



EUROPEAN COMMISSION

Competition DG

Services

Distributive trades and other services

Brussels,
COMP/D3/MK/D(2004)

STOCKTAKING EXERCISE ON REGULATION OF PROFESSIONAL SERVICES

OVERVIEW OF REGULATION IN THE NEW EU MEMBER STATES

I. SUMMARY

1. In January 2003, the Institute for Advanced Studies in Vienna produced for the Competition Directorate-General a report on regulation of liberal professions.¹ On 28 October 2003, the Commission hosted a Conference on Professional Services where business, consumers and practitioners discussed the impact of professional rules on business development and consumer protection.
2. Then on 9 February 2004, the Commission services published a Report on Competition in Professional Services.² Further to the report, DG Competition has endeavoured to see with professional bodies as to what extent there is scope for reform.
3. After the accession of 10 new Member States, the fact-finding of the IAS study has been extended by the Commission to these countries. This document extends the stocktaking exercise carried out for the EU15 and provides an overview of levels and types of regulation in the professions in Cyprus, Czech Republic, Estonia, Hungary, Latvia, Lithuania, Malta, Poland, Slovak Republic and Slovenia.
4. The responses to the stocktaking exercise in the new Member States that DG Competition received in the Summer 2004 are summarised below. In order to ensure ease of reference, consistency and comparability of the results obtained for the EU15, the collection of information was performed on the basis of the same methodology and approach as had been applied by the Institute for Advanced Studies in the above-mentioned research report. The Commission has tried to identify all the relevant professional bodies in each of the professions in all new

¹ "Economic impact of regulation in the field of liberal professions in different EU Member States", Iain Paterson, Marcel Fink, Anthony Ogus, Institute for Advanced Studies, Vienna, January 2003 (See: http://europa.eu.int/comm/competition/liberalization/conference/prof_services_ihs_part_1.pdf)

² Available at: http://europa.eu.int/comm/competition/liberal_professions/final_communication_en.pdf

Member States and has subsequently sent them questionnaires. The submissions from professional bodies were complemented by information provided by National Competition Authorities. An overview of the different levels of regulation in all Member States in the form of synthetic indices is annexed to this report. So as to safeguard the credibility of the comparative analysis, the same methodology of special regulation indices has been employed as in the above mentioned research report.³

5. The regulatory situation in most new Member States should be viewed against the background of the political environment before 1989 and the socio-economic changes brought forward after that year. The period before that was marked by a non-existence of liberal professions, private entrepreneurship was forbidden and the professional services were administered in one form or another by the state.
6. Since 1989 the overriding imperative has been to carry out privatisation and to limit the role of the state, also by way of deregulation. The process of establishing professional associations has been intense and vigorous ever since. In some countries, such as Hungary, restrictive practices of professional bodies could not be challenged under competition rules until 1997 as there was no existing legal basis to that effect. Nonetheless, in the second half of the nineties there was active competition enforcement in the field of liberal professions in several new Member States (mostly against fee scales published by professional bodies).
7. In view of their accession to the European Union, the new Member States have introduced amendments and modifications to the existing legislation.
8. further to the Commission's February 2004 report, a number of National Competition Authorities in the new Member States have recently launched a review of regulation in the field of liberal professions. In Poland, a report analysing competition restrictions in professions of barristers, legal advisers, notaries, pharmacies, tax advisers and the general economic impact thereof was published. It purports that regulation is excessive (especially in legal services), that entry to professions is often dependent on subjective criteria such as oral examinations and that therefore opportunities for abuse arise. In Slovak Republic, the competition authority started a review of liberal professions' regulation (also by way of questionnaires for providers and consumers of professional services respectively).
9. For instance in Czech Republic and Hungary, competition authorities have been active against publication of fee scales by various professional associations which were binding for the members. They also acted against inadequate entry barriers for certain professions (inasmuch as dissimilar levels of charges had been asked for granting a licence).
10. The professions dealt with in the present report are:
 - Accountancy services (accountants, tax advisers and auditors)
 - Legal services (lawyers / advocates and notaries)

³ For details on the methodology to calculate the indices of regulation please refer to the above-mentioned report by the Institute for Advanced Studies.

