni vodja del*).

The access to the professions in the field of architecture is subject to the following conditions: 5 years university education, 3 years mandatory training, and a state exam. The access to the engineering professions is subject to the following conditions: education (5 or 3 years university education or high school), mandatory traineeship (length in years depending on the education: 3 years in case of Master's degree, 7 years in case of Bachelor's degree and 10 years in case of high school, followed by a state exam. Additionally there may be further requirements depending on the specific engineering profession.



Registration with the relevant professional body is compulsory for both architects and engineers.

An additional craft licence is required for the performance of construction activities by SMEs. Clean criminal record and absence of disciplinary sanctions are also required.

Other requirements have not been reported.

However, Slovenia is in the process of preparing a new law governing the professions of architect and engineer. The draft law has been subject to public consultation in September 2016. On the basis of the draft text it seems that among other issues some new restrictions in access to the profession are being considered.

#### Accountants/tax advisers

The profession of accountant/tax adviser is not regulated in Slovenia. Any service provider can provide accountancy/tax advice services without any additional authorisations except for representation before courts in tax matters which is reserved to the profession of lawyer.

#### Lawyers

The access to the profession of attorney (*Odvetnik*) in Slovenia is regulated by means of reserves of activities and title protection.

The reserved activities are the following: drawing up legal documents, legal advice, representation before administrative authorities, representation before courts and representation of parties in their legal relations. These activities are not shared with any other profession.

The access to the profession of attorney is subject to the following conditions: 5 years university education in law or equivalent, 4 years of relevant work experience (of which at least one year after passing the state exam), a state exam.

It seems that according to the law in order to qualify in Slovenia, a Slovenian citizenship is required. There is also a possibility for lawyers who obtained a right to practice in the country of which they are citizens to be entered in the register of lawyers qualified abroad to practise law before State bodies in the Republic of Slovenia, under certain conditions.

Registration in the professional chamber is compulsory.

Continuous professional development requirements have not been reported.

Attorneys can exercise the profession as sole practitioners or in certain corporate forms including limited liability company. Only attorneys may be shareholders or owners of an attorneys' office which is established in Slovenia. Several activities are incompatible with the profession of attorney, such as employment in the civil service or as an employee (except for scientific, educational, artistic and publicist area), notarial activities, performing managerial function in a company the corporate form of which is not authorised for attorneys and performing other tasks which damage reputation and independence of legal profession.

In addition, the legislation requires active command of Slovenian language, having the necessary equipment and premises to practise and a clean criminal record.

#### Patent/trademark agents

Slovenia regulates two professions under the category patent/trademark agent: industrial design and trademark agent and patent agent. They are both regulated by means of reserves of activity and title protection.

It seems that the only reserved activity is the representation before the Slovenian Intellectual Property Office.

Industrial design and trademark agents represent parties to proceedings relating to the acquisition and maintenance of industrial designs, marks and geographical indications and other requests concerning those rights. Patent agents represent parties to proceedings relating to the acquisition and maintenance of any right under Industrial Property Act and other requests concerning such rights.

Industrial design and mark agents can be: (a) persons who have completed university studies and have passed the qualifying examination for industrial design and mark agents at the Slovenian Intellectual Property Office; (b) lawyers or law firms; (c) legal persons who employ at least one person fulfilling the conditions.

Patent agents can be: (a) persons who have completed university studies in technology or science and have passed the qualifying examination for a patent agent at the Slovenian Intellectual Property Office; (b) lawyers or law firms, employing on a regular or contractual basis a person who fulfils the conditions; (c) legal persons employing at least one person who fulfils the conditions.

Only those registered in the corresponding register of representatives maintained by the Slovenian Intellectual Property Office are authorised to act before the Slovenian Intellectual Property Office.

Additional information has not been submitted.

### Real estate agents

The profession of real estate agent is regulated by means of title protection and reserves of activity.

The real estate activities, so called "business brokerage", are reserved to real estate companies and cover: 1) establishing and facilitating contacts and negotiations with tenants and owners, arranging the sale, purchase, rental and lease of real property; 2) obtaining information about properties to be sold or leased, the circumstances of their owner and the needs of prospective buyers or tenants 3) showing properties to be sold or leased to prospective buyers or tenants and explaining terms of sale or conditions of rent or lease 4) arranging signing of lease agreements and transfer of property rights. These four activities are not shared with any other profession. The activity of drawing up leasing and sale agreements is reserved to the profession of a lawyer.

Each real estate company must have a contract (of employment or other) with at least one fully qualified estate agent and the principal business of the company must be carried out by these qualified professionals.

The access to the profession is conditional upon acquiring of a national vocational qualification either through secondary vocational training (4 years), 3 years' professional experience, positive opinion of responsible ministry, state exam or validation of experience/skills or, through post-secondary vocational study (2 years) and state exam or validation of experience/skills. Furthermore, registration in the register of estate agents held by the competent Ministry, against a fee, is mandatory.

It seems that according to the law in order to qualify in Slovenia, a Slovenian citizenship is required. There is also a possibility for real estate agents who obtained a right to practice in

another EEA state to have their qualifications recognized in Slovenia, under certain conditions.

Finally, clean criminal record is also required.

Real estate agents are obliged to follow continues professional training every five years or when the legislation from the field of real estate is amended, the knowledge of which is required under the state examination for real estate agent.

### Tourist guides

The profession of tourist guide is regulated by way of reserves of activity and title protection. There are two regulated professions in this category in Slovenia: tourist guide (*Turistični vodnik/vodič*) and tourist guide of a tourist area (*Turistični vodnik turističnega območja*).

The scope of the activity reserved to tourist guides is widely defined: guiding visitors on the basis of a predetermined program. The activities reserved to the tourist guides of a tourist area seem to be determined at the level of municipalities. There is a general rule providing that municipalities are not allowed to restrict the activities of Slovene or foreign tourist guides.

The access to the profession of a tourist guide is subject to the following conditions: secondary level education, knowledge of a foreign language and a state examination.

The conditions for access to the profession of a tourist guide of tourist area are laid down by municipalities and can therefore differ depending on the tourist area. Usually municipalities require secondary level education, knowledge of a foreign language and knowledge of the tourist area.

There is no obligation of prior professional experience for practicing the profession of tourist guide.

Other requirements have not been reported.

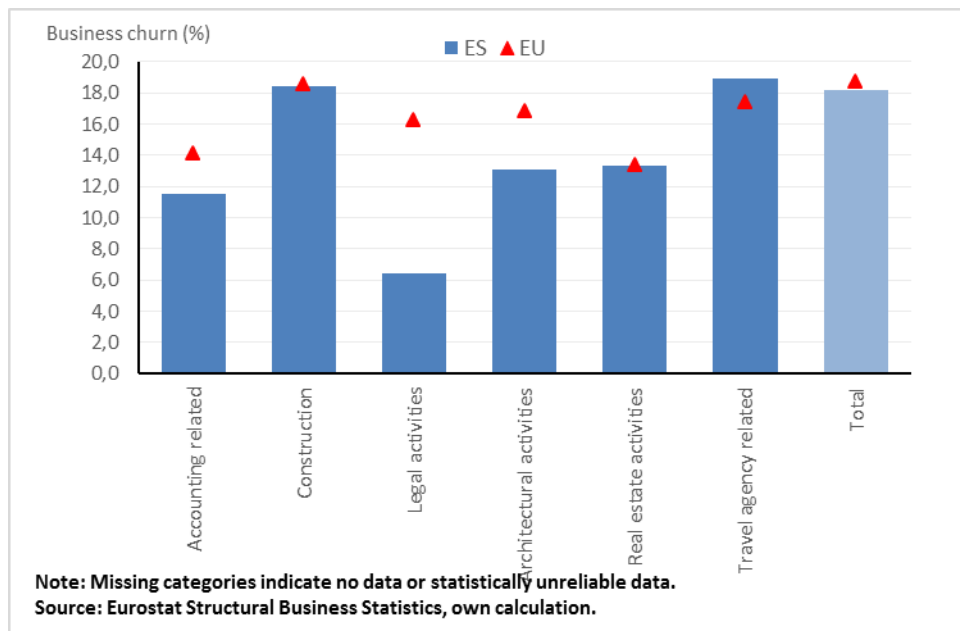
## I. Overview

On 1 November 2016 Spain had submitted information about 182 regulated professions. Among those professions, 20,9% concern business services, 6% the construction sector.

According to a recent EU wide survey<sup>75</sup>, 17% of Spain's labour force can be considered as working in regulated professions. This is lower than the EU average (21%).

As indicated in chart 1, for accounting, legal and architectural activities business churn (or turnover) rate<sup>76</sup> is lower in Spain than in the EU on average as well as compared to the average for the total Spanish economy. This may be interpreted as an indication of the relatively low dynamism and competition within regulated professions present in these sectors in Spain.

**Chart 1: Business churn rate in selected occupations, Spain and the EU, 2013-14 (%)**



Spain has been participating relatively actively in the **mutual evaluation exercise**. However on 10 October 2016, Spain still needs to submit almost 50% of the general information on different regulated professions and half of the professions still need to be assessed as to the proportionality of their regulation.

The Spanish **national action plan** covers only a limited number of professions (i.e. professions chosen to be discussed during the mutual evaluation exercise): *ingenieros de caminos, canales y puertos* (civil engineers), architects, high voltage and low voltage installers/electricians, driving instructors, hairdressers, psychologists, physiotherapists, sport coaches, tourist guides and advanced experts in dental hygiene. More specifically, amongst

<sup>75</sup> Koumenta M. and M. Pagliero (2016), "Measuring Prevalence and Labour Market Impacts of Occupational Regulation in the EU". See: <http://ec.europa.eu/DocsRoom/documents/20362>

<sup>76</sup> Business churn rate is calculated as the ratio of the sum of newly founded and closed enterprises to the total number of enterprises in year *t*. No data available for patent agent related activities.

actions proposed on *ingenieros de caminos, canales y puertos*, and architects, we can quote the following: "to narrow the scope of the mandatory membership in the professional association (the adoption of the law covering this aspect is on hold since 2013); to simplify and rationalise the scope of reserved activities of the more than 20 specialities of engineers; and measures regarding insurance, continuous personal development and ethics". Regarding the tourist guides, Spain explains that "it is a necessary process of reflection (on a collaborative basis) about the proportionality of the measures/requirements imposed by the regions to access to the activity of guide".

