

# **Study on Regulatory Regimes in Selected Professional Services in EU Member States**

Interim Report

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**Study on Regulatory Regimes in Selected Professional Services in  
EU Member States**

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Caribbean Region**

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Submitted by



*The Views expressed in this report do not necessarily reflect the views of the European Commission*

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## Abbreviations and Explanations

ACP	African Caribbean Pacific
CARIFORUM	Caribbean Forum of States : Antigua and Barbuda, the Bahamas, Barbados, Belize, Dominica, the Dominican Republic, Grenada, Guyana, Haiti, Jamaica, Saint Lucia, Saint Vincent and the Grenadines, Saint Kitts and Nevis, Suriname, and Trinidad and Tobago. Cuba is a member but was not involved in this EPA.
CRNM	Caribbean Regional Negotiating Machinery
EEA	European Economic Area: Iceland, Liechtenstein, Norway.
EPA	Economic Partnership Agreement
EU	European Union : Austria, Belgium, Bulgaria, Cyprus, Czech Republic, Denmark, Estonia, Finland, France, Germany, Greece, Hungary, Ireland, Italy, Latvia, Lithuania, Luxembourg, Malta, Netherlands, Poland, Portugal, Romania, Slovakia, Slovenia, Spain, Sweden. United Kingdom
Schengen Countries	Austria, Belgium, Czech Republic, Denmark, Estonia, Finland, France, Germany, Greece, Hungary, Iceland, Italy, Latvia, Lithuania, Luxembourg, Malta, Netherlands, Norway, Poland, Portugal, Slovakia, Slovenia, Spain, Sweden.
UNCPC	United Nations Central Product Classification

## I. INTRODUCTION

This project arises from the Economic Partnership Agreement (EPA) between the Caribbean ACP (CARIFORUM) and the EU governing trade relations 2008-2028. A key aim of that agreement is to improve the CARIFORUM countries' global competitiveness and promote export diversification. It is expected that the main gain will be in services as these countries already have market access for their goods. The World Bank has observed that the key opportunities for market growth in the CARIFORUM countries is in the export of services.

Title II of the EPA provides arrangements for a progressive two-way liberalisation of investment and trade in services. It is acknowledged that this will require adjustments to legislation, regulations and administrative provisions in the EU. Article 82 para. 2 provides:

*"the Parties shall encourage the relevant professional bodies in the respective territories to jointly develop and provide recommendations on mutual recognition to the CARIFORUM/EU Trade and Development Committee...for the authorisation, licensing, operation and certification of investors and service suppliers and, in particular, in the professional services sector".*

Thus, it is envisaged that there will be subsidiary agreements on mutual recognition.

In addition to helping professional associations to prepare for mutual recognition negotiations with EU counterpart associations under Articles 82 and 85 of the EPA, this report will provide information on the regulatory frameworks and provide market intelligence to assist small and medium professional services businesses on supplying services in 8 EU Member States.

The objective of this report is to set out the opportunities that arise from this Agreement; to provide trade data; and outline the regulatory framework for providing selected professional services in 8 Member States of the EU and to so as to assist the CARIFORUM countries and the relevant professional associations within them in making the necessary adjustments and informing negotiations so as to maximize the benefits envisaged by the EPA.

## II. METHODOLOGY

### II.1 Introduction

In addition to researching the trade in services and the opportunities that might arise from the liberalisation under the EU-CARIFORUM agreements, the consultants researched the regulatory regimes currently in force in Estonia, France, Germany, Italy, Malta, Netherlands, Spain and the United Kingdom. In respect of the following professions and trades:

- Accountancy, Auditing and Book-keeping.
- Architecture.
- Engineering
- Management Consultancy
- Tour Operations.
- Tourist Guide Services.

Our approach to the level of disaggregation in the selected service industries was based on UNCPD classifications. An important point to note is that the selected services in this assignment are typically defined at the UNCPD 3 or 4-digit level (UNCPD classification is the international classification usually used when categorizing services - see <http://unstats.un.org/unsd/statcom/doc02/cpc.pdf>).

This means that the selected service industries are broadly defined and could be disaggregated further. For example, under the UNCPD, Management Consulting Services is classified as 8311 which is the 4-digit level, however this is broken down in six 5-digit categories as follows:

1. General Management Consulting Services.
2. Financial Management Consulting Services.
3. Human Resources Management Consulting Services.
4. Marketing Management Consulting Services.
5. Production Management Consulting Services.
6. Other Management Consulting Services.

On the other hand Engineering Services is defined as 833, which is the 3-digit level. However, this is broken down into **six** 4-digit categories which are each, in turn, broken down into **four** 5-digit categories (which means that there are 24 sub-categories of engineers). There are similar sub-classifications of architectural and accounting & auditing services.

In this assignment we will treat the selected service industries under the broad UNCPD 3 or 4-digit categories but if any exceptions or significant differences are identified, they will be included.

The consultants researched the regulatory regimes currently in force in Estonia, France, Germany, Italy, Malta, Netherlands, Spain and the United Kingdom in respect of the specified professions and trades. It should be noted that the United Kingdom has three separate legal jurisdictions; England and Wales, Scotland and Northern Ireland. England, Wales and Northern Ireland are part of the Common Law tradition found in the

Anglophone Caribbean countries. So too is the Republic of Ireland. Scots Law has its roots in the Civil Law tradition of continental Europe but with substantial Common Law influences. Both are covered in this report. Some of the professional bodies for Northern Ireland are arranged on an all-Ireland basis and these are also covered.

Some countries (Germany, Italy and Spain) have considerable decentralization and whilst differences are pointed out in the report, we have given a general national overview.

The review was based on:

- Legislation.
- Regulations.
- Administrative procedures.
- Industry practices.

The consultants have identified and referred to the specific laws and regulations and provide a database of contacts of all relevant professional organisations and regulatory bodies. In particular, the consultants gathered information on the following:

- Academic qualifications.
- Accreditation bodies.
- Professional training.
- Professional affiliations(s).
- Professional curriculae and examinations.
- Licensing, certification, registration, permits and fees.
- Language requirements.
- Citizenship, visas etc.
- Administrative processes.
- Professional standards.
- Processes for incorporating new companies.
- Processes for establishing joint ventures or other alliances.
- Capitalization requirements.

The methodology included the following:

- Internet research - to obtain information on the business environment and relevant regulatory framework issues
- Telephone interviews to collect information from relevant officials and industry players
- Field research by consultants to collect information not available on the internet and to hold face to face discussions with critical industry players
- Visit relevant staff at DG Trade, DG Dev, DG Enterprise and Industry, Internal Market and Competition to obtain information on EU policies and requirements.
- Visit to France, Belgium, The Netherlands, The U.K, Estonia and Malta to a) develop a feel for cultural aspects of the countries, b) establish business relationships, and c) collect any outstanding data



- Conduct a two day workshop in Barbados with relevant persons from the CARIFORUM countries to outline the main findings and to obtain their feedback and input.

## **II.2 Business Environment/Market Related Issues**

Our analysis of the business environment/market related issues includes the following:

1. Overview of the specific domestic market for each of the selected countries
  - (a) Size of overall market and growth trends
    - i. Population
    - ii. GDP
    - iii. GDP per capita
    - iv. GDP growth
  - (b) Other factors important to trade
    - i. Extent to which English is spoken – is language a barrier
    - ii. Quality of the ICT infrastructure
    - iii. Availability of air and ground transportation
  - (c) Size and structure of domestic market for each service
    - i. Contribution of selected industries to GDP
    - ii. Size of firms in each selected industry
      1. number of firms in each selected industry
      2. average turnover
      3. number of employees
    - iii. Survey of associations (or a sample of service providers) in each of the selected industries to determine
      1. number of service providers in each of the selected industries
      2. size of local versus foreign services providers
      3. attitude towards foreigners entering the market
      4. attitude towards joint ventures and collaboration
      5. how competitive are service providers in each industry?
      6. main challenges
      7. main users of particular service
        - a. public sector

- b. multinationals
  - c. large local private entities,
  - d. small local private sector entities
  - e. NGOs
  - f. foreign governments,
  - g. foreign private sector
- iv. Survey of (a sample of) services users to determine
  - 1. the ease with which these services are available domestically
  - 2. the quality of services provided
  - 3. the price competitiveness of local versus foreign service providers
  - 4. preparedness to use foreign suppliers within the EU
  - 5. preparedness to use foreign suppliers from outside of the EU
- (d) Overview of the EU policies and requirements and, to do so, will visit relevant staff at DG Trade, DG Dev, DG Enterprise and Industry, Internal Market and Competition.
- (e) Indicate to what extent there is currently cross-border trade in these service sectors

2. Trade related issues in the selected industries in the selected countries
- (a) To the extent possible, provide data on trade in the mentioned services in the target countries (imports and exports)
  - (b) To the extent possible identify if there is there outsourcing of these services (off-shoring) to firms overseas by large firms in Europe.
  - (c) What are relevant EU policies and requirements with respect to trade in these services
  - (d) To what extent there is currently cross-border trade in these service sectors
    - i. Within the EU (intra-European supply of services).
    - ii. With countries outside of the EU
  - (e) To what extent does trade take place in all four modes
    - i. Mode 1: Cross border – where only the service moves e.g. by internet, courier, telephone, etc
    - ii. Mode 2: Consumption abroad - Consumer comes to service provider
    - iii. Mode 3: Establishment of a commercial presence in the foreign country

- iv. Mode 4: Movement of natural persons – where there is temporary movement of service providers.