- Technical services (architects and engineers)
 - Pharmacy services.
11. For the purposes of this report, accountants, tax advisers and auditors shall be assessed together under the accountancy services section.
 12. The most highly regulated professions in the new Member States are notaries and pharmacists, what corresponds to the situation in EU15. The same is true for the legal professions.
 13. Both accountants and auditors face a clearly more liberal regime in the new Member States than they do in EU15. Architects and engineers are also in these countries the least regulated professions and have even lower regulation levels than is the case for EU15.
 14. Czech Republic, the Baltic countries and Slovak Republic appear to be the most regulated of the new Member States, whereas Hungary and Poland come across as somewhat more liberal.

II. OVERVIEW OF REGULATION BY PROFESSION

ACCOUNTANTS, TAX ADVISERS AND AUDITORS

15. These professions provide services comprising statutory and internal audit, advice on financial controls, preparation for and on behalf of taxpayers of management accounts and tax returns, due diligence, tax advice and insolvency practice, to name a few.
16. The stocktaking exercise in the surveyed countries highlights that the structure of the professions and the dividing lines between the activities vary just as much as they do in the EU15. It is worth mentioning that in Hungary accountants do not have a professional association and in Estonia, Lithuania and Slovenia there is no regulation of the profession at all. The latter issues, however, a catalogue of book-keeping entities in the way to be able to provide services of the best quality possible (i.e. at least one person in the company must hold a certificate of qualification issued by the Slovenian Chamber of Commerce to heads of accounting companies).
17. In Latvia, there is no law governing the profession of accountant and therefore anyone can practice the profession. The Latvian Accountants Association issues a certificate (for which education, experience and a professional exam are needed), it is however not required for a professional to work as an accountant.
18. Apart from Estonia, Latvia, Lithuania and Slovenia, also Czech Republic exhibits tangibly lower levels of regulation in the field of accountancy and provision of tax advice, whereas, countries such as Cyprus, Poland and Slovak Republic are among those with slightly higher, even if still rather low, degree of regulation of the profession. Polish accountants are however, contrary to tax advisers, rather lightly regulated.
19. On the other hand, in audit services, Czech Republic is positioned rather at the other end of scale, with quite high regulation of the profession. Estonia, Hungary, Latvia and Lithuania seem to have lower regulation levels which also fall within the medium regulation bracket.
20. In general, however, both accountancy and auditing professions display no or only very low market conduct regulation.

Entry and exclusive rights

21. Though there is little regulation of market conduct, regulations on entry and exclusive rights are incomparably higher.
22. Among the entry regulations are the following: a minimum period of university education (three years in the case of accountants and tax advisers and four to five years for auditors), relevant experience (e.g. three years for Cypriot and Polish accountants and three to six years for auditors) and a successful professional examination.
23. In accountancy services, membership in the relevant professional association is not compulsory in Latvia and Poland. However, it is required, for instance, in countries

such as Cyprus, Czech Republic, Poland (tax advisers) and Slovak Republic. As regards auditors, membership in the professional association is a prerequisite for practice of the profession in all new Member States.

24. In Cyprus, for instance, as of 2001 an accountant is obliged to have at least two years of post-qualification experience in order to be granted a practising certificate.
25. Czech Republic this year increased the qualification requirements for entry into the profession of tax adviser from secondary education to university level, arguing that quality of services be thus augmented. Furthermore, a discussion about an introduction of confidentiality obligation is currently ongoing.
26. In some countries, such as Slovak Republic, tax representation is exclusively attributed to accountants. In Cyprus, the accountancy profession has the reserved right to provide not only tax advice but also statutory audit. In all the other countries, statutory audit is reserved for auditors.
27. Moreover, auditors in Member States such as Estonia and Hungary enjoy exclusive rights for audit of mergers and contributions in kind. Interestingly, in Poland, the latter are coupled with reserved rights for both non-statutory and public sector audit, too. The same counts for Latvia and Slovak Republic, except for conducting non-statutory audit.

Price regulation

28. In brief, the situation in the new Member States is not analogous to the one in EU15. There is no price regulation for accountancy, tax consultancy or audit services in the surveyed countries.
29. In Slovak Republic, however, there is a reference price for accountancy services that is set by a Notice of the Ministry of Finance.