In 2016, the European Commission addressed a **country specific recommendation** to Spain in the area of professional services:

*Adopt the planned reform on professional services and associations.*

## **II. Situation concerning the analysed professions**

In Spain both the federal state and the 17 autonomous communities are entitled to regulate the professional activities, because Article 149(3) of the Spanish Constitution does not reserve this right exclusively to the federal state. As a result, certain professions are only regulated in some autonomous communities. In other autonomous communities the same activities might be exercised by anyone, or even if the activities are reserved the professionals concerned are not obliged to be members of a professional college.

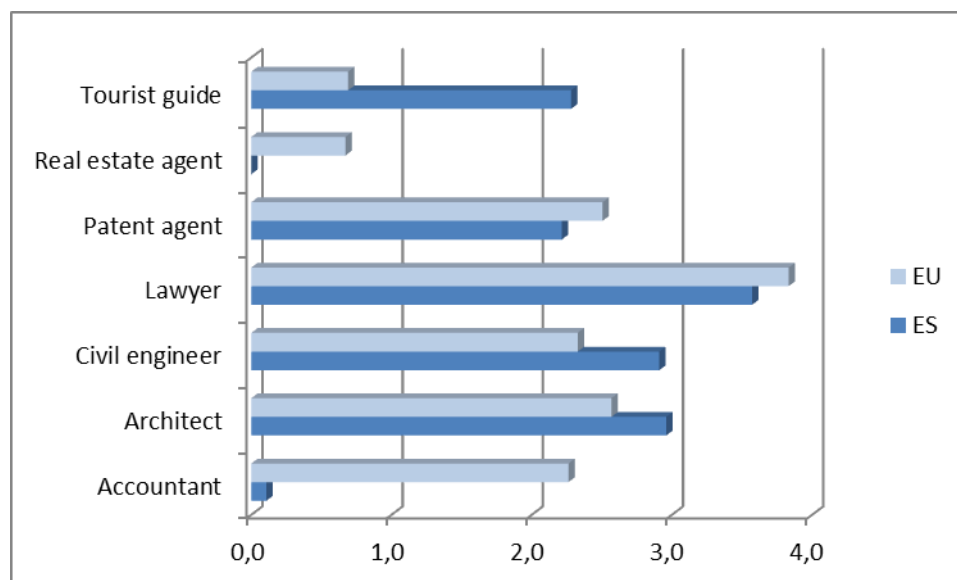
In a large number of professions there is an obligatory membership requirement in the professional colleges. Professional colleges play a key role in the regulation of these professions: they are public bodies to which the State delegates the power to control and self-regulate the professional activities (supervision of the professional register, disciplinary role, etc.). At the same time professional colleges represent the interest of the professionals concerned.

The creation of a Professional College must be established by a national or regional law and its scope of action is circumscribed to a given geographical demarcation. The laws transposing the Services Directive (Umbrella and Omnibus) adapted the national legal framework modifying 47 national laws on different matters. With respect to Professional Colleges, the Omnibus Law left pending the reform of reserves of activity and of mandatory membership requirements: within a maximum of twelve months, the national Government, upon prior consultation with the Autonomous Communities, was to send to the Spanish Parliament a draft for a law determining the professions whose exercise would require membership in the relevant Professional College. The purpose was to avoid tensions in the unity of the national market that could arise from divergent regional rules. The "map" of mandatory membership obligations in force at the effective date of the Omnibus Law was thus frozen, and this has produced a situation, supposedly transitional, in which there has been de facto acceptance of mandatory membership requirements established by provisions or by laws or regulations dictated by the regional governments and the consequence is the fragmentation of the market unity for regulated professions in Spain.

The level of restrictiveness is higher in Spain compared to the EU weighted average for the tourist guide, civil engineer and architect professions. It is on the other hand lower than the EU level for patent agents, lawyers and accountants. Amongst the professions analysed, restrictiveness is highest for architects and lawyers.

Chart 2 presents the results of the quantification made by the Commission on the restrictiveness level in the selected professions.

Chart 2: Restrictiveness indicator, 2016, Spain and the EU



Source: European Commission services

### Architects/Engineers

The professions of architect, technical architect, civil engineer (*ingeniero de caminos, canales y puertos*) and technical engineer in public works are regulated by way of reserves of activities and protected title through the same law (at national level). The reserves of activities are distributed between the four professions depending on the type of construction and the role of the professional. For instance, while the design and planning for important buildings (for administrative purposes, for healthcare purposes, for religious purposes etc.) are reserved to architects and civil engineers, the same activity can be performed by technical civil engineers if the building has a lower importance according to the law. The technical architects intervene mostly in the monitoring of the construction.

The length of the training is 6 years for architect and engineer, and 4 years for technical engineer in public works and technical architect. It is mandatory to be member of the professional body (the chamber) in order to access the profession. Authorisations (*'visado'*) from the Chamber is necessary for certain projects/works. These obligations were reformed in 2010.

There are no restrictions regarding the legal form of companies. The establishment of professional companies is allowed under the condition that at least 50% of the shares are owned by professionals (recently lowered from 75%).

### Accountants

The profession is not regulated in Spain.

### Lawyers

Two legal professions have been considered as covered by this chapter: *abogado* (attorney-at-law) and *procuradores*. Both professions are regulated by way of reserves of activities and protected title.

The activities, reserved to lawyers are: 1. Drawing up legal documents, shared with notaries and patent agents; 2. Legal advice (including in tax matters), shared with different

professionals (Labour law expert; Economist...); 3. Representation of clients before courts (meaning defence of clients in court), not shared.

Article 543(1) and (2) of the Judiciary Act state: “1. *The parties in proceedings of any kind may be represented exclusively by Procuradores, unless the law provides otherwise.* 2. *They may carry out communication acts to the parties of proceedings that the law allows*”. These reserves of activities have been specified further and accordingly only those professionals may perform the following:

- a) "technical" representation of a party before most courts in most procedures;
- b) communication of court acts to the party they represent and to the other parties, and of the parties to the court, both on paper and electronically;
- c) auxiliary enforcement acts of court orders and rulings in relation to seized assets.

These activities are exclusively reserved to *procuradores*, although as far as the technical representation is concerned, this activity is shared with other professionals in some areas, such as *graduados sociales* in labour matters. Lawyers have no access to those activities in civil and criminal procedures.

In Spain, the attorneys-at-law are members of a local Bar Association. There are a total of 83 bar associations in Spain. There is no quantitative restriction on the number of the attorneys in the country. There are around 70 *procuradores*' associations.

The level of qualification for both *Procuradores* and *Abogados* is Bachelor degree in law (4 years), plus 18 months Master (theoretical and practical), followed by successful completion of a State exam. The Spanish system of qualification was changed in 2006 and it is in force since 2011 (for *procuradores* since 2014).

The European Commission received several complaints regarding the transitional period 2006-2011 and more precisely the case of certain lawyers that obtained their law diploma in other EU Member States and afterwards the homologation of their diplomas in Spain, have or have not managed to obtain registration with the Bar. From the information provided, it seemed that the Spanish authorities have not clearly addressed the situation of these lawyers who have asked or obtained the homologation of their foreign law diplomas after the entry into force of the new law 34/2006.

There are no restrictions regarding the legal form of companies. The establishment of professional companies is allowed under the condition that at least 50% of the shares are owned by professionals.

#### Patent agents

The profession of patent agent (*agente de la propiedad industrial*) is regulated by way of reserved activities and protected title. The activity of counselling and representation before the Patent Office or other administrative authorities is reserved to patent agents but shared with attorneys.

#### Real estate agents

The profession is not regulated in Spain.

While the Spanish authorities stated that the profession of real estate agent is not regulated in Spain, it appears however that the profession is regulated in certain regions, for instance Catalonia, by way of reserves of activities and protected title. For example, new regulations

have been introduced in this region imposing qualification requirements, as well as an obligation for all real estate agents operating in the region to register.

### Tourist guides

The profession is regulated at regional level in most of the autonomous regions. Two activities were declared by the Spanish authorities as reserved to tourist guides: accompanying and guiding visitors through specific places of interest such as museums, exhibitions, theme parks, factories and other industrial establishments, and interpreting the cultural and natural heritage of a specific area. Territorial restrictions are in place for certain regions which mean that recognition of qualification obtained in another region is needed prior to exercise of the profession.

The length of the training varies between minimum 690 hours (in Aragón) and 2000 h (in most of the Regions). No mandatory traineeship is required but an exam at regional level has to be passed. Certain regions require language skills (Spanish plus two other foreign languages are required for instance in Andalucía).

In all concerned regions the professional needs to register with the regional authority.





SWEDEN



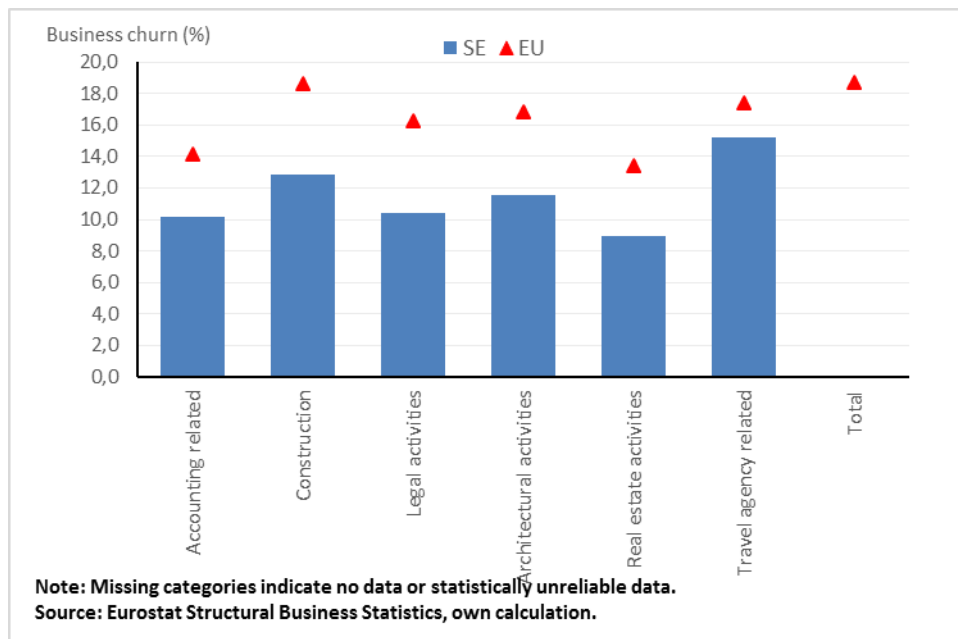
## I. Overview

On 1 November 2016 Sweden had submitted information about 88 regulated professions. Among those professions, 14,8% concern business services, 1,1% the construction sector and 1,1% the real estate sector.