A questionnaire was prepared and was used by the experts and local resources in the EU target markets to elicit the above information (see Appendix A).

### **II.3 General Framework for Setting up in Business or Supplying Services**

For each country we sought to address the following:

- The Consultant is considering going to country X to look for work – Can he/she actually go to look for work or must they have a contract before they can go.
- Do you need a visa to enter that country? How long does it take to obtain it? How much does it cost? Who do you have to apply to? What are the likely hitches?
- The basic rules (e.g. registration, administrative, fees, permits, licences) governing setting up in business as:
  - A sole trader.
  - A partnership.
  - A company (different types).
- Are these rules different for non-EU persons or businesses?
- What are the rules re registration for national and local taxes? Also, does one have to register with the Customs Department?
- What are the visa requirements for people coming to do business in that state from the CARIFORUM countries?
- Are there geographical restrictions on where they can and cannot do business?
- Are there local taxes and restrictions?
- What are the provisions governing e-commerce?
- If qualified with a professional body in the CARIFORUM countries, does one have to register with the equivalent in the relevant EU country in order to provide those services there (e.g. accountancy)? If so, what does this entail time-wise, fees, etc.
- Are there restrictions on bringing staff to that country to engage in the business and, if so, what are they? Is there any limitation on the

length of their stay? Do they need visas and work permits?

- What are the rules on repatriating profits?
- Are there restrictions on a non-EU citizen opening a bank account? What are they? What does he/she need to do to open an account?
- Are there rules governing the charges that can be made for supplying the professional services?

## **II.4 Regulatory and Administrative Issues for the Listed Professions**

The following matters were addressed for each profession and each state. We looked at how each profession is regulated, the rules governing access and rules on establishing a business/professional presence in that EU Member State:

### ■ ***Designation/ Title:***

- Whether the designation or title of the profession is protected?
- If so, whether that is that by law, regulation, professional association, educational establishment?
- How is it protected and what are the consequences for a person providing those services without that official designation?
- Are there specialist sub-designations? E.g. Management Accountant, Public Sector Accountant, Domestic Tour Operator, Trekking Tourist Guide?
- If there are specialist designations, how are these regulated/protected? What proof of specialist qualifications/training/experience is needed? Are there specialist professional associations?
- Can a corporate body be designated a member of the professions or become a member of the professional association?
- Is there associate membership or quasi-membership e.g. paralegals?

### ■ ***Qualifications:***

- What are the qualifications that are needed to become a member of/practice that profession or to provide those professional services?
- How does a person become a member:

Registration procedure, entry qualifications, fees, examinations and other assessments etc.

- Are there rules about where those qualifications were acquired?
- What are the rules governing mutual recognition of foreign qualifications?
- Must the qualification be acquired at an accredited institution and, if so, who does the accreditation? Are any of these in the Caribbean?
- Does the professional association provide courses that lead to the attainment of the qualification? Do they also offer courses to external candidates i.e. those overseas?
- Are there rules governing the length of time it took to acquire those qualifications? The number of attempts made? Expiry of qualifications? Transitional arrangements whereby those who acquired qualifications under an old regime/system can gain recognition under the new system?
- Is there a "fast track" system for acquiring the qualifications e.g. intensive training courses or exemptions from some parts of the course for those that are qualified in other professions or disciplines?

■ ***Training/ Experience***

- Is there a special training requirement to qualify for membership of the profession?
- Is there a geographical requirement laid down as to where that training or experience took place or was acquired e.g. "in France", "in an urban environment", "in both an urban environment and in at least one project of 12 months duration in a rural setting", "with at least 6 months experience overseas"?
- Are there accredited institutes, firms or professionals that provide training or work experience?
- Is there a system of Accreditation for Prior Experience (APE) which exempts candidates from some or all of the requirements for formal qualifications?
- Are there rules governing the content of the training course?

- Are there Continuing Professional Development (CPD) requirements?

■ **Regulatory Authority**

- What is the name of the Ministry or State body responsible for regulating the profession?
- What is/are the name(s) of the professional association(s)? What is their status e.g. State professional associations, private associations, quasi-public bodies?
- Is membership of a particular/any professional association compulsory? If not, does it provide privileges?
- Which body issues the certificate/diploma etc of membership of the profession? Are there rules about the display of the certificate/logo etc at business premises, in business stationery, online etc?
- Is a special licence needed for the provision of all/some of the professional services?
- Are there rules governing the type of business that a member of the profession can provide services through (sole trader, partner, limited liability company, unlimited liability company etc.)?
- Are there legal requirements that make it compulsory for individuals, corporate bodies, public institutions to engage the services of particular professions (e.g. company accounts must be audited by a chartered accountant, tour operators must use the services of a licensed tourist guide etc)?
- Can a person be a member of more than one profession? Can the firm be multi-disciplinary e.g. a firm combining lawyers, architects, engineers and accountants?
- Are there special rules governing conflict of interest? Activities in which members of the profession are prohibited from engaging in?
- Are there special rules on disclosure of information; on fees and other charges?
- What is the disciplinary body for the profession? What are the rules governing disciplinary matters?

### **III. PRINCIPAL FINDINGS**

#### **III. 1 Executive Summary**

- The project arises from the European Partnership Agreement (EPA) between the EU and the CARIFORUM countries regarding trade relations 2008-2028.
- Amongst the aims of the EPA are to:
  - Improve CARIFORUM countries global competitiveness.
  - Enable them to take advantage of key opportunities in the export of services.
  - Liberalise investment and trade in services.
- The EPA will require adjustments in EU legislation, regulations and administrative procedures.
- It will be necessary to develop mutual recognition procedures for professional and other qualifications.
- The objectives of this report are to:
  - Set out the opportunities that arise for certain key professions.
  - Provide trade data.
  - Outline the existing legal, regulatory and administrative framework for these professions in 8 EU Member States.
- The professions concerned are:
  - Accountancy, auditorship and book-keeping.
  - Architecture.
  - Engineering.
  - Management Consultancy.
  - Tourist Guiding.
  - Tour Operations.
- In defining those professions this report uses the UNPC Classification System.
- The 8 EU Member States covered are: Estonia, France, Germany, Italy, Malta, Netherlands, Spain and the United Kingdom.

### III.2 Summary of Findings

#### The Business Environment Considerations and Opportunities for Trade in the Selected Industries

##### General Considerations and Macroeconomic Comparisons

The table below shows the 27 current members of the EU (EU27), the year of entry, population and official language. The total population of the EU is about 486 million. The eight selected countries are highlighted in the table.

Country	Year of Entry	Population (millions)	Official Language
Austria	1995	8.3	German
Belgium	Founding member	10.7	German, French, Dutch
Bulgaria	2007	7.6	Bulgarian
Cyprus	2004	0.8	Greek, English
Czech Republic	2004	10.3	Czech
Denmark	1973	5.4	Danish
Estonia	2004	1.4	Estonian
Finland	1995	5.3	Finnish, Swedish
France	Founding member	63.7	French
Germany	Founding member	82.5	German
Greece	1981	11.2	Greek
Hungary	2004	10.1	Hungarian
Ireland	1973	4	English, Irish
Italy	Founding member	57.3	Italian
Latvia	2004	2.3	Latvian
Lithuania	2004	3.4	Lithuanian
Luxemburg	Founding member	0.5	French, German
Malta	2004	0.4	Maltese, English
Netherlands	Founding member	16.4	Dutch
Poland	2004	38.1	Polish
Portugal	1986	10.4	Portuguese
Romania	2007	21.5	Romanian
Slovakia	2004	5.4	Slovak
Slovenia	2004	2	Slovenian
Spain	1986	45.3	Spanish
Sweden	1995	9.2	Swedish
United Kingdom	1973	60.4	English

The eight selected countries were compared in terms of the following criteria for the year 2007 (see table below):

- Market size – Grade A represents the largest market size in terms of average GDP



- Market growth – Grade A represents the fastest growth category
- Market stability – Grade A represents the most stable economy in terms of prices
- Service trade inclination – Grade A to D represents different categories measuring the value of trade in services as a percentage of GDP. A higher grade indicates a greater inclination to trade services.
- Social Well Being – using the UNDP Human Development (HDI) Index which compares countries using a set of economic and social variables. All of the selected EU countries fall into the high HDI rating which means the societies have a high level of social well being.