Advertising restrictions

30. In Poland tax advisers are not allowed to advertise and in Cyprus some advertising restrictions exist for accountants. Czech, Latvian, Lithuanian and Slovak accountants are not subject to any advertising regulation. Nonetheless, there are some comparative advertising restrictions pertaining to Polish accountants.
31. As for auditors, all advertising is forbidden in Czech Republic, and there are some publicity restrictions in place in Hungary and in Poland. In Estonia, Latvia, Lithuania and Slovak Republic, advertising by auditors is not submitted to any regulation.

Business structure and inter-professional co-operation

32. Across the new Member States, both accountancy and auditing professions are free of location or diversification regulation.
33. Accountants in the surveyed countries can form corporations and partnerships with other members of the profession. The evidence that the Commission has suggests that accountants do not face any regulations regarding inter-professional co-

operation and that, therefore, they may collaborate and form companies with non-members of the profession.

34. This also applies in relation to auditors in these countries, with the exception of Czech Republic, where incorporation is permitted only with some comparable licensed professions.
35. Auditors in Member States such as Czech Republic, Hungary, Estonia, Latvia, Lithuania and Slovak Republic are not subject to any regulations in this respect.
36. Last but not least, there is mandatory indemnity insurance in all countries. An exception is Lithuania where it is mandatory for audit services, but is not required for all accountancy services.

LEGAL SERVICES

37. The principal services provided by the legal professions are legal advice and representing clients before the courts and other authorities in all aspects of the law. In most new Member States these are coupled with conveyancing of title to real estate, wills and family matters such as marriage contracts, tax advice, insolvency practice and patent law-related issues.
38. As for structure of the profession, there are advocates and there are legal advisers that provide legal services. This distinction is common among the new Member States. By and large, advocates are comparable to barristers of England and Wales, in that they have an exclusive right to represent parties in court.
39. The degree of legal profession's regulation is different in each of the surveyed countries. In this case, Czech Republic, Cyprus and Slovenia along with the Baltic states such as Estonia (only advocates) and Latvia seem to be the most regulated, with relatively severe price and advertising restrictions, exclusive rights and business structure and/or inter-professional co-operation restrictions.
40. On the other hand, Hungary, Lithuania, Poland and Slovak Republic come across as comparatively less regulated. In Estonia, legal advisers being the main competitors to advocates face no regulation on education, professional requirements, insurance, advertising or professional organisation.
41. In summary, however, entry barriers, price fixing or recommended prices, prohibition of advertising and rigorous definition of form of business add up to quite a restricted regulatory environment of the profession in most new Member States.

Entry and exclusive rights

42. The legal professions in new Member States enjoy ample exclusive rights. There are high entry requirements embracing generally five years of university education and on average two and a half years of professional experience. Successful completion of a professional entrance examination and a compulsory membership in a professional association are prescribed in all of the ten countries.
43. In Latvia, in order to match the tendencies of the market, the necessary period of work experience has been recently reduced.
44. It appears that in Cyprus, Hungary and Poland, advice in domestic and international law is reserved for the legal profession. In order to break these down further, in Poland, conveyancing and both advice and representation in patent law-related issues are likewise among exclusive rights of the profession.
45. In Czech Republic, Cyprus, Hungary, Latvia, Slovak Republic and Slovenia, only members of the profession are permitted to represent clients before courts (mostly in criminal matters). The same counts for Lithuania, subject to few exceptions. In Estonia it is only state-paid legal aid and representation merely in a case before the Supreme Court that are reserved to advocates. Activities such as representation before administrative agencies, including in tax matters, insolvency practice and advice in patent law are, in Cyprus, Hungary, Lithuania and Slovak Republic, shared with other professions.

46. In the recent past, Poland has endeavoured to facilitate access to legal aid by enabling individuals to provide legal aid (except in criminal and family cases) and allowing new business structures (partnership, corporation or individual practice).

Price regulation

47. The Commission understands that the fees charged by legal professions in new Member States are not completely free. In Cyprus there are minimum prices for legal services when the state pays for legal aid rendered to persons who cannot afford it. As regards state-paid legal aid in Estonia, precise prices are fixed by the state. Maximum prices for some services may be observed in Latvia, too.
48. In Slovak Republic and Lithuania, on the other hand, reference prices are applied. The former of the two countries is currently reviewing regulations on fee scales. In Czech Republic, there are binding prices for all kinds of services, but in all cases it is possible to negotiate contract prices which are independent of these regulations (the recommended prices are not always respected in practice). Professional associations in countries such as Poland and Hungary do not interfere with the level or structure of fees charged by legal professionals.