According to a recent EU wide survey<sup>77</sup>, 15% of Swedish labour force can be considered as working in regulated professions. This is lower than the EU average (21%).

As indicated in chart 1, for all the professions selected, business churn (or turnover) rate<sup>78</sup> is lower in Sweden than in the EU on average. This may be interpreted as an indication of the relatively low dynamism and competition within regulated professions present in these sectors in Sweden.

Chart 1: Business churn rate in selected occupations, Sweden and the EU, 2013-14 (%)



Sweden has actively participated in the **mutual evaluation exercise**. On 10 October 2016, Sweden still needed to submit 12% of the general information on different regulated professions and 10 professions still need to be assessed as to the proportionality of their regulation.

In its **national action plan**, Sweden announces very limited changes to the existing situation concerning the professions of authorised/approved auditor (in conformity with EU audit package), driving instructor and electrical contractor. Overall, Sweden sees very little need to adapt the current regulatory framework.

<sup>77</sup> Koumenta M. and M. Pagliero (2016), "Measuring Prevalence and Labour Market Impacts of Occupational Regulation in the EU". See: <http://ec.europa.eu/DocsRoom/documents/20362>

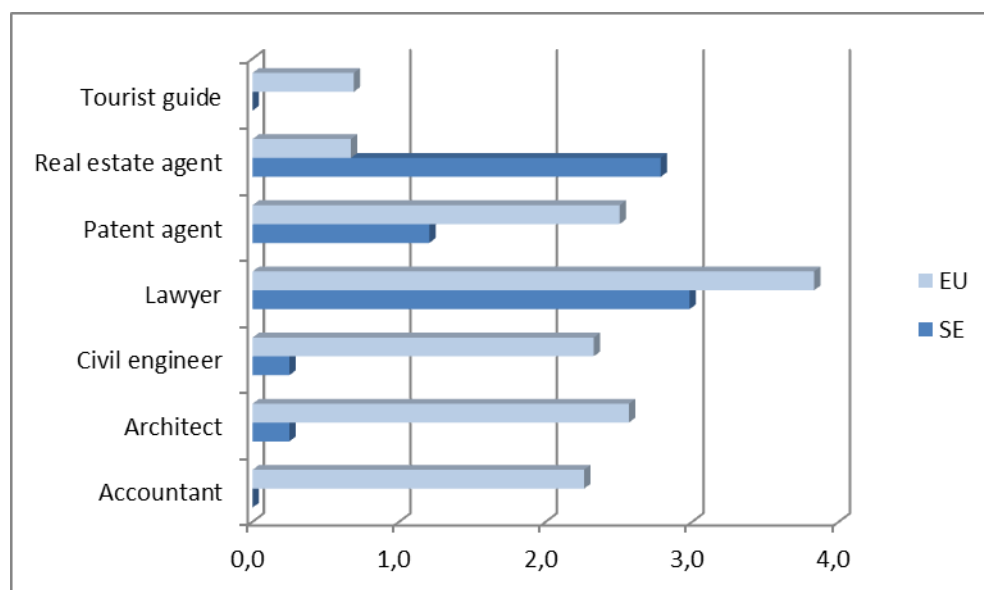
<sup>78</sup> Business churn rate is calculated as the ratio of the sum of newly founded and closed enterprises to the total number of enterprises in year  $t$ . No data available for patent agent related activities.

## II. Situation concerning the analysed professions

The level of restrictiveness is lower in Sweden compared to the EU weighted average for the professions of patent agent, lawyer, civil engineer and architect. It is on the contrary higher than compared to the EU average for real estate agent. The most restrictive profession amongst those analysed is lawyer. Accountants and tourist guides are not regulated.

Chart 2 presents the results of the quantification made by the Commission on the restrictiveness level in the selected professions.

Chart 2: Restrictiveness indicator, 2016, Sweden and the EU



Note: for the profession of patent agent the indicator for Sweden measures the restrictiveness to carry the protected title  
Source: European Commission services

### Architects

The profession of architect is not regulated in Sweden.

No formal requirements for establishing an architect's practice exist. The architect education is a regulated education (5-years education programme). Four types of architects are defined according to the Swedish Association of Architects: “traditional” architect (construction and renovation), physical planning, interior design and design of landscapes. Voluntary titles exist for these different types of architects. They are granted and administered by the Swedish Association of Architects.

In Sweden, the responsibility for location and design issues rests with municipalities who are duty bound to hold the relevant qualified expertise in-house and with technical requirements being supervised through an independent system. Responsibility rests with the project client, who may be granted building permits without the participation of an architect. When required, the client is responsible to appoint a certified quality control manager (*certifierad kontrollansvarig*) to ensure project compliance with the plans agreed with the municipality and with the relevant laws and regulation. The municipality can also require that different certified specialists (*certifierade sakkunniga*) (are involved in the project, in addition to the quality control manager. The certified specialists are divided into the following categories; fire protection, ventilation, access for the disabled and culture preservation.

Consumer legislation protects consumers in cases of faulty or tardy provision of services, including those provided by an architect.. The “Consumer Services Act”

(*konsumenttjänstlagen*) contains consumer protecting rules on contractual relationships with regard to the construction of housing. The “Act on Contractual Terms in consumer relationships” (*lagen om avtalsvillkor i konsumentförhållanden*) also protects the consumer in cases of ambiguous contractual terms.

### Civil engineer

The profession of civil engineer is not regulated in Sweden. The civil engineering education is regulated and consists of a 5-years Master programme.

As for the architect profession, the client has the responsibility for ensuring that new constructions correspond to the relevant legal requirements. In addition to the building permit, most constructions projects require a control plan, which has to be approved by the municipality. In most cases, the involvement of an independent certified “quality control manager” is mandatory and the municipality can also require the involvement of other certified specialists. If an undertaking employing a civil engineer provides building services to a client, this client is protected by the “Consumer Services Act”. Sweden considers that this system which involves the municipalities, certified quality control manager and the consumer protection legislation is sufficient to safeguard public interests.

As regards public constructions such as roads and bridges the legal requirements are somewhat different. There are in general few requirements on the professionals participating in the construction of a road or a bridge. However, in cases where the state or the municipalities procure construction services in this area, they generally require that the professionals participating in the project have certain competences. These competences are divided in different categories depending on complexity.

There is no requirement on a building permit before commencing a construction of a road or bridge etc. The “client” has an extensive responsibility for the construction and has to carry out self-control on a regularly basis to secure compliance with relevant legislation. Further, the “client” is obliged to adhere to a control plan issued by an independent quality control manager. In some areas, for example construction of road tunnels, the project requires an accredited supervisory body. This requirement has been introduced in accordance with EU legislation.

Protection of consumer is ensured through the “Consumer Services Act” (*konsumenttjänstlagen*) which contains consumer protecting rules on contractual relationships with regard to the construction of housing and via the “Act on Contractual Terms in consumer relationships” (*lagen om avtalsvillkor i konsumentförhållanden*) which protects the consumer in cases of ambiguous contractual terms.

### Accountants

The profession of accountant is not regulated in Sweden. Only the profession of statutory auditor is regulated.

Members of the association of Swedish Accounting and Payroll consultants (*Srf konsulterna*) benefit from the title of “authorised accountant” delivered by the association. It is voluntary and does not prevent anyone from accessing the profession. Membership implies following the Swedish standard of accountancy (*Reko*), respect ethics rules and go through regular quality checks organised by the association.

## Lawyers

The profession of advocate (*advokat*) is regulated by title protection and reserves of activities. There is a reserved activity for public defence counsels who have the obligation to be advocate and member of the Swedish Bar Association.

The education and training course to become an advocate lasts 7,5 years including a mandatory traineeship. To become an advocate, a person must demonstrate three years of professional experience after having obtained the required degree and become a member of the Swedish Bar Association. Members have an obligation to maintain and develop their professional skills. Only advocates may become shareholders/member of the Board/ or partner of a Swedish law firm. Exceptions are granted upon agreement of the Board but in any case the shareholding and voting rights are limited to 10%. Advocates are authorised only to work with other advocates and they may not exercise any other activity which would prejudice their independence or be incompatible with their status. Professional liability insurance is compulsory and is contracted by the Bar on behalf of its members.

## Patent agents

In Sweden, the profession of patent agent (*patentombud*) is regulated under the form of protected title without reserved activities. Access to the authorised patent agent is conditional upon the completion of a specialised 3-year post-secondary education programme after having completed a degree in the field of technology/science or law and having passed a written test. A prior professional experience of at least 4 years as assistant in patent law matters is necessary to access the protected title of authorised patent agent. Once authorised, patent agents have the duty to maintain and develop their professional capability in the area of patent laws. No specific restrictions exist as regards corporate forms or professional indemnity insurance.

## Real estate agents

The profession of real estate agent is regulated by reserved activities.

Swedish authorities consider that the real estate agent plays a key role in the transaction of real estates in the absence of notaries or independent evaluators during this phase. Prior to 1984, a voluntary authorisation scheme for real estate agents was in place. However, this proved insufficient in order to meet the objective of consumer protection, as only 30 percent of the real estate agents subjected themselves to the voluntary authorisation.

Qualified real estate agents have the exclusivity to establish contact, show properties, facilitate the negotiations between tenants and owners, draw up and arrange the signing of lease agreements and transfer of property rights. Candidate real estate agents have to follow a two-year specific education programme as well as professional experience in the form of a 10-week traineeship. No other pathway exists to obtain the qualifications. Registration with the competent authority (Swedish Estate Agents Inspectorate) is mandatory except for members of the Swedish Bar Association and to real estate agents that engage solely in municipal procurement of rental tenancies. Members of the association have continuous professional development obligations.