Country	Market Size	Market Growth	Market Stability	Service Trade inclination	Social Well Being /HDI
	Grade	Grade	Grade	Grade	Grade
Estonia	D	A	B	D	High → 42
France	A	C	B	C	High → 11
Germany	A	C	A	C	High → 23
Italy	A	C	B	C	High → 19
Malta	D	C	B	D	High → 36
Netherlands	C	C	B	B	High → 6
Spain	B	B	B	C	High → 16
U.K.	A	C	A	B	High → 21

Source: HDI Ranking: [http://hdr.undp.org/en/media/HDI\\_2008\\_EN\\_cover.pdf](http://hdr.undp.org/en/media/HDI_2008_EN_cover.pdf)

Source: Average Real GDP Growth:  
<http://epp.eurostat.ec.europa.eu/tgm/table.do?tab=table&init=1&plugin=1&language=en&pcode=tsieb020>

- The eight selected countries can be briefly assessed in terms of its openness to diversity, use of English, and geographical proximity to other countries or Regions which are often important considerations in trade in services.
  - Estonia is quite open to diversity because of its historic connections with former Soviet, Baltic and Scandinavia countries; most business persons communicate quite well in English; and the country's location and historical connections offer an excellent gateway to the other former Soviet States, Baltic States and Scandinavia
  - France has persons from various culture however the openness to diversity is reduced because the French are very proud of their heritage and things French ; most persons can speak english but the preferred language for doing business is French ; and France is a natural gateway to the rest of the EU.
  - Germany is very proud of things German rendering it a little difficult to penetrate their market ; most people speak English

well and are prepared to use it ; it is conveniently located relative to other EU countries

- Italy is also protective of its heritage but not averse to foreigners; many people speak English but it is not the natural first choice; and it is not as good a gateway to other countries as most other EU countries
- Malta is protective of its heritage, English is spoken readily by most persons; and it is an excellent gateway to North African countries
- The Netherlands is very open to diversity, most people speak excellent English, and it is an excellent gateway to the rest of the EU and the Caribbean.
- Spain is somewhat open to diversity; many speak English but Spanish is the language of choice; and it is not as good a gateway as some of the other EU countries
- United Kingdom has diversity embedded in it even though it is very proud of its heritage and traditions; English is definitely the language of choice; and it is an excellent gateway to the rest of the world.

- Trade data on the selected services industries were available to a limited extent for France, Germany, Italy (very limited), Malta (very limited), Spain and U.K
- Data on industry structure were available to some extent on most countries though limited for Malta, Netherlands and the UK (see Section IV)
- In terms of the overall business environment, most industries are feeling some effect of the global economic meltdown but there are opportunities in this for Cariforum because it will mean that EU service providers are more likely to be open to partnerships and more creative approaches to cutting costs – such as outsourcing and offshoring (using Mode 1).
- On the whole, the EU market presents a massive opportunity for Cariforum because on aggregate each selected industry when aggregated is many multiples of the size of its equivalent in Cariforum. For example, a representative of the UK Management Consultancy market explained that the industry would be quite indifferent to Cariforum Consultants entering the market because they would barely notice it in an industry of 80,000 local Management Consultants!

#### Country Specific Opportunities

- Opportunities for trade in the selected countries
  - In Estonia the greatest opportunities come through the fact that the society is relatively open and receptive to foreigners and the idea of partnerships. This means there are opportunities for joint ventures to penetrate the nearby and culturally connected former Soviet, Scandinavian and Baltic

markets in all of the selected industries. Estonia's market is relatively small but its location and historical connections provide a tremendous opportunity for Cariforum service providers to seek opportunities in nearby states. A further important opportunity in Estonia is created by the fact that the Consulting team developed good business linkages who are prepared to facilitate matchmaking missions.

- France is somewhat closed to foreign service providers and the language and legal barriers present challenges but Cariforum service providers could look to pursue opportunities based on lower costs – joint ventures using Mode 1 (using the internet to provide back office support) and Mode 4 (joint bids on short term contracts in the EU or the Caribbean). There are also good opportunities for tour operators and tour guides to provide tourism services in France (an extremely popular tourism destination) to the Caribbean Diaspora living in the UK, Spain or The Netherlands.
- Germany is also somewhat closed but they have the largest economy in the EU and command the English language very well. Given that it is a high cost society there are opportunities for Cariforum service providers to engage in partnerships with German services providers which will reduce their costs e.g. in joint bids for contracts or providing support services through Mode 1 e.g. computer assisted drawings by architects and engineers or bookkeeping services for accountants.
- Italy is reasonably receptive to foreign visitors and service providers; situated a little further away from Cariforum routes and English is not the preferred language, however costs are higher than those in Cariforum so these could be exploited in all of the selected industries e.g. providing back office support, tours to historical sites, etc.
- Malta is somewhat closed based on the fact that most businesses are very small family run operations and the market is very small. However, the Maltese Government is encouraging its business people to seek partnerships now that the country is in the EU. Joint ventures with Maltese service providers would provide an excellent opportunity for Cariforum services providers to penetrate the nearby North African markets with which Malta has close ties. A further important opportunity in Malta is created by the fact that the Consulting team have developed strong business linkages that are prepared to facilitate matchmaking missions.
- The Netherlands, though a relatively small economy, provides good opportunities for Cariforum services providers because it promotes diversity and is not averse to joint ventures. Surinamese service providers should have excellent opportunities because of the historical relationship, the

common language and the significant Diaspora in the Netherlands. However, given the openness of the business environment and the wide use of English, all aggressive Cariforum service providers can access the opportunities. There are also serious opportunities in all of the selected industries based on lower costs in Cariforum. In addition, the personal visit made by the consultants resulted in valuable contacts willing to facilitate trade missions and matchmaking trips.

- In Spain there seems to be an overall level of being closed to service providers from developing countries, however, there could be some joint venture opportunities in most of the selected industries whereby Cariforum Consultants can partner Spanish counterparts in bidding on projects or carrying out back office and support services (using Mode 1). There are definitely more opportunities for service providers from the Dominican Republic who share a common language.
- The UK clearly presents opportunities for Cariforum service providers because of the diversity, the large Diaspora population living there, the historical connections, and the fact that it is home to the English language. It is also relatively easy to establish business in the UK which can be used as a launching pad to penetrate other EU markets. The Caribbean Diaspora in the UK remains relatively untapped by Caribbean services providers, for example in Tour Guiding or Tour Operator services. There are also significant cost advantages that can be exploited, for example, the fees of UK management consultants tend to be much greater than those for similarly qualified Cariforum counterparts.
- To exploit the advantages outlined above will require aggressive and proactive initiatives by: a) Caribbean service providers themselves, b) Association representing service providers, c) Caribbean policymakers and negotiators, and d) Caribbean High Commissions and Diplomatic Attaches in the various EU countries. These players will have to see the large EU market as part of their day to day opportunity set, operate using all the modes of trading services, and exploit all of the potential opportunities.
- General Framework for Supplying Services in Estonia:
  - The legal system is based on the Continental European System and is influenced by the Finnish Legal System.
  - There is compulsory registration for architects, tour operators and civil engineers.
  - There are very quick and efficient business registration systems.