Advertising restrictions

49. In most of the ten new Member States, advertising by legal professions is rather heavily regulated.
50. There is a blanket prohibition on advertising in Estonia, Lithuania and Poland. As regards the latter, however, it is advocated that cannot advertise whereas legal advisers enjoy some margin of freedom of publicity (can provide information on scope of activities, areas of legal advice, professional experience and basis for calculation of remuneration).
51. In Czech Republic, Hungary, Slovenia most forms of publicity are not allowed, and in Latvia some. In Cyprus and Slovak Republic, meanwhile, practitioners are allowed to advertise, subject to considerable limitations.

Business structure

52. Rules governing the structure of legal companies mainly refer to opening of branch offices, creation of corporations comprising members of the legal profession, and types of business entity that the practitioners are allowed to form. Legal professions in new Member States are exposed to quite low regulation in the above area.
53. Regulations on location and diversification, it seems, are not applied in any of the ten countries but for Slovenia. The latter rules specify that practitioners either can or cannot open branch offices. As regards Polish advocates, there is a mechanism that professional bodies may take advantage of to restrict location.
54. In Member States such as Czech Republic, Cyprus, Estonia and Latvia, practitioners are denied the right to group together to form corporations, but in others (Hungary, Lithuania and Slovak Republic) incorporation with members of the same profession is possible.

55. More specifically, in Estonia and Hungary, there are no restrictions regarding specific forms of establishment of a business in the profession. In Slovenia, easing the present restriction of business establishment is being reviewed and therefore establishing also a limited liability company may eventually become possible.
56. However, in Cyprus, only two kinds of structures are practicable (sole practitioners and limited liability partnerships). In Slovak Republic, all but public limited companies and in Latvia all save limited liability partnerships and public limited companies are allowed. Czech Republic, however, does not permit only limited liability partnerships. In Slovenia, there has been an upward trend of establishing companies offering legal advice and legal services which are not under any professional control. The country's bar association has proposed enabling registration of these companies.
57. Indemnity insurance is not mandatory only in Cyprus and Latvia.

Inter-professional co-operation

58. In Estonia any form of multi-disciplinary practice is outlawed.
59. In Czech Republic, Cyprus and in Latvia, incorporation is generally not envisaged, but other forms of co-operation may be realised. Otherwise, the remaining countries indicate fairly liberal regime in this respect.
60. In Poland, professional partnership may be established only among legal advisers, barristers or foreign lawyers pursuing a permanent practice.

NOTARIES

61. The notary profession engages in the provision of a range of legal services, such as drawing up, issuing and authenticating of public and private documents, deeds, certificates, wills, preparing of bill and cheque protests, taking custody of documents and money. Notaries are also entitled to give general legal advice and, in some Member States, represent clients before administrative agencies or courts.
62. A distinctive feature of the profession is its competence to authenticate documents that are then considered to have the value of special evidence guaranteed by public law.
63. Although notaries do not exist in all the Member States of the EU25, all the new Member States have in the 90s adopted the system of notary public.
64. The professional association in Slovenia noted that foreign investors, particularly in the new Member States, required a high level of legal security for their transactions. To its opinion, the regulation for notaries contributed considerably to improving the level of legal certainty and quality of transactions which pass before notaries in the new Member States.
65. In the majority of the ten countries, it is both the public authorities and the professional association that regulate the profession (exception to the rule is Poland, Hungary and Latvia, where it is exclusively the public authority that assumes this role). In Malta the professional association has proposed to the Minister of Justice that the profession should become a self-regulating profession.
66. Notaries are by far the most regulated profession in all of the new Member States. Similarly to the EU15, there are stringent requirements for entry into the profession and regulation of the number of notaries (save Poland, Latvia and Malta) or branch offices (except for Czech Republic). The profession is subject to price regulation and all forms of advertising are strictly forbidden (except in and Slovenia where there is not a total ban). Furthermore, notaries have a considerable number of reserved tasks.
67. Poland, Czech Republic, Estonia, Hungary, Slovak Republic and Slovenia emerge as the most regulated of the new Member States, with elevated levels of regulation on entry and conduct. Latvia, Lithuania and Malta, on the other hand, have less stringent rules, with the exception of regulations of entry into the profession which appear to be high.