Some restrictions exist concerning the joint exercise of the profession: property development and brokerage cannot be exercised within the same company and the activities of banking/insurance must be clearly separated from those of real estate brokerage when belonging to a same business group. Qualified real estate agents have the obligation to possess professional indemnity insurance.

## Tourist guides

The profession of tourist guides is not regulated in Sweden.

Legislation in place to protect consumers mainly cover risks related to the travel agency business and is not directly aimed at damages which could be caused by tourist guides. The largest Swedish organisation of tourist guides “*Sveguide*” provides training (in cooperation with training institutes) and authorisation of tourist guides. The authorisation requires 200 hours of supervised training and a successfully completed examination.



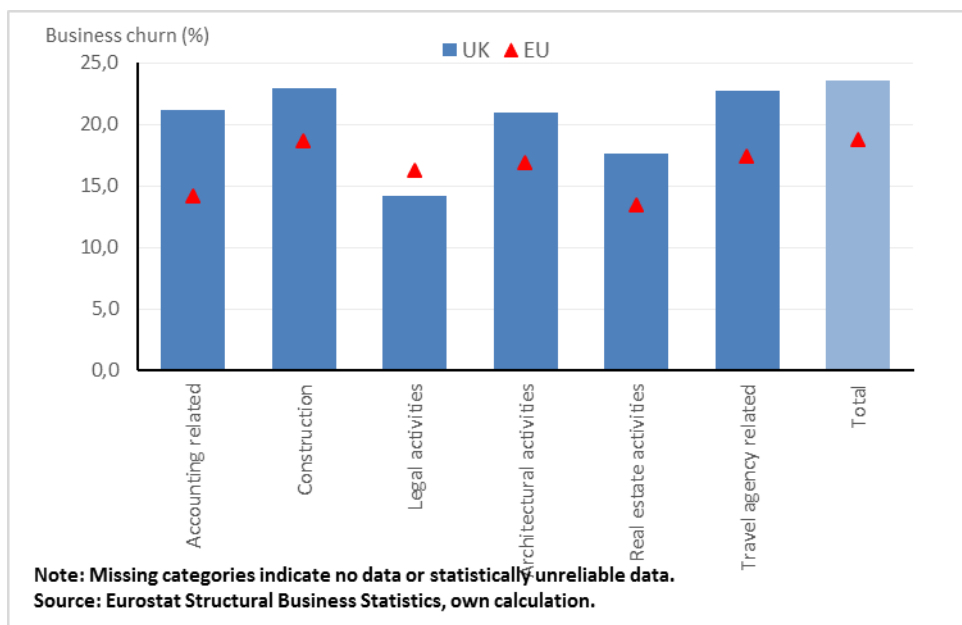
## I. Overview

On 1 November 2016 the UK had submitted information about 216 regulated professions. Among those professions, 32,4% concern business services, 5,1% the construction sector and 0,5% the real estate sector.

According to a recent EU wide survey<sup>79</sup>, 19% of British labour force can be considered as working in regulated professions. This is slightly lower than the EU average (21%).

As indicated in chart 1, for all the professions selected with the exception of legal activities, business churn (or turnover) rate<sup>80</sup> is higher in the United Kingdom than in the EU on average. This may be interpreted as an indication of the relatively high dynamism and competition within regulated professions present in these sectors in United Kingdom. In the case of legal activities, the churn rate is on the contrary lower than the one for the EU and the British economy in general.

Chart 1: Business churn rate in selected occupations, United Kingdom and the EU, 2013-14 (%)



The UK was an active contributor during the **mutual evaluation exercise** and submitted all its sectoral reports to time. On 10 October 2016, the UK had submitted most of the general information on different regulated professions, whereas 15% of the assessment of the proportionality of regulation still needs to be done.

According to its **national action plan (NAP)** the UK set up a challenge group to support the government in identifying reform opportunities. The NAP covered 62 professions, many of which have yet to draw conclusions following further stakeholder discussions, in particular with their competent authorities. However, the UK has proposed taking reform steps in their

<sup>79</sup> Koumenta M. and M. Pagliero (2016), "Measuring Prevalence and Labour Market Impacts of Occupational Regulation in the EU". See: <http://ec.europa.eu/DocsRoom/documents/20362>

<sup>80</sup> Business churn rate is calculated as the ratio of the sum of newly founded and closed enterprises to the total number of enterprises in year *t*. No data available for patent agent related activities.

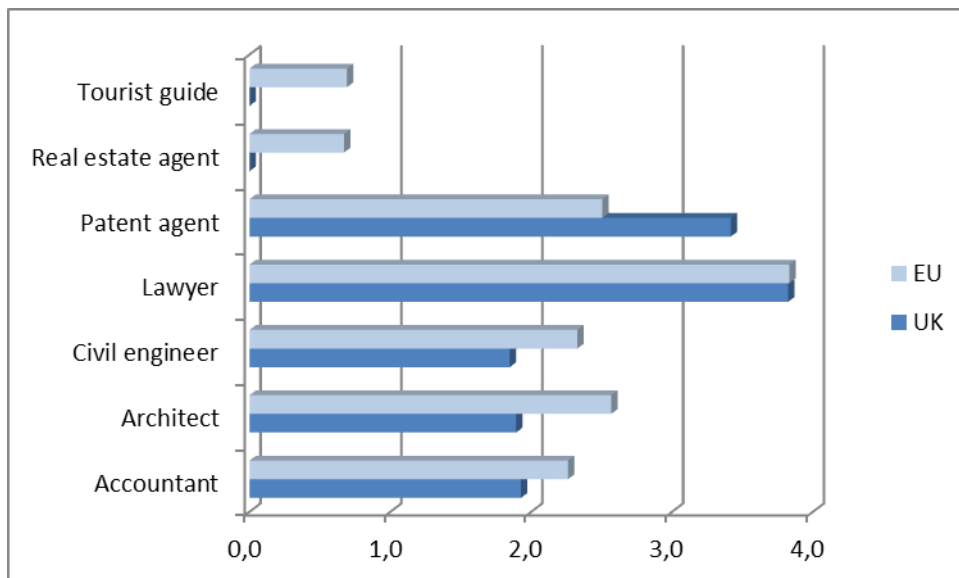
legal professions, including entry barriers to alternative business models (especially in the area of home buying) and to further distance professional regulators from their representative bodies; enquiring into the scope for simplification of their building regulations and; announced partnering with the Netherlands to review competencies in the engineering sector. The UK reviewed its many uses of chartered titles but, given that in most instances the application for a chartered title is voluntary, they generally concluded that they did not represent a market barrier, so would take no further action.

## II. Situation concerning the analysed professions

The level of restrictiveness is higher in the United Kingdom compared to the EU weighted average for the patent agent profession. The level of regulation is lower in the case of civil engineers, architects and accountants. It is similar to the EU average for lawyers. Amongst the professions analysed, restrictiveness is highest for lawyers.

Chart 2 presents the results of the quantification made by the Commission on the restrictiveness level in the selected professions.

**Chart 2: Restrictiveness indicator, 2016, United Kingdom and the EU**



Note: for the professions of accountant, architect and civil engineer, the indicator for the UK measures the restrictiveness to carry the protected title

Source: European Commission services

### Architects

The UK regulates architects through title protection.

Architectural training takes 7 years to complete (5 years education, followed by 2 years practical training followed by the 'part III' state exam). Membership into the Architects Registration Board is mandatory. The UK has no formal obligation for continuous professional development but rather issues guidance which is not monitored.

### Engineers

Engineers in the UK are regulated by protected title.

There is the opportunity to apply for a Chartered title which, although not necessary to exercise the profession, may confer a competitive advantage.

There does however appear to be one area reserved in Scotland where only those who have been members of either the Institution of Structural Engineers or the Institution of Civil Engineers for 5 years, may act as Approved Certifier of Design (Building Structures).

There is no prescribed education or training for civil engineers but those wishing a Chartered title may typically expect to have completed 4 years of education as well as 3 years of professional practice / training. On application to an Institute such experience will be peer reviewed. Membership with a chartered body is obligatory. Such bodies will expect continuous professional development which in the case of the Institute of Civil Engineers this is set at 30 hours annually. There are no other measures applied to Chartered professionals.

### Accountants

Similar to civil engineers, the UK regulates accountants by protected title. There is the possibility to request the 'chartered' title as having such a title gives holders a competitive advantage insofar as the consumer may not be aware of the risks or opportunities in employing a non-chartered professional.

For Chartered accountants there are two routes into the profession; either through education (5 years) or 'qualified by experience' and require a 3 year mandatory traineeship for those taking the education route. Access to the chartered title requires 3 years of practical experience, obligatory membership with the Chartered Body and typically 40 hours of annual continuous professional development.

There are limits on ownership or control of corporate form by non-locally licensed professionals for Member Firms of the chartered bodies: 50-75% of votes must be held by members.

### Lawyers

The UK consists of three separate legal jurisdictions, England and Wales, Scotland and Northern Ireland. Each of those has two main types of lawyer: solicitor and barrister (advocate in Scotland). Other practitioners such as legal executives, licensed conveyancers, trade mark and patent attorneys, notaries and law cost draftsmen are also recognised in legislation and have more limited rights to practice law.

All of the UK's lawyer professions are regulated through a combination of title protections and reserved activities, which vary depending on the profession in question. The reserved activities are: rights of audience; the conduct of litigation; reserved instrument activities; probate activities; notarial activities and; the administration of oaths. Some of these reserved activities, such as probate, are not reserved exclusively for legal practitioners (i.e. others, such as accountants, may be authorised to provide these services).

Nonetheless there are a lot of commonalities across the UK legal professions. Legal training generally consists of 5 years of University level education and 2 years of practical training. Lawyers must register and renew this registration annually with one of the six main UK regulators of the legal profession (the Solicitors Regulation Authority and Bar Standards Board in England and Wales, the Law Society of Scotland and the Faculty of Advocates in Scotland and the Law Society and Bar Council in Northern Ireland).

In addition to annual renewal of practising certification, all UK lawyers must complete continuous professional development during the year, obtain professional indemnity insurance (although the level of protection required varies depending on the activities the different professions are permitted to undertake), and they must contribute to a consumer compensation fund.



The authorisation of solicitors and barristers, or advocates, to provide reserved activities is limited to the specific legal jurisdiction in which they are licensed and does not apply across the UK. UK lawyers wishing to switch between professions or jurisdictions may be required to undertake additional examinations or training.