- No compulsory membership of the Chambers of Commerce and Industry.
  - Types of business entities: sole traders; general partnerships, limited partnerships; private limited companies; public limited companies.
  - Most professionals operate as sole traders or in partnerships.
  - The minimum share capital to set up a private limited company is €2556.
  - It is easy to open a branch office in Estonia.
  - Taxes: Income Tax – Flat rate of 21%; VAT – 18%; Social Tax – 33%. There are personal allowances.
  - No tax treaties with CARIFORUM countries.
  - Estonia is part of the Schengen system.
  - Short term visa (up to 90 days) costs €60; long term visa (single or multiple) is €90.
  - Non EU/EEA citizens need a work permit and residence permit. Granted for 2 years and may be extended to 5 years.
- General Framework for Supplying Services in France:
- France has a Continental European System of Law.
  - It has introduced new simplified procedures for establishing SMEs under the Economic Initiative Law 2003 and the SME Law 2005.
  - Types of business entities: sole trader; single owner company (EARL); partnership (SNC); limited liability company (SARL); public limited company (SA); simplified joint stock company (SAS).
  - Sole traders must register with the social security organization and must have professional liability insurance.
  - Sole traders can form a single owner company and enjoy the benefits of limited liability. There is no minimum capital requirement.
  - France is part of the Schengen system.
  - Short term visa (up to 90 days) costs approximately €60.
  - For a long term visa (single or multiple) must prove that you can maintain yourself from your income throughout the period.
  - Non EU/EEA citizens need a residence permit.
  - Corporation tax ranges from 19% to 33%.
  - There are no tax treaties with CARIFORUM countries.
- General Framework for Supplying Services in Germany:
- Germany has a Continental European Legal System.
  - It is a federal state and most regulation of the professions take place at "Lander" (state) level.
  - Businesses, with the exception of specified professions that are licensed, must register at the local trade office.

- Types of business entities: sole traders; general partnerships, limited partnerships; private limited companies; public limited companies.
  - The minimum share capital for a company is €25000.
  - It takes approximately three weeks to register a company.
  - Tax: VAT 17%; Corporation Tax 19%; local trade taxes.
  - No tax treaties with CARIFORUM countries.
  - Very detailed employment protection and anti-discrimination laws.
  - Detailed social security provisions.
  - Germany is part of the Schengen system.
  - Non EU/EEA citizens need a residence permit and this then entitles them to work.
- General Framework for Supplying Services in Italy:
- Italy has a Continental European Legal System.
  - Much of the regulatory and administrative framework for professions take place at the regional/provincial level.
  - Businesses must register at the local trade office.
  - Types of business entities: sole traders; general partnerships, limited partnerships; private limited companies; public limited companies.
  - The minimum share capital for a company is €10000.
  - No tax treaties with CARIFORUM countries.
  - Italy is part of the Schengen system.
  - Non EU/EEA citizens need a residence permit and this then entitles them to work.
  - The time taken to get a visa is slow.
- General Framework for Supplying Services in Malta:
- Malta has a Continental European Legal System but influenced by the UK.
  - Types of business entities: sole traders; general partnerships, limited partnerships; private limited companies; public limited companies.
  - The minimum share capital for a company is €1165. For a public limited company it is €46590.
  - Companies pay an annual registration fee of €165 for small companies and up to €979 for larger ones.
  - Tax: Income Tax - €8150-€14000 – 15%; €19000+ - 35%; corporation Tax – 35%.
  - Malta has a tax treaty with Barbados
  - Malta is part of the Schengen system.
  - Non EU/EEA citizens need a residence permit and this then entitles them to work. The system is restrictive in order to protect Maltese jobs.
- General Framework for Supplying Services in Netherlands:
- The Netherlands has a Continental European Legal System.

- It has a light touch regulatory framework.
  - Types of business entities: sole traders; general partnerships, partnerships “under common form”; limited partnerships; private limited companies; public limited companies.
  - Partners are treated as self-employed persons for tax purposes
  - Businesses need to be registered in the trade register.
  - It uses the “apostil” system for recognition of qualifications as does Antigua and Barbuda, Barbados, Belize, Netherlands Antilles, St Kitts and Nevis and Suriname.
  - Tax: VAT 19%; Income Tax and National Insurance – up to €17579 – 33.6%; up to €53860 – 42%; €53860+ 52%.
  - Tax treaties with Netherlands Antilles and Suriname.
  - Very detailed employment protection and anti-discrimination laws.
  - Detailed social security provisions.
  - Netherlands is part of the Schengen system.
  - Non EU/EEA citizens need a residence permit and this then entitles them to work. There is a strict points system.
- General Framework for Supplying Services in Spain:
- Spain has a Continental European Legal System.
  - It has a complex system of “autonomies” i.e. the regions have varying degrees of self government and most regulation of the professions take place at that level.
  - Businesses must be registered in the local Commercial Register.
  - Types of business entities: sole traders; general partnerships; limited partnerships; private limited companies; public limited companies.
  - Minimum share capital for public limited companies is €60101.
  - It uses the “apostil” system for recognition of qualifications as does Antigua and Barbuda, Barbados, Belize, Netherlands Antilles, St Kitts and Nevis and Suriname.
  - Tax: Corporation Tax 35%.
  - No tax treaties with CARIFORUM countries.
  - Very detailed employment protection and anti-discrimination laws.
  - Detailed social security provisions.
  - Spain is part of the Schengen system.
  - Non EU/EEA citizens need a residence permit and this then entitles them to work. It is one of the most liberal systems in the EU.
- General Framework for Supplying Services in the United Kingdom:
- England, Wales and Northern Ireland have a Common Law System. Scotland’s legal system is entirely separate, is rooted in the Continental European System but has been substantially influenced by the Common Law.

- It has a complex system of "devolution" i.e. the Scottish Parliament regulates most matters that affect daily life in Scotland whilst the Welsh and Northern Ireland Assemblies have more limited powers.
  - The UK has a light touch regulatory system, encouraging self-regulation by the professions.
  - Types of business entities: sole traders; partnerships; limited partnerships; private limited companies; public limited companies.
  - No minimum share capital, except for public limited companies when it is £50000.
  - Tax: Corporation Tax 21% for small companies. Three Income Tax bands – 20% for up to £37400, 40% up to £150000 and 50% thereafter.
  - Tax treaties with Antigua and Barbuda, Barbados, Belize, Grenada, Guyana, Jamaica, St Kitts and Nevis and Trinidad and Tobago.
  - Very detailed employment protection and anti-discrimination laws.
  - Detailed social security provisions.
  - UK is not part of the Schengen system.
  - Non EU/EEA citizens need a work permit and residence permit. There is a strict points system. 6 month business visas may be obtained.
- Regulatory Framework for Supplying Accountancy Services in Estonia:
    - The accountancy profession is not regulated pr se but auditors are.
    - However, qualifications and experience influence the choice of an accountant.
    - The vast majority will choose a certified member of the Estonian Board of Accountants.
    - There are detailed legal provisions on auditing.
    - In order to be certified one must have a relevant degree, practical training and pass the professional exam.
    - The Professional Qualifications Committee sets the criteria and administers the examination.
    - It is possible to do the exam in English.
    - Companies can be members of the association but at least 50% of the directors and the controlling capital must be held by certified accountants.
    - The Ministry of Finance has overall responsibility for the accountancy profession.
  - Regulatory Framework for Supplying Accountancy Services in France:
    - The titles and designations of the accountancy profession are protected in French Law.



- There are accountants and certified public accountants (CPA). The latter generally supervise the work of the former.
  - Some accounting functions are reserved to CPAs
  - There are detailed legal provisions on auditing.
  - In order to be certified one must have a relevant degree from a State approved institution, 3 years' internship and pass the professional exam.
  - There is no system of accrediting courses.
  - Independent accountants must have professional indemnity insurance.
  - The Ministry of Economy, Industry and Employment is responsible for the profession. The Ministry of Finance sets the accounting rules.
  - The Ordre des Experts Comptables (OEC) is the professional body
  - Companies can be members of the association but at least 75% of the directors and the controlling capital must be held by certified accountants.
- Regulatory Framework for Supplying Accountancy Services in Germany:
- The titles and designations of the accountancy profession are protected in German Law.
  - 75% of accountants are self-employed and 18% are auditors.
  - The profession is regulated at the state level by the Lander Ministries of Finance.
  - Accountants must be members of the state professional associations (*steuerberaterkammer*).
  - There is also a Federal Chamber of Accountants.
  - Must have a relevant 5 year degree from a State recognised institution and 3 years practical experience or 4 years where the degree was of 4 years duration.
  - Accountants must have professional indemnity insurance.
  - There are detailed legal provisions on auditing.
  - Can be a member of more than one profession.
- Regulatory Framework for Supplying Accountancy Services in Italy:
- The titles and designations of the accountancy profession are protected in Italian Law.
  - There are detailed legal provisions on auditing.
  - Must be a member of the Association of Chartered Accountants and Book-keepers (*Ordine dei Dottori Commercialisti e degli Esperti Contabili*) or the Professional Association of Auditors.
  - In order to be certified one must have a relevant degree from a State approved institution of 5 years' duration, 3 years' internship and pass the professional exam. In the case of book-keepers the degree must be of 3 years' duration.
  - There is no system of accrediting courses.