Entry and exclusive rights

68. In all new Member States, notaries face rigorous entry requirements including four to five years of university education, mostly five years of professional experience and completion of a professional examination (Slovenia being an exception here).
69. Contrary to the situation in EU15, the entry requirements do not vary considerably between the new Member States.
70. In most Member States, the numbers of notaries or their branches are regulated by the government. In Estonia, for example, the number of notaries' offices and their

corresponding territorial jurisdiction are determined by the Minister of Justice on the basis of an estimated number of notarial acts to be performed. In contrast, Poland, Malta and Latvia seemingly do not impose these quantitative restrictions.

71. The notaries' activities and exclusive rights do not differ very much among the new Member States.
72. Notaries in the ten new Member States have an exclusive right to provide a significant number of services such as foundation of notarial deeds, certification, asset transactions and declarations of intention, authentication, inheritance certificates, regulation of family matters (e.g. marriage contracts) and registry of wills. On the other hand, services like the right to provide legal advice (in the area of both domestic and international law) and, in some countries, limited possibilities to represent parties in courts and before administrative agencies are shared with lawyers.

Price regulation

73. Prices of the profession's services are predominantly heavily regulated in all new Member States. Minimum and maximum prices are applied in Czech Republic, Estonia, Latvia, Lithuania, Slovak Republic and Slovenia, and maximum prices in Poland, Hungary and Malta (in Malta, it appears that the prices are not respected in practice and are on average lower). It appears that reference prices are not used in these countries. In Estonia, fixed fees are established by law and notaries are not allowed to deviate from these.
74. In Poland, for instance, fees for notaries' services are fixed depending on the value of the object concerned. As for Slovenia, lower tariffs were introduced in 2001 in order to bring notary services closer to consumers.

Advertising restrictions

75. Regulations on advertising of notaries' services are very restrictive in almost all new Member States. All forms of advertising in the profession are strictly prohibited in Czech Republic, Estonia, Lithuania, Poland and Slovak Republic. In Latvia and Hungary, notaries may publicise their services to some extent, but most forms of advertising are still prohibited. In Malta, an unwritten code of ethics that is generally observed in practice lays down that advertising is not permitted. Advertising is not regulated in Slovenia.

Business structure and inter-professional co-operation

76. All the surveyed countries show strict regulations of the structure of notaries' companies. Forming corporations is not allowed and in most new Member States notaries are required to operate as sole practitioners. In Czech Republic, Hungary, Lithuania and Slovenia limited liability partnerships, public limited companies and private companies are prohibited. In Malta, public limited companies are not permitted.
77. In Latvia, the situation is the same and notaries are only allowed to co-operate to solve some technical or administrative issues (e.g. sharing the same building, etc). In Estonia, two or more notaries appointed to the same territorial jurisdiction may operate a common office with the consent of the board of the relevant professional

association, however, each notary shall perform notarial acts in his or her own name and shall be personally liable for his or her professional activities. Estonian notaries are allowed, however, to hold a common bureau with sworn translators.

78. Moreover, in most of these countries there are rules governing both the opening of branch offices and the regional scope of notaries' activities. In Latvia the '*numerus clausus* principle' embedded in the legislation, i.e. restrictions on the number of notaries' offices and the location thereof, was abolished in 2003.
79. The relevant professional association, however, argues that this has resulted in a lack of availability of notaries' services in all of the territory and in too much concentration of these services in large cities; therefore, re-institution of the above principle (determining particular areas where there is a need for notaries' services) is currently being reviewed. Research on possibilities of an economically based methodology of determining the number of notaries which would correspond best to the objective needs of population has been ordered by the professional association in Latvia.
80. Slovenia is currently reviewing amendments to legislation such as changes to the appointment of notaries public, determination of their numbers, control of notaries' work and some regulations regarding their representation.
81. It appears that a compulsory indemnity insurance is applied in all the new Member States.