There is significant variation in the rules governing the form of practice and ownership restrictions which apply to the various UK legal professions. English solicitors, for example, are permitted to co-own legal businesses with non-lawyers and law firms may list on the stock exchange. At the other end of the spectrum, barristers in Northern Ireland must be independent professionals and cannot share fees with each other.

As noted in the introduction the UK is continuously monitoring the need for reform, e.g. in the interaction between their legal regulators and professional bodies or relating to opening up legal activities to allow greater market access and innovation, such as through an on-going review by the Solicitors Regulation Authority.

### Patent agents

Patent attorneys are regulated through title protection and reserves of activities although the filing and prosecution of UK patent applications are not reserved.

Those wishing to practice the profession must first have a relevant undergraduate degree before undergoing further mandatory training and education over a period of around 4 – 5 years. There are only a small number of courses approved by the registration authority and this authority also requires that insurance providers commit to minimum terms as well as that its members perform annual continuous professional development.

There is no restriction on shareholding but instead at least one director/manager (other owners and directors/managers requiring only approval) needs to be patent agent.

Professional insurance is required.

Concerning the cross-border provision of services and the transposition of Directive 2013/55/EU<sup>81</sup>, the UK has established a limited list of qualifications to be recognised.

### Real estate agents

The UK does not regulate this profession, although sales of property must be overseen by a notary / solicitor.

### Tourist guides

The UK does not regulate this profession.

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<sup>81</sup> Directive 2013/55/EU of the European Parliament and of the Council of 20 November 2013 amending Directive 2005/36/EC on the recognition of professional qualifications and Regulation (EU) No 1024/2012 on administrative cooperation through the Internal Market Information System ( ‘the IMI Regulation’ )

**V. Explanations on the methodology used for the restrictiveness indicator**

## **Explanations on the methodology used for the restrictiveness indicator**

- 1. Introduction**
- 2. Data sources – Thorough review of national legislation validated by national authorities**
  - a. Sources for the analysis of restrictions
  - b. Information validated by national authorities
  - c. Multiple professions in a sector
- 3. Sectors under review**
  - a. Seven professions
  - b. Multiple professions in a sector
- 4. Scope of the restrictions analysed**
- 5. Quantification of restrictions - The scoring system**
- 6. Comparability with the OECD PMR indicator and assessment of barriers in business services indicator of 2015**
  - a. Professions under review
  - b. Scope of restrictions analysed
  - c. Weighting of the restrictions
  - d. Process and consultation with national authorities
  - e. Periodicity of the indicator

## 1. Introduction

This composite indicator has been developed by the European Commission services in the context of the initiative "guidance on reform needs in regulated professions" which was announced in the Single Market Strategy adopted in October 2015.

The purpose of the indicator is to measure the intensity of restrictiveness of national regulation as regards access to and exercise of regulated professions through the use of a standardised approach. It is a composite indicator because it looks at a large number of restriction types, from regulatory form and qualification requirements to exercise restrictions such as limitations on multidisciplinary activities, corporate structure restrictions, and other entry restrictions such as the compulsory membership to professional organisations, and brings them into one figure. The level of restrictiveness of every measure is assessed and quantified. The composite indicator gives an assessment of the cumulative restriction level of all these measures taken together.

The indicator should not be looked at or used in isolation. It has to be read together with the qualitative assessment made for every profession in every Member State. Although the indicator takes into account the large majority of the restrictions affecting the professions analysed, it does not quantify non-regulatory barriers. It is also crucial to consider the overall legal framework specific to each Member State which may justify or explain differences in regulation between some Member States.

The indicator facilitates the comparison of Member States' situations for a given profession as well as the comparison of professions within a Member State. It will facilitate the assessment of national reforms on the level of restrictiveness over time.

It is not the first attempt to quantify the level of regulation imposed on professions. The OECD has been running since 1988 the Product Market Regulation indicators (PMR) project which analyses the regulatory situation in a wide range of economic sectors for its members. Although much larger in scope, it contains a sub-indicator which looks into the regulation of professional services, by focusing on 4 professions: architects, lawyers, accountants and engineers. The Commission, as part of its Single Market Strategy, has published in 2015 the results of its analysis of levels of barriers for the same 4 professions focusing on the impact of the regulation on the provision of cross-border services. While the professions analysed in these two exercises are also covered in the present analysis, the focus and the scope are quite different and naturally this has led to differences regarding the relative restrictiveness in the comparison between Member States. In particular, a key difference with the 2015 analysis is the focus on restrictions to establishment of a services provider in a Member State, and not on the restrictions to the cross-border provision of services which was also analysed in the 2015 indicator. Additional explanations are given below in section 6.

Apart from the differences highlighted above, this new restrictiveness indicator measures the intensity of regulation in professional services from a different and novel angle: the intensity of the restrictiveness of regulation is dependent for a great part on the existence and scope of the activities which professionals have the monopoly over, i.e. what is referred to as "reserves of activities". The weight attributed to that requirement, as part of the regulatory approach category (see below), within the composite indicator, reflects its importance in the model..

## **2. Data sources – Thorough review of national legislation validated by national authorities**

### **a. Sources for the analysis of restrictions**

Between November 2013 and January 2016, Member States took part in the mutual evaluation of regulated professions, the transparency exercise introduced in Article 59 of the modernised Professional Qualifications Directive.<sup>82</sup>

The information submitted by Member States in this context into the database of regulated professions constitutes a primary source for this work. For each profession notified by a Member State, information is provided on the type of regulation, the legal basis that applies, the list of activities reserved where relevant; information on the qualification requirements, the compulsory nature or not of being a member of a professional organisation; the existence of specific restrictions on corporate forms and shareholding requirements and whether a professional indemnity insurance is mandatory. All this information is publicly available in the database of regulated professions.<sup>83</sup> This information has been provided directly by national authorities, in most cases by the competent authorities and validated by the national coordinator for the Professional Qualifications Directive.

On this basis, the Commission has compiled for each of the 7 professions under review a description of the regulatory situation in every Member State. In addition to the database, the Commission has checked directly in the national legislation the information communicated by Member States and has completed its analysis when no information had been given. Other sources have also been used, including the sector reports produced by Member States during the mutual evaluation exercise<sup>84</sup> and the analysis performed by the Commission in 2014-15 in the context of the assessment of barriers in business services.<sup>85</sup>

### **b. Information validated by national authorities**

The data collected through the database and the other sources were submitted a first time to national authorities to check their accuracy in June 2016. Member States have supported the Commission by completing and correcting the information when it was missing or incorrect. A second validation process with Member States was conducted through the submission of the draft country analysis to Member States for their review.

## **3. Sectors under review**

### **a. 7 sectors**

The following 7 groups of professional services are assessed in this exercise:

- Accountancy (including tax advisors but excluding the profession of statutory auditor);
- Architecture;
- Civil engineering;

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<sup>82</sup> Directive 2005/36/EC as amended by Directive 2013/55/EU

<sup>83</sup> <http://ec.europa.eu/growth/tools-databases/regprof/>

<sup>84</sup> Of the 7 professions analysed for the guidance, the following were also discussed during mutual evaluation meetings: architect, civil engineer, real estate agent and tourist guide.

<sup>85</sup> Four professions covered: accountant, architect, engineer and lawyer.

- Legal services (Lawyer/Barrister/Solicitor);
- Patent Agent / Trademark agent;
- Real Estate agent /Real estate agency manager;
- Tourist guide (to be distinguished from travel agents or tour operators).

These sectors cover the following activities which may be exercised by one or several professions in the Member States:

### Accountancy

**Book-keeping /Drawing up annual financial statements and consolidated financial statements for undertakings**

**Tax advice**

**Representation and assistance before administrative authorities (Tax authorities)**

**Payroll services**

**Others**

To be noted: In the 2015 indicator, tax advice activities were not included in the analysis.

### Architecture

**Architectural Design and planning, feasibility studies**

**Examination of design and related documentation**

**Preparation/ submission/ signing of technical control and compliance /permit related documentation or certification of project and adhering to building legislation / standards of performance, quality, cost and safety**

**Construction cost management, monitoring of construction /execution including supervision of other related professionals/ inspection of execution**

**Urban/ territorial planning/ design**

**Landscape architecture**

**Interior design / preparation of documentation for interior decoration**

**Others**

To be noted: In the 2015 indicator, landscape architecture and interior design activities were not included in the analysis.

### Civil engineering

**Design and planning, feasibility studies**

**Representation for obtaining permits (signature of designs)**

**Tender and contract administration**

**Project management including monitoring of execution and construction cost management**

**Planning and management maintenance; survey of sites**

**Others**

### **Legal services**

**Representation of clients before courts - *(this covers cases where representation of clients before courts is reserved in general or only before some specific courts.***

**Legal advice (including in tax matters)**

**Drawing up legal documents (such as contracts, real estate transactions and wills and preparing statements of legal opinions)**

**Representation before administrative authorities (including tax authorities)**

**Others**

### **Patent agents**

**Counselling and representation before the Patent Office or other administrative authorities**

**Representation before the courts in intellectual property matters**

**Others**

### **Real estate agents**

**Establishing and facilitating contacts and negotiations with tenants and owners, arranging the sale, purchase, rental and lease of real property**

**Obtaining information about properties to be sold or leased, the circumstances of their owner and the needs of prospective buyers or tenants**

**Showing properties to be sold or leased to prospective buyers or tenants and explaining terms of sale or conditions of rent or lease**

**Drawing up leasing and sale agreements and estimating costs**

**Arranging signing of lease agreements and transfer of property rights**

**Others**

### **Tourist guides**

**Accompanying and guiding tourists on cruises and sightseeing tours**

**Accompanying and guiding visitors through specific places of interest such as museums, exhibitions, theme parks, factories and other industrial establishments**

**Others**

For each of the 7 professions a field “others” has been added to allow for national authorities to add other activities not included in the standard list which nonetheless are reserved activities in their national legislation. It could therefore be that a Member State has a different combination of activities reserved than the standard list. In the 2015 indicator and in the OECD indicator, only closed lists of activities were provided to national authorities to choose from.