- Independent accountants must have professional indemnity insurance.
- The Ministry of Justice is responsible for the profession. The Ministry of Finance sets the accounting rules.
- Cannot be a member of more than one profession.
- Regulatory Framework for Supplying Accountancy Services in Malta:
  - The titles and designations of the accountancy profession are regulated by the Accountancy Profession Act 1979.
  - There are detailed legal provisions on auditing.
  - There are certified public accountants and certified public auditors.
  - Must be a member of the Malta Institute of Accountants.
  - In order to be certified by the Accountancy Board one must have a BA (Hons) in Accountancy from the University of Malta or passed the MIA professional examinations plus a three year internship.
  - The MIA has a joint professional qualifications system with the UK's ACCA.
  - Practising accountants must hold a practising certificate, have professional indemnity insurance and are subject to a quality assurance system based on peer review.
  - The Ministry of Finance sets the accounting rules.
- Regulatory Framework for Supplying Accountancy Services in Netherlands:
  - The titles and designations of "registered accountant" (RA) and "accounting administrative consultant" (AA) are protected in Dutch Law.
  - There are detailed legal provisions on auditing.
  - The profession is regulated and so are accounting processes.
  - Must be registered with the NIVRA – the professional association.
  - In order to be registered one must have a relevant M.Sc. plus a three year internship.
  - The Oversight Board is responsible for professional discipline.
  - Practising accountants must have professional indemnity insurance.
  - There is a Code of Conduct and a quality assurance system based on peer review.
  - The Ministry of Finance sets the accounting rules.
- Regulatory Framework for Supplying Accountancy Services in Spain:
  - The titles and designations of the accountancy profession are protected in Spanish Law.
  - There are detailed legal provisions on auditing. The most onerous requirements apply to this part of the profession.
  - Auditors must pass the professional exam of the Registro de Auditores.

- Accountants must be a member of the Instituto de Contabilidad y Auditoria de Cuentas.
  - There are *gestor administrativos* and *titulado mercantils*. Both are similar to chartered accountants. The former also represent clients before public bodies.
  - *Teneduria de libros* are book-keepers.
  - In order to be certified one must have a relevant degree from a State approved institution of 5 years' duration, 3 years' internship and pass the professional exam. In the case of a 3 year degree the internship must be of 5 years' duration.
  - There is no system of accrediting courses.
  - Independent accountants must have professional indemnity insurance.
  - The Ministry of Economy and Finance is responsible for the profession.
- Regulatory Framework for Supplying Architectural Services in Estonia:
- The titles and designations of the architects' profession are not protected in Estonian Law.
  - There are detailed legal provisions on construction work. There is a system of "specialist in charge" of sites.
  - They must be entered in the Register of Estonian Architects
  - The Ministry of Economic Affairs and Finance has overall responsibility.
  - The professional association is the Estonian Association of Architects and Consulting Engineering Companies. Membership is not compulsory.
  - There is also the Union of Estonian Architects.
- Regulatory Framework for Supplying Architectural Services in France:
- The titles and designations of the architects' profession are protected in French Law.
  - Architects must register with the regional board of the Architects Association.
  - There are detailed legal provisions on construction work. There are certain activities, including the signing off of a project that must be done by a qualified architect.
  - In order to be registered the applicant must have obtained a Masters degree in Architecture from a State recognised institution.
  - Recognition is given to prior experience through the VAE system which may give exemptions from courses or part thereof.
  - Once registered there are no further training or CPD requirements.

- The Ministry of Culture has overall responsibility for the regulation of the architects' profession.
- Regulatory Framework for Supplying Architectural Services in Germany:
  - The titles and designations of the architects' profession are protected in German Law.
  - Each state regulates the profession.
  - Architects must be members of the Chamber of Architects in their state. These chambers are members of the Federal Chamber of Architects.
  - There are detailed legal provisions on construction work. There are certain activities, including the signing off of a project that must be done by a qualified architect.
  - In order to be registered the applicant must have undertaken a 4 year or 8 semester course at university followed by 2 years practical training. Or a 3 year university course and 4 years training.
  - Once registered there are compulsory CPD requirements.
  - Architects must have professional indemnity insurance.
  - The Federal Ministry of Economics and Technology and the Federal Ministry of Food, Transport, Building and Urban Affairs are the ministries with overall responsibility for the regulation of the architects' profession.
- Regulatory Framework for Supplying Architectural Services in Italy:
  - The titles and designations of the architects' profession are protected by a Law of 1923 governing architects and civil engineers.
  - Architects must be members of the professional association. There are 2 levels of membership: Level A for those with a relevant Masters degree and Level B for those with a Bachelor's degree. It must have been awarded by a State recognised institution.
  - In order to be registered the applicant must also take a professional exam.
  - There are no training requirements and no compulsory CPD.
  - There are detailed legal provisions on construction work. There are certain activities, including the signing off of a project that must be done by a qualified architect.
  - The professional association is the Architects, Planners and Landscape Architects Association. Technically, continued membership is not compulsory but practically it is in order to be able to sign off project.
  - The Department of Justice is the ministry with overall responsibility for the regulation of the architects' profession.
- Regulatory Framework for Supplying Architectural Services in Malta:

- The titles and designations of the architects' profession are protected by the Perit Act governing architects and civil engineers.
  - Architects need a warrant from the Architects Board in order to practice.
  - Architects must be members of the professional association, the Kamra tal-Periti.
  - Applicants must have completed a 4 year university course followed by 2 years practical training.
  - CPD courses are offered but are not compulsory.
  - The Ministry of Resources and Rural Affairs is the ministry with overall responsibility for the regulation of the architects' profession.
- Regulatory Framework for Supplying Architectural Services in the Netherlands:
- The titles and designations of the architects profession are protected by the Architects Titles Act 1987
  - Architects must be registered with the architects' board – the SBA.
  - Membership of the Royal Institute of Dutch Architects (RIBA) is not compulsory but the vast majority of Dutch architects are members.
  - Applicants must have a Diploma in Architecture.
  - There are plans to introduce a compulsory 2 year training course and CPD.
  - The Ministry of Housing, Planning and Environment is the ministry with overall responsibility for the regulation of the architects' profession.
- Regulatory Framework for Supplying Architectural Services in Spain:
- The titles and designations of the architects' profession are not directly protected in law but there are certain services which can only be done by registered architects e.g. signing off projects.
  - In practice the vast majority of architects are registered with the High Board of the Official College of Architects and at the regional college.
  - To be registered the applicant must have studied architecture at university for 5 years and have completed a practical project that usually takes between 1 and 1.5 years.
  - Architects must have professional indemnity insurance.
  - There are provisions in the statutes for compulsory CPD but it has not yet been implemented.
  - The Ministry of Public Works is the ministry with overall responsibility for the regulation of the architects' profession.
- Regulatory Framework for Supplying Architectural Services in the UK:

- The titles and designations of the architects' profession are protected under the Architects Act 1987.
  - Architects must register with the Architects Registration Board (ARB).
  - The Royal Institute of British Architects is the professional body. Membership is not compulsory but in practice the vast majority are members.
  - ARB and RIBA accredit architecture courses. RIBA also offer an alternative professional exam.
  - To be registered the applicant must have completed 2 years practical training.
  - Architects must have professional indemnity insurance.
  - There are provisions for compulsory CPD.
- Regulatory Framework for Supplying Engineering Services in Estonia:
- The titles and designations of the engineering profession are not protected in Estonian Law.
  - There are special legal provisions on construction work. There is a system of "specialist in charge" of sites.
  - They must be entered in the Register of Estonian Engineers.
  - The Ministry of Economic Affairs and Finance has overall responsibility.
  - The professional association is the Estonian Association of Architects and Consulting Engineering Companies. Membership is not compulsory.
- Regulatory Framework for Supplying Engineering Services in France:
- The titles and designations of the engineering profession are not protected in French Law. However, the academic qualifications are protected.
  - There are detailed legal provisions on construction work. There are certain activities, including the signing off of a project that must be done by a qualified engineer.
  - Membership of a professional association is not compulsory.
- Regulatory Framework for Supplying Engineering Services in Germany:
- The title "*ingenieur*" is protected in German Law at the state level and will soon be protected at the Federal level.
  - Each state regulates the profession.
  - There are detailed legal provisions in State Construction Laws on construction work. There are certain activities, including the signing off of a project that must be done by a qualified engineer i.e. a person with a degree in Civil Engineering.