ARCHITECTS

82. Architects provide a broad selection of services such as planning of buildings and developments, interior and exterior design, planning permission applications, preparations and monitoring of construction, technical control and certification, feasibility studies, procurement of building materials, topographical determination, demarcation and land surveying.
83. Similarly to the EU15, the scope of architects' activities and the fine dividing line between architectural and engineering services vary between the new Member States. Nevertheless, the principal activity of the architects' profession is design and advice to clients.
84. In general the profession appears to be subject to relatively low and not too diverse regulation in all surveyed Member States. Czech Republic, Estonia, Hungary, Latvia, Lithuania, Slovak Republic and Slovenia all exhibit rather low and very similar levels of regulation of the profession.

Entry and exclusive rights

85. Architects in the above countries are required to meet considerable entry requirements. The process of becoming a qualified or licenced architect takes seven to nine years and consists of mostly five years university education, on average further three years of minimum professional experience (in Lithuania even five) and successful completion of a professional examination (save Estonia and Hungary).
86. With respect to regulations on entry and exclusive rights, the comparatively highly regulated countries are Czech Republic, Hungary, Latvia, Lithuania, Slovak Republic and Slovenia. In these Member States licensed architects have numerous exclusive rights, some of which are shared with akin professions, to provide a wide range of services such as planning (blue prints), preparation and monitoring of construction, urban and landscape planning. Moreover, the latter is coupled with compulsory membership in the professional association, with the exception of Estonia, Lithuania and Latvia where only licensing is imposed.
87. In Estonia and Slovak Republic, by contrast, licensed architects are attributed fewer reserved tasks. It appears that in these countries consumers have more freedom to choose between licensed professionals and others, and all or most architectural services may also be provided by other parties.

Price regulation

88. While market entry is heavily regulated, market conduct is not. There are no mandatory, minimum or maximum fee scales for architectural activities in the surveyed Member States. This is in line with the situation in the EU15.
89. Non-binding recommended prices, however, are established in Czech Republic, Hungary, Latvia, Slovak Republic and Slovenia.
90. In Poland, the competition authority investigated and condemned the professional association of architects for fixing minimum prices for design works, architectonic and investment services.

Advertising restrictions

91. Interestingly, it appears that, unlike the EU15, architects in the new Member States are not subject to any specific regulations on advertising.

Business structure and inter-professional co-operation

92. Furthermore, no regulation regarding business structure and co-operation is imposed in these countries. The fact that architects can choose any business structure and work in co-operation with non-professionals and members of other professions clearly distinguishes the regulatory environment of the profession in new Member States from that of some of the EU15.
93. Contrary to the rest of the new Member States, in Estonia and Hungary indemnity insurance is not imperative.

ENGINEERS

94. The engineering professions provide multifarious services across a range of sectors (mechanical, civil, structural, electrical, chemical, traffic engineering, etc.). These are relatively often supplied along with other professional services such as architecture.
95. The services encompass feasibility studies, environmental assessments, design and planning, representation for obtaining permits, tender and contract administration, project and construction cost management, maintenance, surveying of sites, testing and certification.
96. In general, the profession is submitted to fairly strict entry regulations in most new Member States. Then again, it appears that engineers in all the ten countries are exposed to hardly any conduct regulation.

Entry and exclusive rights

97. In this vein, Estonia, Hungary, Latvia, Lithuania and Slovak Republic are among those countries with rather high entry regulation.
98. A controversial facet of the profession of engineer is the role of the title and the protection thereof. As regards the title of engineer, it is legally safeguarded in the majority of Member States. In Czech Republic, for instance, it is the title 'Certified engineer' that has legal protection. Individual membership in a professional association is mandatory in countries such as Czech Republic, Hungary and Poland. In Hungary, nevertheless, there is a proposal to review licensing as the rules had been set according to Soviet-style education and now, further to changes in education, licensing ought to be uniform with European standards, too.
99. Certified or licensed engineers must meet criteria such as a minimum period of university or higher education (mostly four to five years), often coupled with additional one to three years of professional experience. The latter rises to five years for design and construction supervisors. Passing a professional exam is not usually a prerequisite.
100. There are relatively many reserved activities for engineers in Cyprus, Estonia, Latvia and Lithuania. Design, construction and planning are repeatedly exclusive to the engineering profession in the majority of new Member States.
101. In Cyprus, for example, only registered engineers (and architects for that matter) may undertake supervision over construction, which is obligatory for all new buildings.