#### b. Multiple professions in a sector

Within each sector there may be several professions which exercise the respective activities predefined in the previous section depending on the regulatory framework of Member States. In order to cover these different realities the analysis was undertaken on the basis of “generic professions”<sup>86</sup> which regroup all the regulated professions in a given Member State which exercise all or some of the activities listed above. This allows having a complete coverage of the market reality in the sectors under analysis. For example the activities defined under the generic name of accountant are distributed between 4 professions in Austria: *Personalbuchhalter* (payroll accountant), *Bilanzbuchhalter* (senior accountant), *Buchhalter* (certified accountant), *Steuerberater* (tax adviser). In Italy, two professions are regulated under the generic name of accountant: *Dottore commercialista* (chartered accountant) and *Esperto contabile* (senior accountant). A third type of accountant exists but is not regulated. Often, activities other than those listed also fall within the scope of the activities exercised by or reserved to national regulated professions. For example, in the case of legal services additional activities performed in some Member States may relate for example to mediation, notarial activities, patent related activities, real estate activities, or bankruptcy administration.

The methodology developed considers all professions regulated at national level which carry out one of the activities defined in the lists mentioned above. For each of the seven professions, the composite indicator measures the level of restrictiveness applicable to all the activities listed. This means that situations where a Member State does not regulate some of the activities listed are accounted for in the composite indicator.<sup>22</sup> This is a key difference between this indicator and all the others which have been developed so far.

## 4. Scope of the restrictions analysed

Drawing on the experience of the mutual evaluation exercise, the case law regarding regulated professions and previous similar exercises, the Commission has identified the most significant restrictions impacting the access to and exercise of regulated professions. These restrictions are regrouped into categories of requirements reflecting their nature. The following list has been identified:

1. Regulatory approach
  - 1.1. Exclusive or shared reserved activities
  - 1.2. Protection of title
2. Qualification requirements
  - 2.1. Years of education and training

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<sup>86</sup> A generic profession regroups all professions regulated at national level whose characteristics and activities they exercise are similar. In the database of regulated professions there are about 600 generic professions regrouping 5,500 professions regulated at national level.



- 2.2. Number of pathways to obtain qualifications
- 2.3. Existence of mandatory traineeship
- 2.4. Obligation to have professional experience to get full capacity
- 2.5. Existence of mandatory state exam
- 2.6. Continuous professional development obligations
- 3. Other entry restrictions
  - 3.1. Compulsory membership or registration in professional body
  - 3.2. Limitation to the number of licences granted
  - 3.3. Territorial validity of the professional qualification
  - 3.4. Age restriction
  - 3.5. Other authorisation requirements
- 4. Exercise requirements
  - 4.1. Restriction on corporate form/ type of entity
  - 4.2. Shareholding requirements
  - 4.3. Voting rights control
  - 4.4. Prohibitions on joint exercise of professions
  - 4.5. Incompatibilities of activities for a professional
  - 4.6. Professional indemnity insurance
  - 4.7. Tariff restrictions
  - 4.8. Restrictions on advertising

These restrictions above are explained in more detail below.

## **1. Regulatory approach**

### **1.1 Exclusive or shared reserved activities**

"Reserves of activities" is used for the professions where activities are reserved to the holders of a specific professional qualification, including where there are shared reserved activities with other regulated professions. In other words these are activities for which these professionals enjoy a sectoral monopoly.

For each profession analysed, (cf. Section 3 for the lists of activities) Member States indicated one or several activities from a pre-defined list and where necessary introduced additional activities not included in the list. Information on whether activities are shared with one or several other professions, i.e. cases in which there is not a monopoly but rather an oligopoly, is also collected.

The score is based on the share of activities exclusively reserved amongst the total number of activities predefined for each generic profession. The higher the share, the more restrictive

the regulation is considered. A reducing factor is included if at least one of the activities is shared with one or several other professions. The score takes also into account cases where the reserves only apply to managers or self-employed. Indeed, if the regulation applies to only one person in the company, it is considered a less restrictive means than when the regulation applies to all employees.

Sources used: database of regulated professions and national legislation

## 1.2 Protection of title

Protected title is used for the professions where the use of a professional title is protected. A professional title is defined as the name used in an activity and which indicates a particular qualification in this field. A name can become a professional title only if public authorities define the conditions for conferring it, either directly, or by giving a particular body (in particular a professional organisation) the power to do so, and if they protect that name by imposing sanctions or other measures when it is used improperly. The involvement of the State in the determination of the way in which the title is conferred is decisive.

A professional title may be combined with reserved activities or not. In the latter case, anyone can access and exercise the activity concerned by the regulation but cannot use the protected title unless the conditions for using it are met. Regulating a profession by way of protecting the title alone is considered less restrictive compared to regulating by having reserves of activities. In situations when reserves of activities are in place, the introduction of a rule restricting the use of the title adds to the overall intensity of regulation. The marginal intensity level brought by the protection of the title is however lower than the impact of having only a regulation protecting the title (without reserves of activities). Indeed, in the latter situation, a clear advantage is given to the professional with the title whereas if the activities are already reserved, the use of a title is de facto in most cases limited to professionals meeting the qualification requirements granting them access to the reserved activities.

This restriction was not analysed in the 2015 barriers assessment.

Sources used: European database of regulated professions and national legislation

## **2. Qualification requirements**

### 2.1 Years of education and training

The number of years necessary to obtain the academic qualification is measured here. This includes the period of mandatory training included in the curriculum to obtain the qualification. The higher the number of years necessary to achieve the qualification, the more restrictive the regulation is considered. This restriction is not analysed in the 2015 barriers assessment.

Sources used: European database of regulated professions and national legislation

### 2.2 Number of pathways to obtain qualifications

This variable measures how flexible the system is to obtain the required qualifications. The more possibilities (pathways) there are, the less restrictive the system is considered. For example if for a given profession, it is possible to obtain the qualification by either going through a vocational secondary programme, a combination of professional experience and

periods of training or the passing of a test, it will be considered less restrictive compared to a situation where the vocational secondary programme is the only route to obtain the qualification. This restriction is not analysed in the 2015 barriers assessment.

Sources used: European database of regulated professions and national legislation

### 2.3 Existence of mandatory traineeship

This variable concerns situation where future professionals, after having graduated have to undergo a specific mandatory traineeship prior to be granted access to the profession. The existence of a mandatory traineeship is considered more restrictive compared to a situation where no such regulation exists. This restriction is not analysed in the 2015 barriers assessment.

Sources used: European database of regulated professions and national legislation

### 2.4 Obligation to have prior professional experience to get full capacity

For certain professions in certain Member States, there is an obligation to possess a professional experience of a minimum duration in order to be authorised to access a profession and exercise the related activity. This is considered as a barrier to entry. In several cases, the distinction between mandatory traineeship and prior professional experience is not very clear but the restriction is only accounted once in the indicator, either as mandatory traineeship as described above or a prior professional experience. This restriction is not analysed in the 2015 barriers assessment.

Sources used: National legislation and national authorities

### 2.5 Existence of mandatory state exam to access the profession

The obligation to pass a state/public exam to access a profession after having completed mandatory education is considered a restriction. This restriction is not analysed in the 2015 barriers assessment.

Sources used: European database of regulated professions and national legislation

### 2.6 Continuous Professional Development

Specific obligations imposed on professionals to follow a specific number of hours of training over a given period associated with costs supported by the professional. The intensity of the restriction is measured depending on the length of the training, the period over which it has to be completed and the price to be supported by professionals. This restriction is not analysed in the 2015 barriers assessment.

Sources used: National legislation and national authorities

## **3. Other entry requirements**

### 3.1 Compulsory membership/registration in professional bodies

Professional Chambers and Professional Orders constitute one common model of professional organisation and of supervisory arrangement. Specific powers may be entrusted to them through State empowering acts.

Member States may require that professionals need be certified by and registered with specific professional organizations (e.g. Bar Associations, Chambers of Architects, Chambers of Engineers, Medical Associations, etc.) prior to being allowed to work in the profession. Continuous membership may also be a condition for the exercise of the profession, which can be expressed through an annual renewal of the relevant professional licence to exercise.

Chambers may be in charge of supervising compliance with professional conduct rules and of imposing disciplinary sanctions upon their breach. They may impose continuous learning obligations on their members and they may provide specific services to them (e.g., arrange group professional liability insurance cover, develop and offer access to professional databases etc...). Membership may also be dependent upon the payment of fees, the amount of which may vary substantially.

In cases where the registration with a professional body or state registry is only a formality and is not associated with specific obligations and significant fees, a limited scoring is attributed. In situations where the membership in the professional body is associated with substantial entry and/or annual fees and specific rules are imposed on the professionals, the regulation is considered more restrictive than in situations where it is only a registry and in those where the professional does not even have to be registered.

Sources used: European database of regulated professions and national legislation

### 3.2 Limitation to the number of licences granted

Regulation which limits the number of professionals having access to a profession or the use of quotas of licenses granted is considered restrictive.

Sources used: European database of regulated professions and national legislation

### 3.3 Territorial validity

This concerns situations in which the law relates the authorisation to practice only to a given geographical territory within the same country (e.g. in one region but not in others). If this is the case it is considered a restriction. However the existence in the law of equivalence or mutual recognition clauses at national level) limits the level of restrictiveness.

Sources used: European database of regulated professions, national legislation and 2015 barrier assessment

### 3.4 Age restriction

This applies when the law explicitly requires the professional to be older (or younger) than a minimum age in order to access and exercise the profession. The existence of a minimum age condition is considered restrictive compared to a situation where no such regulation exists. General statutory pension age rules are not considered in this context. This restriction is not analysed in the 2015 barriers assessment.

Sources used: National legislation and national authorities

### 3.5 Other authorisation requirements

The authorisation could be at the level of access (before you can practice or use the title as individual professional) or could be at the level of exercise, when, for specific activities within the profession you might need to get an authorisation (for example you can practice as an engineer but in order to work on certain type of electrical infrastructures part of the national grid you need a specific authorisation).

Authorisations may depend upon an assessments by authorising authorities of the fulfilment of a number of conditions, in addition to an assessment of the requisite professional qualifications. To this extent, authorisation may impose a more or less heavier burden on the applicant and on the competent authority concerned, burden which can also be of a financial nature. Examples are: check of criminal records, financial standing, language, legal capacity, oath declaration, compliance with business premises requirements, etc.