- The qualification is usually a 3 year degree in engineering followed by 3 years practical experience to be designated a Public Certified Expert in Engineering.
  - Engineers must be members of the Chamber of Engineers. These chambers are members of the Federal Chamber of Engineers.
  - There are over 90 subdivisions of the profession into specialisms.
  - The Federal Ministry of Science and the Federal Ministry of Education are the ministries with overall responsibility for the regulation of the engineering profession.
- Regulatory Framework for Supplying Engineering Services in Italy:
- The titles and designations of the engineering profession are protected by a Law of 1923 governing architects and civil engineers.
  - Engineers must be members of the professional association. There are 2 levels of membership: Level A for those with a relevant Masters degree and Level B for those with a Bachelor's degree. It must have been awarded by a State recognised institution.
  - In order to be registered the applicant must also take a professional exam.
  - There are no training requirements and no compulsory CPD.
  - There are detailed legal provisions on construction work. There are certain activities, including the signing off of a project that must be done by a qualified engineer.
- Regulatory Framework for Supplying Engineering Services in Malta:
- The titles and designations of the engineering profession are protected by the Perit Act governing architects and civil engineers.
  - Engineers need a warrant in order to practice.
  - Civil engineers must be members of the professional association, the Kamra tal-Periti.
  - Applicants must have completed a 4 year university course followed by 2 years practical training.
  - CPD courses are offered but are not compulsory.
  - The Ministry of Resources and Rural Affairs is the ministry with overall responsibility for the regulation of the engineering profession.
- Regulatory Framework for Supplying Engineering Services in the Netherlands:
- The titles and designations of "*ingenieur*" are protected by Dutch Law.
  - Architects must be registered with the engineering board.

- Membership of the professional association, KIVI NIRIA, is not compulsory but most Dutch engineers are members.
  - Applicants must have a 5 year Masters degree in Engineering.
  - The Ministry of Housing, Planning and Environment is the ministry with overall responsibility for the regulation of the engineering profession.
- Regulatory Framework for Supplying Engineering Services in Spain:
    - The titles and designations of the engineering profession are not directly protected in law but there are certain services which can only be done by registered engineers e.g. signing off projects.
    - In practice the vast majority of engineers are registered with the Federation of Engineering Associations and at the regional college of engineers.
    - To be registered the applicant must have studied engineering at university for 5 years and have completed a practical project that usually takes between 1 and 1.5 years.
    - There are provisions in the statutes for compulsory CPD but it has not yet been implemented.
    - The Ministry of Public Works is the ministry with overall responsibility for the regulation of the engineering profession.
- Regulatory Framework for Supplying Engineering Services in the UK:
    - The titles and designations of the engineering profession are not protected in UK Law and the term is widely used for those with basic skills to highly qualified professionals.
    - Common entry to the profession at grass roots level is through an apprenticeship and part-time college to acquire a Higher National Certificate or Diploma (or Scottish equivalents) and become an engineering technician.
    - Chartered and Incorporated Engineers are members of the Engineering Council and have completed an accredited degree and passed a Professional Review Interview after gaining professional experience.
- Regulatory Framework for Supplying Management Consultancy Services in Estonia:
    - The titles and designations of the management consultancy profession are not protected in Estonian Law.
    - The professional association is the Estonian Consultants Association. Membership is not compulsory. It has a Code of Ethics.
- Regulatory Framework for Supplying Management Consultancy Services in France:
    - The titles and designations of the management consultancy profession are not protected in French Law.



- There are several professional associations, the largest of which is the Syntec Management. Membership is not compulsory. It has a Code of Ethics.
- Regulatory Framework for Supplying Management Consultancy Services in Germany:
  - The titles and designations of the management consultancy profession are not protected in German Law, neither at State or Federal level.
  - The professional association is the Federal Association of German Management Consultants. Membership is not compulsory. It has a Code of Ethics.
- Regulatory Framework for Supplying Management Consultancy Services in Italy:
  - The titles and designations of the management consultancy profession are not protected in Italian Law.
  - The professional association is the Italian Professional Association of Management Consultants. Membership is not compulsory. It has a Code of Ethics.
- Regulatory Framework for Supplying Management Consultancy Services in Malta:
  - The titles and designations of the management consultancy profession are not protected in Maltese Law.
- Regulatory Framework for Supplying Management Consultancy Services in the Netherlands.
  - The titles and designations of the management consultancy profession are not protected in Dutch Law.
  - The Free University of Amsterdam offers a Masters Programme for Management Consultancy.
- Regulatory Framework for Supplying Management Consultancy Services in Estonia:
  - The titles and designations of the management consultancy profession are not protected in Spanish Law.
  - The professional association is the Spanish Association of Consultants. Membership is not compulsory. It has a Code of Ethics.
- Regulatory Framework for Supplying Management Consultancy Services in the UK.
  - The titles and designations of the management consultancy profession are not protected in UK Law.

- The Institute of Management Consulting provides a Certified Management Consultancy qualification.
  - Membership of the Institute is not compulsory. It has a Code of Ethics.
- Regulatory Framework for Supplying Tourist Guide Services in Estonia.
  - The titles and designations of “tourist guide” are not protected in Estonian Law but their activities are regulated.
  - The professional association is the Estonian Association of Tourist Guides. Membership is not compulsory. It has a Code of Ethics.
- Regulatory Framework for Supplying Tourist Guide Services in France.
  - The titles and designations of “tourist guide” are regulated by the Tourism Code. It is a subdivision of travel agency services.
  - Tourist guides must have a licence and will be issued with a regional or national badge.
  - The professional association is the Federation Nationale des Guides Interpretes. Membership is not compulsory. It has a Code of Ethics.
  - The Ministry of Tourism and the Ministry of Culture and Communications are the ministries that regulate their activities.
- Regulatory Framework for Supplying Tourist Guide Services in Germany.
  - The titles and designations of “tourist guide” are not protected in German Law.
  - The professional association is the Association of Tourist Guides of Germany. Membership is not compulsory. It has a Code of Ethics. It has regional chambers and provides a training programme.
- Regulatory Framework for Supplying Tourist Guide Services in Italy.
  - The titles and designations of “tourist guide” are not directly protected in Italian Law but their activities are regulated under the Law on Tourism.
  - Tourist guides must obtain authorisation from the regional authority.
  - They must demonstrate competence in the arts, archaeology and languages.
  - The rules were liberalised in 2007. The quota system was removed and graduates of arts degrees are eligible for membership provided that they pass an aptitude test.
- Regulatory Framework for Supplying Tourist Guide Services in Malta.

- The titles and designations of “tourist guide” are not directly protected in Maltese Law but their activities are regulated under the Law on Tourism.
  - Tourist guides must obtain a warrant from the Malta Tourism Authority.
  - They must have passed the Tourist Guiding Diploma, which includes a 14 week language course abroad.
- Regulatory Framework for Supplying Tourist Guide Services in the Netherlands.
  - The titles and designations of “tourist guide” are not protected in Dutch Law.
  - The professional association is the Dutch National Tourist Guides’ Association. Membership is not compulsory. It has a Code of Ethics.
- Regulatory Framework for Supplying Tourist Guide Services in Spain.
  - The titles and designations of “tourist guide” are not protected in Spanish Law but their activities are regulated.
  - Some regional authorities require tourist guides to pass an examination. And to register with them.
- Regulatory Framework for Supplying Tourist Guide Services in the UK.
  - The titles and designations of “tourist guide” are not protected in UK Law.
  - The professional association in England, Wales and Northern Ireland is the Institute of Tourist Guiding. Membership is not compulsory. It accredits training courses and has 4 levels of tourist guide: the highest being “blue badge” guides. It has a Code of Ethics.
  - The Scottish Tourist Guides’ Association has similar provisions.
- Regulatory Framework for Supplying Tour Operators Services in Estonia.
  - The titles and designations of “tour operator” are not protected in Estonian Law but their activities are regulated.
  - The Package Travel Directive is implemented in Estonian Law.
  - There is an insolvency protection scheme operated by the Consumer Protection Board under the direction of the Ministry of Economic Affairs and Communication.
- Regulatory Framework for Supplying Tour Operators Services in France.