Price regulation

102. In the majority of the new Member States, professional associations do not involve themselves in any way in setting prices (e.g. Czech Republic, Estonia, Latvia and Lithuania).
103. Nonetheless, in Cyprus engineers have to conform to binding minimum prices for some kinds of services and in Hungary and Slovak Republic there are non-binding

recommended prices for all kinds of services. Cyprus is currently reviewing regulations on fees for architectural, structural, mechanical and electrical services.

Advertising restrictions

104. In the majority of the countries such as Czech Republic, Estonia, Hungary, Slovak Republic, Lithuania and Latvia, there are no particular regulations on advertising of the profession. Conversely, in Cyprus all advertising is forbidden.

Business structure and inter-professional co-operation

105. There are no limitations of this type in Member States such as Czech Republic, Estonia, Hungary, Lithuania and Slovak Republic.
106. In general, engineers in new Member States are free to organise their practices as sole practitioners, limited liability partnerships, public limited companies or private companies. This also applies in relation to inter-professional co-operation in the profession. Nevertheless, in Cyprus apparently in the establishment of a business engineers are constrained to either sole practitioner or private company only.
107. Again, indemnity insurance is compulsory, except in Cyprus, Estonia and Hungary.

PHARMACISTS

108. Pharmacists' role is to prepare, test, store and supply medicinal products and, at the same time, provide information and advice on the products dispensed and usage thereof. A distinction should be made between: prescription-only medicines, "over the counter" (non-prescription) medicines and other health products.
109. As in the case of EU15, there are rigorous entry requirements and the profession enjoys an effective monopoly over the sale of prescription-only medicines. Apart from regulations on prices and advertising, pharmacists are submitted to severe restrictions regarding location and diversification.
110. Czech Republic, Lithuania, Malta and Slovak Republic belong to the most regulated countries. Estonia, Poland and Slovenia are somewhere in the middle, whilst Hungary and Latvia appear to be the least regulated.

Entry and exclusive rights

111. In all new Member States the entry requirements encompass university education of minimum five years duration and generally six months of practice in a pharmacy. In countries such as Latvia, Lithuania and Slovenia there is also a professional examination.
112. It is only in Czech Republic, Latvia and Malta that there are restrictions on the number of pharmacies. Their establishment is subject to demographic and geographic criteria / economic needs tests. This is in sharp contrast to the situation in the EU15.
113. As regards exclusive rights, also in the new Member States pharmacists have a reserved right to sell prescription-only medicines. In a number of countries, such as Hungary, Latvia, Malta and Slovak Republic, veterinary medicines are administered by veterinarians. In Slovenia, "over the counter" medicines may be sold by pharmacy technicians.
114. In Estonia and Latvia, assistant pharmacists may prepare and dispense medicines, provided this is done under the supervision of a pharmacist. Finally, it appears that in Lithuania medicines can be dispensed by pharmacists without a university degree, too. In Poland, assistant pharmacist is a profession that is allowed to prepare and dispense medicines (restrictions regarding the nature of medicines exist).
115. As part of liberalisation of the market, Slovak Republic is currently reviewing regulations to allow sale of non-prescription medicines in supermarkets and petrol stations. In Latvia, non-prescription medicinal products for self-medication, which are included in the list approved by the Minister for Welfare, are allowed to be distributed also outside of pharmacies.

Price regulation

116. Some pharmacists' services are provided free of charge, but not the medicines themselves. For these services pharmacists are recompensed by the governments according to systems regulating prices, reimbursement for medicines and prescription fees.

117. There are binding minimum prices for some services in Poland and binding maximum prices for some services in Lithuania, Slovak Republic and Slovenia.
118. In Member States such as Czech Republic and Hungary there are non-binding recommended prices either for all or some types of services. In Poland there is a system of medicines reimbursement which provides for maximum prices. On the other hand, Estonian pharmacists do not face any restrictions regarding prices, save for fixed mark-ups for medicines. Pharmacists in Malta appear to be rid of any price regulation.
119. Latvia is currently considering introducing fixed prices for all medicines, arguing that this would reduce unfair competition and enhance competition on the quality of service instead.