Sources used: European database of regulated professions, national legislation and 2015 barrier assessment

## **4. Exercise requirements**

### **4.1 Restriction on corporate form/type of entity**

The criterion applied relates to the existence or not if restrictions as to the legal form a company may take. Distinction is made between the following cases: no restriction on the company form exists; it is possible to exercise the profession in a corporate structure with limited liability; it is not possible to exercise the profession in a corporate structure with limited liability; and under the most restrictive form whether the profession can only be exercised as a sole practitioner.

Sources used: European database of regulated professions, national legislation and 2015 barrier assessment

### **4.2 Shareholding requirements**

This criterion analysed whether the law imposes a minimum percentage of the shares to be held by professionals with the required qualifications. The higher the percentage required, the more restrictive the condition is considered to be.

Sources used: European database of regulated professions, national legislation and 2015 barrier assessment

### **4.3 Voting rights / management control**

This variable looks at whether the law imposes a minimum percentage of voters to be qualified professionals. The higher the percentage required, the more restrictive the condition is considered to be.

Sources used: European database of regulated professions, national legislation and 2015 barrier assessment

### **4.4 Joint exercise of professions**

National laws may include a provision which prohibits the joint exercise of the profession concerned to avoid conflicts of interests. This may include straightforward prohibitions of joint activities either across the board or with particular activities or professions or the existence of a general provision that aims to exclude the joint exercise of professions that would be contrary to the independence or impartiality of the professionals. Compared to the 2015 barriers assessment, a distinction is made in the scoring between situations where only a general conflict of interest clause exists in the law as opposed to the prohibition of some specific activities or a total ban of any other activities.

Sources used: European database of regulated professions, national legislation and 2015 barrier assessment

### **4.5 Incompatibilities of activities for a professional**

This concerns situations where the professional himself may not exercise certain activities together with his profession. Again this may range from a total prohibition to exercise any

additional activities, over specific prohibitions regarding the nature of the other activities to a general provision, stating that a professional should avoid conflict of interest, without prohibiting specific activities. This restriction is not analysed in the 2015 barriers assessment.

Sources used: National legislation and national authorities

#### 4.6 Professional indemnity insurance

The criterion looks at whether professional indemnity insurance is required by law for professionals wishing to exercise the regulated activities. This concerns only cases of establishment. Mutual recognition clauses and processes are therefore not analysed (as opposed to the 2015 barrier assessment where this is also analysed).

Sources used: European database of regulated professions, national legislation and 2015 barrier assessment

#### 4.7 Tariff restrictions

The analysis checks whether specific regulation by the government or self-regulation by the profession (e.g. via the code of conduct) defines rules on the level of the fees or prices charged by the professional to the services recipient.

Sources used: National legislation and 2015 barrier assessment based on OECD 2013 PMR indicator

#### 4.8 Restrictions on advertising

The analysis checks the existence of restrictions for professionals on advertising in one or more given media, or as regards the content and methods of commercial communication.

Sources used: National legislation and 2015 barrier assessment based on OECD 2013 PMR indicator

### **Barriers for non-regulated professions**

For certain professions in some Member States, the professions are not regulated by law. Other procedures or mechanisms may however be in place which by the obligation/ cost/ burden they impose on the professional wishing to exercise the profession de facto create a barrier. These types of barriers are not accounted for in this indicator because of the difficulty to identify them and because of the difficulty to quantify them. They are however whenever possible reported in the qualitative analysis done at the profession level and in the country sheets.

## **5. Quantification of regulation – Scoring system**

Numerical values on a scale from 0 to 6 are attributed for every restriction/variable. Depending on the restriction, the possible values may be either 0 or 6 (yes/no) or include intermediate values (for example from 0 to 6 in the case of the variable 'years of education'). These values correspond to the estimated level of restrictiveness of the barrier for the profession. The higher the score, the more restrictive is the assessment. All professions in all countries are scored following the same rules.

Existing reserves of activities are the major factor determining the level of restrictiveness. The breadth of such reserves impact on the weight of the other restrictions since the broader the reserves the more “closed” the activity is and hence the heavier the impact of other additional restrictions. This means that, where only some of the activities of a profession are

reserved, this is reflected in a lower overall scoring of all the restrictions. As a result, the aggregate indicator for a generic profession reflects the restrictiveness of the regulatory framework considering all the activities for that profession.

A weighted average is then calculated for every profession to come then to the composite indicator.<sup>87</sup> The weights attributed reflect the Commission's own assessment of the relative contribution of the different restrictions to the overall sets of conditions to access a regulated profession and exercise its activities:

Categories of restrictions	Weights
Regulatory approach	31%
Qualification requirements	17%
Other entry requirements	21%
Exercise requirements	30%
Total	100%

The assessment is based on the experience collected through the case law and the discussions which have taken place in the context of the mutual evaluation exercise with Member States representatives and representatives from the professions. Of the four main categories defined, "Regulatory approach" has a higher weight whereas the three other categories have similar weights. This is explained by the overwhelming importance in terms of restriction of reserving the monopoly of activities to professionals with the required qualifications.

#### Professions with protection of the title and no reserves of activities

The methodology integrates into the indicator situations where professions are regulated only by protection of the title. In these situations, the indicator measures the level of restrictiveness applicable to accessing the protected title. The professions and countries where this is the case are clearly identified when visualising the indicator. This concerns the following professions and countries: Belgium (civil engineer), Finland (real estate agent and patent agent), France (civil engineer), Ireland (accountant, patent agent), the Netherlands (accountant, architect), Sweden (patent agent) and the UK (accountant, architect and civil engineer)

### **6. Comparability with the OECD PMR indicator and assessment of barriers in business services indicator of 2015**

The indicator of restrictiveness of regulation in professions has many similarities with two other existing indicators: the Product Market Regulation indicator and the Commission indicator assessing the barriers in business services published in 2015. The restrictiveness indicator in reality builds on the experience those indicators have accumulated over the years. In the present section the main differences between the restrictiveness indicators are presented and explained.

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<sup>87</sup> Support was provided by the Competence Centre on Composite Indicators and Scoreboards of the Joint Research Centre of the European Commission.

a. Professions under review

In the case of the restrictiveness indicator 7 sectors and professions are analysed (accountancy, architecture, civil engineering, legal services, patent agent, real estate agent, tourist guide) while for the OECD PMR and the barrier assessment 4 professions/sectors are covered (accountant, architect engineer, lawyer).

The OECD PMR and the assessment of barriers in business services look at restrictions existing in Member States under general concepts of the respective professions. If under such a general concept, e.g. accountant, there are several professions in one Member State (for example architect and technical architect), only the most restrictive professional regulation is taken into account. The indicator in this case therefore concerns only the most restrictive barriers within a range of professions of a same nature. The same methodology has been applied in the case of the assessment of barriers in business services.

In the present restrictiveness indicator all the individual professions regulated in the 7 sectors have been analysed. The indicator does not take the most restrictive regulation from the different professions but takes the average of the restrictions in all the professions belonging to the same group. It also takes into account the fact that some activities may not be regulated at all and exercised by non-regulated professions. Therefore the indicator measures the overall restrictiveness intensity for all activities belonging to a generic profession in each Member State.

b. Scope of restrictions analysed

The following table lists the restrictions analysed for each of the three indicators.

<b>Restrictiveness indicator</b>	<b>OECD PMR</b>	<b>Assessment of barriers in business services</b>
Exclusive or shared reserved activities	Exclusive and shared exclusive rights	Exclusive and shared exclusive tasks
Protection of the title		
Years of education and training	Duration of education	
Number of pathways to obtain qualifications		
Existence of mandatory traineeship	Duration of compulsory practice	
Obligation to have professional experience to get full capacity		
Existence of mandatory state exam	Existence of professional exams	
Continuous professional development obligations		
Compulsory membership or registration in professional body	Compulsory chamber membership	Compulsory chamber membership
Limitation to the number of licences granted	Quotas imposed on foreign professionals/firms	
Territorial validity of the		Territorial validity of



professional qualification		authorisation
Age restriction		
Restriction on corporate forms	Legal form of business	Legal form requirements
Shareholding requirements		Shareholding requirements
Voting rights control		Voting rights/management control
Prohibitions on joint exercise of professions	Regulation of inter-professional cooperation	Prohibitions on joint exercise of professions
Incompatibilities of activities for a professional		
Professional indemnity insurance		Professional indemnity insurance
Authorisation requirements		Authorisation requirements and procedures
Tariff restrictions	Existence of regulated fees or prices	Tariff restrictions
Restrictions on advertising and marketing	Restrictions on advertising and marketing	Restrictions on advertising and marketing
		Administrative restrictions (availability of information on applicable rules and possibility to comply with administrative procedures online)

From the table it can be seen that the restrictiveness indicator is more detailed than the other two indicators in particular as concerns the access restrictions related to qualification requirements. On the other hand restrictions on tariffs, on advertising and the analysis of the administrative restrictions as defined above are not covered, since they are less strongly linked to the basics of regulation of professional services which is based on required qualifications. While the present indicator focusses on rules applying to professionals established in a Member State, the 2015 indicator assessing barriers restrictions in business services in its analysis covers both restrictions applying to establishment and those related to the temporary cross-border provision of services.

#### c. Weighting of the restrictions

Being a composite indicator, the various restrictions are summed up into one score per profession and country. Depending on the methodology a simple average of all the restrictions can be done or a weighted average may be applied to reflect the relative importance of the restrictions on the access to and conduct of regulated professions. The latter methodology is applied in the case of the restrictiveness indicator.

In the case of the barriers assessment in business services weights have also been applied. They are slightly different, one of the main reasons being that the barriers or restrictions analysed differ to some extent as shown in the comparative table above.

Moreover the barrier “authorisation requirements” differs between the two indicators because some of the authorisation requirements measured in the 2015 analysis are factored in the variables related to education requirements and continuous professional development not covered separately by the indicator assessing the barriers in business services.

In the case of the OECD PMR indicator, all restrictions have been given the same weight.

d. Process and consultation with national authorities

The restrictiveness indicator uses information from the European database of regulated professions which is filled in by Member States via national coordinators for the Professional Qualifications Directive in cooperation with competent authorities for the respective professions. After having been checked and completed with internal desk research the information was sent back to national authorities for validation or completion of missing information. A third round of consultation with Member States took place with the submission of the draft country sheets.