- Tour operators must be licensed and their activities are regulated by the Tourism Code.
  - The Package Travel Directive is implemented in French Law.
  - There is an insolvency protection scheme.
  - The profession is regulated by the Ministry of Tourism.
  - There is no compulsory membership of a professional association.
  - Tour operators must have professional indemnity insurance.
- Regulatory Framework for Supplying Tour Operators Services in Germany.
    - The titles and designations of “tour operator” are not protected in German Law but their activities are regulated.
    - The Package Travel Directive is implemented in German Law.
    - Tour operators must register their business in the local trade register.
    - There is an insolvency protection scheme.
    - The profession is regulated by the Federal Ministry of Economics and the Federal Ministry of Food, Agriculture and Consumer Protection
    - There is no compulsory membership of a professional association.
    - Tour operators must have professional indemnity insurance.
    -
- Regulatory Framework for Supplying Tour Operators Services in Italy.
    - Tour operators must be registered at the local chamber of commerce.
    - The Package Travel Directive is implemented in Italian Law.
    - There is an insolvency protection scheme.
    - There is no compulsory membership of a professional association.
    - Tour operators must have professional indemnity insurance.
    - There are specifications for the qualifications of staff but these are not regularly enforced.
- Regulatory Framework for Supplying Tour Operators Services in Malta.
    - Tour operators must be licensed by the Malta Tourism Authority.
    - The Package Travel Directive is implemented in Maltese Law.
    - There is an insolvency protection scheme.
    - The profession is regulated by the Ministry of Tourism.
    - There is no compulsory membership of a professional association.
- Regulatory Framework for Supplying Tour Operators Services in the Netherlands.

- The Netherlands substantially relies on self-regulation.
  - The Package Travel Directive is implemented in Dutch Law.
  - There is an insolvency protection scheme.
  - There is the Dutch Association of Travel Agents and Tour Operators (ANVR). Membership is not compulsory. It provides a dispute settlement system and consumer-friendly terms and conditions for its members.
- Regulatory Framework for Supplying Tour Operators Services in Spain.
    - These are regulated at the regional level.
    - Spain substantially relies on self-regulation.
    - Tour operators must form limited liability companies.
    - The Package Travel Directive is implemented in Spanish Law.
    - There is an insolvency protection scheme.
- Regulatory Framework for Supplying Tour Operators Services in the UK.
    - The UK mainly relies on self-regulation.
    - The Package Travel Directive is implemented in UK Law.
    - There are a number of insolvency protection schemes.
    - There is no compulsory membership of a professional association, though most are members of ATOC and/ or ABTA.

### **III.2 Recommendations**

- Cariforum representatives pressure their EU counterparts (e.g. at the British Home Office) to ensure that a simple fast track process for acquiring UK and Schengen Visas is put in place
- Cariforum representatives pressure their EU counterparts (e.g. at the British Home Office) to ensure that a simple fast track process for acquiring work permits is put in place for all EU states
- Cariforum services providers must be provided with training or online tips in silent barriers such as dealing with the cultural sensitivities of each EU member state
- Cariforum services providers should start language training to learn at least one other EU language because even though English is the lingua franca for doing business, it makes an impact and builds confidence when one can speak the language of the potential business partner of client
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## IV. OPPORTUNITIES FOR TRADE IN SERVICES

In this section of the report, each of the eight selected countries will be examined in turn. In each case the following format will be followed:

- The business environment will be initially outlined (subject to the availability of data) with the presentation of industry GDP data, industry trade data and other industry size data and
- An assessment will be made of opportunities in each of the selected industries for each country using a scoring system based on responses to questions asked to industry associations and users of the selected services. The assessment will be made using the following template:

Industry specific based opportunities	Measurement Criteria
• Industry size	1=Firms or employees; 4=Firms or employees; 7=Firms or employees; 10=Firms or employees
• Industry competitiveness	Very competitive=1, Moderately competitive=4, Not competitive=10  <b><i>Very competitive is a sign of less opportunity</i></b>
• Pricing opportunities	Local prices cheaper =1, Prices same as foreign = 4, Local more expensive = 10  <b><i>Local prices cheaper is a sign of less opportunity</i></b>
• Quality related opportunities	International Standard =1, Fairly Good =4, Poor=10,  <b><i>If the country has international standards there is less opportunity for Cariforum service providers</i></b>
• Skill shortage opportunities	Services readily available=1, Moderately available =4, Not easily available = 10  <b><i>If services are readily available then there is less opportunity for Cariforum service providers</i></b>
• Niche opportunities	
i. different user groups	1=Multinationals and foreign private sector are not main users; 4= local private sector are main users; 10= Main users are multinationals and foreign private sector  <b><i>When multinationals and foreign private sector are not main user groups there is less opportunity</i></b>
ii. circumvention of challenges	10= Challenges faced by the local industry can be capitalized upon by Caribbean service provider, 1=where there are no

	challenges faced by the industry or they cannot be capitalized on
• Attitudes towards joint ventures/partnerships	1=Negative; 10 =positive
• Perceptions towards foreigners	
iii. openness and appreciation	1=Negative attitude towards foreign service providers entering the market; 10= Positive attitude towards foreign service providers entering the market
iv. willingness to use foreign service providers (user perception)	1=Not willing; 4=Somewhat willing but skeptical; 10=Very willing
i. Opportunities created through EU regulations	10= If there are no EU restrictions that discriminate against foreign services providers
ii. Different Mode opportunities	10=Price and skill shortage opportunities can be exploited using certain modes

#### IV.1 Estonia: Opportunities for Cariforum Service Providers

Country specific opportunities	Score	Assessments
Country specific opportunities		
b. Positively disposed to diversity	8	A quite diverse history – Baltic, Scandinavian, Soviet
c. Language	7	Most people speak English
d. Proximity to other regions	10	A natural gateway to the former Soviet, Baltic and Scandinavian States
e. Persons willing and prepared to coordinate and cooperate	10	Consultants made linkages with Chamber of Commerce which is favorably disposed to coordinating trade missions and conducting matchmaking

#### (f) Size and structure of domestic market for each service

i. Contribution of selected industries to GDP (in Euros Millions)

Industry	2003	2004	2005	2006	2007	2008
Accountancy services & auditing	95.62	115.83	122.00	144.15	167.97	190.32
Architecture and engineering (only consolidated information is available)	286.86	328.15	388.17	458.65	534.46	570.95
Management Consultancy	52.16	57.91	66.54	91.73	122.16	111.02
Tourist Guide Services and Tour Operators (only consolidated information is available)	669.33	772.11	865.07	1009.03	1145.27	1189.47

Source: Statistics Estonia and calculations by Chamber of Commerce.



ii. Size of each selected industry

Industry	Number of firms	Average Turnover/Sales (million/€)	Number of Employees (average)	Largest two firms (by relevant business organization)
Accountancy services & auditing	2500	0.35	10	1. KPMG Baltics AS, 2. Pricewaterhouse Coopers AS
Architecture	950	0.13	5-9	1. EA Reng AS, 2. SWECO Projekt AS
Engineering	2550	0.29	7-12	1. K-Projekt AS, 2. Nord Projekt AS
Management Consultancy	540	0.26	1-5	1. BDA Consulting OÜ, 2. Christiansen Consulting OÜ
Tourist Guide Services	200	0.09	1-5	1. Gotravel OÜ, 2. Risiekspert OÜ
Tour Operators	250	0.64	10	1. Estravel AS, 2. Kalevatravel AS

Source: Industry Associations in Estonia, 2009

Number of Local and Foreign Firms in Each Industry

Industry	Total # firms	% foreign firms	Number of local firms	Number of foreign firms
Accountancy services & auditing	2500	20%	2000	500
Architecture	950	15%	808	143
Engineering	2550	20%	2040	510
Management Consultancy	525	35%	341	184
Tourist Guide Services	200	15%	170	30
Tour Operators	250	35%	163	88

Source: Compiled from Data provided by Industry Associations in Estonia, 2009

Distribution of Local Firms by Size Based on Number of Employees (% in each category)

Firm Size (number of employees)	1-10	11-20	21-50	Over 50
Accountancy services & auditing	60%	25%	10%	5%
Architecture	75%	15%	7%	3%
Engineering	75%	10%	8%	7%
Management Consultancy	50%	35%	10%	5%
Tourist Guide Services	85%	10%	5%	0%
Tour Operators	50%	30%	15%	5%

Source: Industry Associations in Estonia, 2009

Distribution of Foreign Firms by Size Based on Number of Employees

(% in each category)

<b>Firm Size (number of employees)</b>	<b>1-10</b>	<b>11-20</b>	<b>21-50</b>	<b>Over 50</b>
Accountancy services & auditing	15%	15%	20%	50%
Architecture	45%	50%	3%	2%
Engineering	45%	50%	3%	2%
Management Consultancy	40%	45%	10%	5%
Tourist Guide Services	75%	10%	15%	0%
Tour Operators	40%	40%	15%	5%