Advertising restrictions

120. It is not clear whether the following applies merely to prescription-only medicines.
121. Even though there are considerably strict rules on advertising in the profession in all new Member States save Latvia, it appears that advertising is not subject to a blanket prohibition in any of the ten countries.
122. Direct advertising of prescription-only medicines to the public is, in the main, forbidden. In Lithuania, Malta and Slovak Republic most forms of advertising are banned, whereas in Poland and Slovenia, most forms of advertising are allowed.
123. In Hungary, pharmacists may conduct advertising except for direct mailing and price advertising. The same is true for Czech Republic, where comparative price advertising is also excluded.

Business structure and inter-professional co-operation

124. Similarly to the EU15, pharmacy businesses in the new Member States are submitted to rigid regulations governing their structure - ownership of pharmacies, diversification and location of branch offices and establishment of partnerships among pharmacists.
125. It seems that in the new Member States incorporation by pharmacists is allowed. Therefore, non-pharmacists should normally be able to own a pharmacy. In Latvia, only a pharmacist with a certificate is allowed to manage a pharmacy, whereas in Estonia there are plans under way to impose restrictions on ownership - so that providers of health services, manufacturers and those with a right to prescribe medicines may not retain a pharmacy.
126. In Estonia, the controversial issue of pharmacy ownership is currently being reviewed as according to the professional association further to the deregulation in 1996 now as much as 80 per cent of pharmacies are in the sphere of influence of two large medicinal product wholesale companies. Maltese pharmacists are not allowed to form partnership and operate a pharmacy with medical doctors, dentists or veterinary surgeons.
127. In Poland, a monopoly of pharmacy ownership was established in 2000, which was then subsequently in 2001 deregulated. As of 2004, however, chain companies face

an ownership limit (being 1 per cent of pharmacies in a given region). In order to settle the pharmaceutical market in Poland, re-introduction of the monopoly is being currently discussed. In Slovak Republic no chain companies are allowed.

128. In countries such as Czech Republic, Hungary, Estonia, Malta and Slovenia there are regulations on location. Rules on diversification pertain to Estonia, Hungary, Lithuania, Malta and Slovak Republic.

129. Indemnity insurance is required only in Hungary.

November 2004

ANNEX

1. Overview of regulation in the new Member States, presented by way of the regulation indices (EU15 for reference)

	Accountants & Auditors	Lawyers / Advocates	Notaries	Architects	Engineers	Pharmacists	
Austria	6,2	7,3	9,6	5,1	5,0	7,3	
Belgium	6,3	4,6	9,3	3,9	1,2	5,4	
Denmark	2,8	3,0		0,0	0,0	5,9	
Finland	3,5	0,3		1,4	1,3	7,0	
France	5,8	6,6	10,0	3,1	0,0	7,3	
Germany	6,1	6,5	11,0	4,5	7,4	5,7	
Greece	5,1	9,5	<i>n.a.</i>	<i>n.a.</i>	<i>n.a.</i>	8,9	
Ireland	3,0	4,5		0,0	0,0	2,7	
Italy	5,1	6,4	10,7	6,2	6,4	8,4	
Luxembourg	5,0	6,6	<i>n.a.</i>	5,3	5,3	7,9	
Netherlands	4,5	3,9	6,3	0,0	1,5	3,0	
Portugal	<i>n.a.</i>	5,7	<i>n.a.</i>	2,8	<i>n.a.</i>	8,0	
Spain	3,4	6,5	9,4	4,0	3,2	7,5	
Sweden	3,3	2,4		0,0	0,0	12,0	
UK	3,0	4,0		0,0	0,0	4,1	
Czech Republic	1,4	5,4	6,2	9,0	3,7	<i>n.a.</i>	6,9
Cyprus	3,5		6,5			<i>n.a.</i>	
Estonia	0,0	3,8	6,0	10,5	3,6	3,6	5,0
Hungary	--	4,0	4,4	10	4,1	4,4	3,6
Latvia	0	3,8	7,8	8,2	4,4	3,5	2,9
Lithuania	0	3,8	5,0	7,9	4,1	3,8	6,2
Malta				5,4			6,4
Poland	3,3	3,9	4,9	8,8			4,9
Slovak Republic	3,1	4,2	5,3	11,1	4,4	3,7	5,5
Slovenia	0,0		6,1	9,2	4,0		5,2

Legend for new MS:

blank fields = not received response

n.a. = missing value (answers to particular questions)

-- = accountants in Hungary do not have a professional association

2. Tables with processed answers to questionnaires