As regards the OECD PMR indicator, the questionnaires are directly filled in by OECD points of contact in national administrations with several rounds of consultation. In the case of the assessment of barriers in services, the information was mainly based on desk research and information from the database of regulated professions. No consultation process took place with Member States.

e. Periodicity of the indicator

The OECD PMR indicator in particular exists since 1988 and is updated every 5 years. The restrictiveness indicator will be updated at more regular intervals.

The new indicator reflects the most recent regulatory changes in the Member States. This, combined with the methodological differences highlighted above, inevitably leads to results differing from OECD PMR indicator's.

**VI. Annex on econometric analysis of the impact of regulatory barriers in professional services on economic outcomes**

## Data

The synthetic sector-and-country-level indicator of regulatory restrictiveness compiled by the Commission services (see section II.3 and V) and the economic indicators from Eurostat's Structural Business Statistics (SBS) for services<sup>88</sup> were the two principal data sources.

Due to limited data availability of sufficiently disaggregated data, we had to aggregate the barrier indicators for two sectors (lawyers and patent agents). We have used a simple (unweighted) mean across these two sectors.

The sectorial disaggregation of the restrictiveness indicator	NACE Rev. 2 code in dataset sbs_na_1a_se_r2	NACE Rev. 2 label
Accountant	M692	Accounting, bookkeeping and auditing activities; tax consultancy
Architect	M7111	Architectural activities
Civil engineer	M7112	Engineering activities and related technical consultancy
Lawyer	M691	Legal activities
Patent agent	M691	Legal activities
Real estate agent	L6831	Real estate agencies
Tourist guide	N7912	Tour operator activities

Since the regulatory restriction data represents one time point, we have had to transform accordingly the economic variables to single time points. We have taken multiannual/medium-term averages<sup>89</sup> (for each country and sector) across time for the years 2012 and subsequent.

## Regression model

We have done separate ordinary-least-squares estimations for each dependent variable. The estimations were purely cross-sectional (no time dimension): each observation corresponded to one of the NACE sectors in each EU Member State.<sup>90</sup> The restrictiveness indicator was the main explanatory variable. The observations were weighted by the economic sizes of the countries and sectors (either in terms of employment or value added)<sup>91</sup> so that the estimated coefficients were representative for the EU economy.

In the final estimations, we focussed on the following depended variables:<sup>92</sup>

- Profit ratio (gross operating surplus / turnover, in %)
- Growth of the number of enterprises (in %)

As robustness checks, we have used sector-level fixed effects (dummies) and two alternative observation weights (mentioned above). The fixed effects were expected to capture the impact of all the sector-specific factors common across countries (such as technological

<sup>88</sup> "Annual detailed enterprise statistics for services (NACE Rev. 2 H-N and S95)", [http://appsso.eurostat.ec.europa.eu/nui/show.do?dataset=sbs\\_na\\_1a\\_se\\_r2&lang=en](http://appsso.eurostat.ec.europa.eu/nui/show.do?dataset=sbs_na_1a_se_r2&lang=en).

<sup>89</sup> For variables other than growth rates these were simple averages, while for the growth rates we have calculated the geometric means.

<sup>90</sup> The actual numbers of observations varied across estimations and were lower than 6 NACE sectors × 28 Member States due to economic data availability.

<sup>91</sup> With the following SBS indic\_sb codes: V16110 for employment and V12150 for the value added.

<sup>92</sup> With the following SBS indic\_sb codes for the underlying variables: V12170 for gross operating surplus, V12110 for turnover, V11110 for the number of enterprises, V13320 for total wages.

specificity of each sector) on the level of the dependent variables. The weighted estimations should reduce the impact of outliers (as the anomalous values of variables are more likely for their low levels due to measurement errors). Finally, due to the deviation of the distribution of some variables from the normal distribution, we have also looked at the bootstrapped standard errors (each based on 1000 replicates).

### *Regression results*

The impact on profitability comes out as the statistically most significant result of the estimations. In case a sector in a given country has a "typical" (most common across all countries and sectors) level of restrictiveness and that restrictiveness were increased by 10%, we would expect an increase in profitability by almost 1 percentage point. This can be interpreted as an increase in the rent of the incumbent service providers in that sector of some country.

That result should be seen in parallel with the other results, somewhat less robust statistically but all pointing together to the same interpretation of restrictions as anticompetitive barriers: a 10% increase in regulatory restrictiveness from the "typical" level may reduce the medium-term annual average growth rates of the number of firms in that sector in a given country by about 0.4 percentage point.

<b>Dependent variable</b>	<b>Growth of the number of enterprises (in %)</b>		<b>Profit ratio (gross operating surplus / turnover, in %)</b>	
	<b>Value added</b>	<b>Employment</b>	<b>Value added</b>	<b>Employment</b>
<b>Estimated coefficient*</b>	-1.438	-1.335	3.405	3.385
<b>p-value (OLS)</b>	0.001	0.003	0.000	0.000
<b>p-value (bootstrapped)</b>	0.043	0.058	0.031	0.012
<b>R-square</b>	0.157	0.096	0.521	0.513
<b>Adjusted R-square</b>	0.121	0.058	0.501	0.492
<b>Number of observations</b>	148	149	150	150
<b>F-statistic</b>	4.381	2.517	25.952	25.070
<b>p-value for F-statistic</b>	0.000	0.024	0.000	0.000
<b>"Typical value" of the restriction indicator in the sample**</b>	2.825	2.818	2.825	2.818
<b>Semi-elasticity: increase of the dependent variable (in percentage points) for a 10% rise of restrictions from the "typical value"***</b>	-0.406	-0.376	0.962	0.954

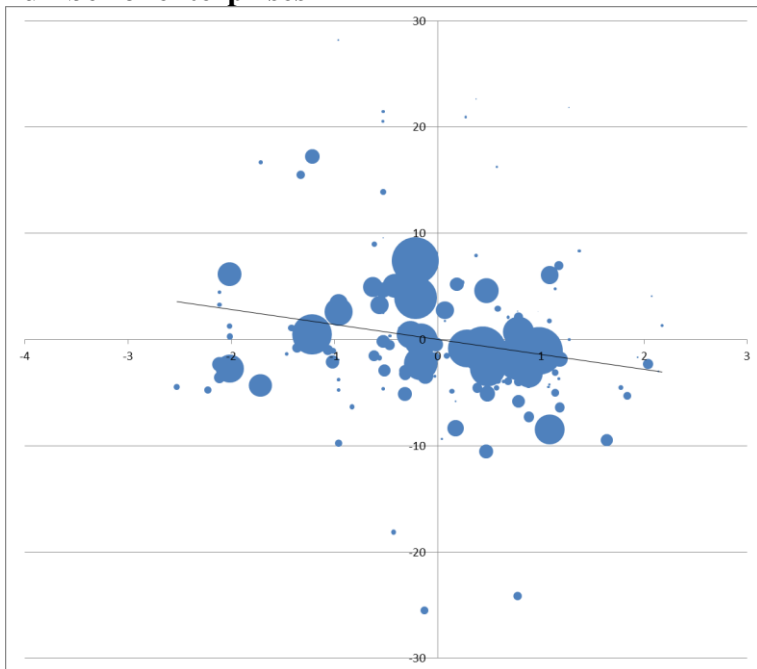
All estimations include sector-level fixed effects (dummies).

\* The expected increase in the dependent variable (in percentage points) due to the increase in the restriction indicator by 1 unit.

\*\* Simple average of (1) the weighted median restriction indicator in the sample and (2) the mode of the estimated weighted kernel density of the restriction indicator in the sample.

\*\*\* Estimated coefficient  $\times 0.1 \times$  "typical value".

**Chart 1: regression analysis between the level of regulation and the growth of the number of enterprises**

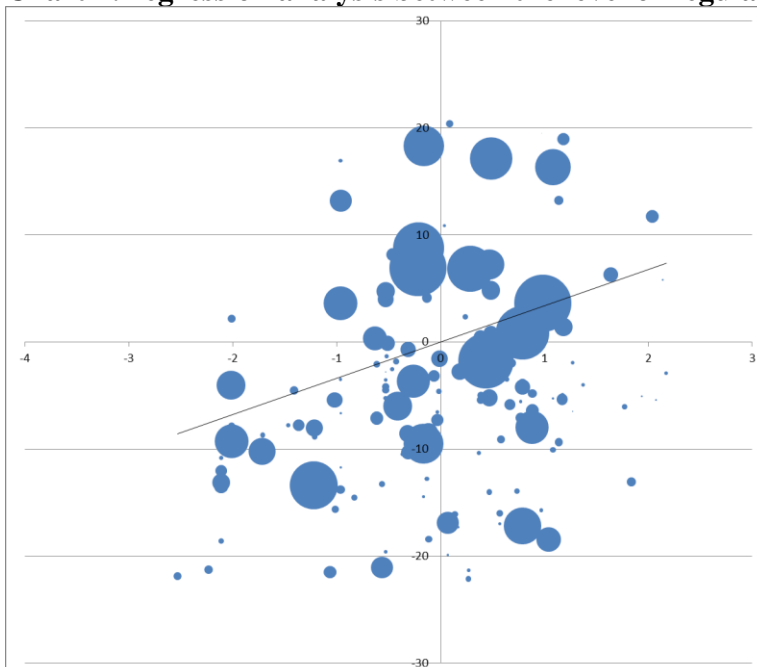


Horizontal axis: de-meaned restrictiveness indicator i.e. restrictiveness indicator minus weighted mean (restrictiveness indicator) $_k$  where  $k$  is a NACE sector

Vertical axis: de-meaned dependent variable (firm number growth) i.e. dependent variable minus weighted mean(dependent variable) $_k$  where  $k$  is a NACE sector

Bubble sizes: represent the respective weight of the sectors considered (based on combined size of employment and value)

**Chart 2: regression analysis between the level of regulation and profit rates**



Horizontal axis: de-meaned restrictiveness indicator i.e. restrictiveness indicator minus weighted mean (restrictiveness indicator) $_k$  where  $k$  is a NACE sector

Vertical axis: de-meaned dependent variable (profitability) i.e. dependent variable minus weighted mean(dependent variable) $_k$  where  $k$  is a NACE sector

Bubble sizes: represent the respective weight of the sectors considered (based on combined size of employment and value)