### Industry Specific Opportunities

<b>1. Accounting and Auditing Industry specific opportunities</b>	<b>Opportunity Score (Max = 10)</b>	<b>Assessment Criteria</b>
Industry size		
Industry competitiveness	1	Very competitive
Pricing opportunities	4	Local and foreign prices are about the same
Quality related opportunities	4	Fairly good
Skill shortage opportunities	1	Local service providers readily available
Niche opportunities		
different user groups	10	Opportunities with Multinationals and foreign private sector because they are two of the main users of accounting & auditing services.
circumvention of challenges	10	The major challenge faced is high labour costs and competition so there are possible opportunities for Cariforum services providers
Attitude towards joint ventures/partnerships	10	Attitude towards joint ventures with foreigners is very positive
Perceptions towards foreigners		
openness and appreciation	8	Attitude towards foreigners entering the market to offer services is quite positive
willingness to use foreign service providers (user perception)	4	Somewhat willing but a little skeptical
Opportunities created through EU regulations	10	There are no major restrictive EU regulations
Different Mode opportunities	10	There may be some Mode 1 and 4 opportunities due to high labour costs. User interviews supported the fact that these Modes have already been used

<b>2. Architecture Industry specific opportunities</b>	<b>Opportunity Score (Max = 10)</b>	<b>Assessment Criteria</b>
a. Industry size		
b. Industry competitiveness	4	Moderately competitive
c. Pricing opportunities	1	Local prices are cheaper
d. Quality related opportunities	1	International standards already available in Estonia
e. Skill shortage opportunities	1	Local service providers readily available
f. Niche opportunities		
i. different user groups	10	Opportunities with Multinationals and foreign private sector because they are two of the main users of services.
ii. circumvention of challenges	10	High labour costs and lack of professional competence
g. Attitude towards joint ventures/partnerships	10	Attitude towards joint ventures with foreigners is very positive
h. Perceptions towards foreigners		
i. openness and appreciation	10	Attitude towards foreigners entering the market to offer services is very positive because foreign knowledge is highly valued
ii. willingness to use foreign service providers (user perception)	4	Generally not willing to use foreign service provider but there may be a niche for cruise passengers who come from the Caribbean or North America
i. Opportunities created through EU regulations	10	There are no special EU regulations or restrictions
j. Different Mode opportunities	3	There may be some Mode 1 and 4 opportunities due to high labour costs. User interviews supported the fact that these Modes have already been used

<b>3. Engineering Industry specific opportunities</b>	<b>Opportunity Score (Max = 10)</b>	<b>Assessment Criteria</b>
a. Industry size		
b. Industry competitiveness	4	Moderately competitive
c. Pricing opportunities	1	Local prices are cheaper
d. Quality related opportunities	1	International standards already available in Estonia
e. Skill shortage opportunities	1	Local service providers readily available
f. Niche opportunities		
i. different user groups	7	Opportunities with foreign private sector because this is one of the main users of services.
ii. circumvention of challenges	10	The major challenge faced is high labour costs and competition so there are possible opportunities for Cariforum services providers
g. Attitude towards joint ventures/partnerships	8	Attitude towards joint ventures with foreigners is positive
h. Perceptions towards foreigners		
i. openness and appreciation	10	Attitude towards foreigners entering the market to offer services is very positive
ii. willingness to use foreign service providers (user perception)	4	Somewhat willing but a little skeptical
i. Opportunities created through EU regulations	7	There are no major restrictive EU regulations but foreign service providers must have a relationship with specialists in the construction sector
j. Different Mode opportunities	7	There may be some Mode 1 opportunities due to high labour costs. User interviews supported the fact that these Modes have already been used

<b>4. Management Consulting Industry specific opportunities</b>	<b>Opportunity Score (Max = 10)</b>	<b>Assessment Criteria</b>
a. Industry size		
b. Industry competitiveness	1	Very competitive
c. Pricing opportunities	4	Local prices are about same as foreign prices
d. Quality related opportunities	4	Fairly good quality already available in Estonia
e. Skill shortage opportunities	4	Local service providers are moderately available
f. Niche opportunities		
i. different user groups	7	Opportunities with foreign private sector because this is one of the main users of services.
ii. circumvention of challenges	4	Main challenge is meltdown – no other challenge apart from the competitive market
g. Attitude towards joint ventures/partnerships	10	Attitude towards joint ventures with foreigners is very positive
h. Perceptions towards foreigners		
i. openness and appreciation	10	Attitude towards foreigners entering the market to offer services is very positive
ii. willingness to use foreign service providers (user perception)	10	Very willing as long as quality and price are competitive
i. Opportunities created through EU regulations	10	There are no major restrictive EU regulations
j. Different Mode opportunities	7	There may be some Mode 1 and 4 opportunities due to high labour costs.

<b>5. Tour Guide Industry specific opportunities</b>	<b>Opportunity Score (Max = 10)</b>	<b>Assessment Criteria</b>
a. Industry size		
b. Industry competitiveness	4	Moderately competitive
c. Pricing opportunities	1	Local prices are cheaper than foreign prices
d. Quality related opportunities	4	Fairly good quality already available in Estonia
e. Skill shortage opportunities	4	Local service providers are moderately available
f. Niche opportunities		
i. different user groups	10	Opportunities with foreign private sector and multinational because these amongst the main users of services.
ii. circumvention of challenges	7	Main challenge is that Tour Guides tend to be "one man bands" – there may be an opportunity to collaborate with local Tour Guides and offer more variety. Especially to cruise ship passengers
g. Attitude towards joint ventures/partnerships	10	Attitude towards joint ventures with foreigners is very positive
h. Perceptions towards foreigners		
i. openness and appreciation	10	Attitude towards foreigners entering the market to offer services is very positive
ii. willingness to use foreign service providers (user perception)	5	Less willing to use foreign tour guides unless it is niche opportunities for cruise ship passengers
i. Opportunities created through EU regulations	10	There are no major restrictive EU regulations
j. Different Mode opportunities	3	Could use Mode 2 for Estonian tourists visiting the Caribbean.

<b>6. Tour Operator Industry specific opportunities</b>	<b>Opportunity Score (Max = 10)</b>	<b>Assessment Criteria</b>
a. Industry size		
b. Industry competitiveness	4	Moderately competitive
c. Pricing opportunities	4	Local prices are similar to foreign prices
d. Quality related opportunities	4	Fairly good quality already available in Estonia
e. Skill shortage opportunities	1	Local service providers are readily available
f. Niche opportunities		
i. different user groups	10	Opportunities with foreign private sector and multinational because these amongst the main users of services.
ii. circumvention of challenges	6	Providing greater variety and more cost effective options are the main challenges of the industry. Caribbean could try to package vacations to the Caribbean via London but the distance makes it difficult to compete with vacations in North Africa and Spain. However, very few Estonians visit the Caribbean so opportunities exist at the high end.
g. Attitude towards joint ventures/partnerships	10	Attitude towards joint ventures with foreigners is very positive
h. Perceptions towards foreigners		
i.openness and appreciation	10	Attitude towards foreigners entering the market to offer services is very positive
ii.willingness to use foreign service providers (user perception)	5	Willing to use foreign Tour Operators if guarantees and deposits are in place
i. Opportunities created through EU regulations	3	All general rules apply. Tour operator must provide a deposit (for state) to provide travel packages
j. Different Mode opportunities	5	Could use Mode 2 and 3 for Estonian tourists visiting the Caribbean.



## IV.2 France: Opportunities for Cariforum Service Providers

Country specific opportunities	Score	Assessments
Country specific opportunities		
1. Positively disposed to diversity	4	The French are very proud of their heritage and things French
2. Language	6	Most people speak some English but communication often has to take place in French
3. Proximity to other regions	10	A natural gateway to the rest of the EU and its Caribbean Departments of Guadeloupe and Martinique.
4. Persons willing and prepared to coordinate and cooperate	2	Given the size of the French market and the geographical span, it is a lot more challenging to coordinate and generate cooperation.

Contribution of selected industries to GDP 2003-2006  
(in Euros or US\$ Millions)

Industry (millions €)	2003	2004	2005	2006
Accountancy services & auditing	10,562	12,133	10,465	12,454
Architecture	3,902	3,866	4,412	7,976
Engineering	27,481	30,736	32,079	36,660
Management Consultancy	15,627	14,790	16,147	26,095
Travel Agencies( including Tourist Guide Services &Tours operators)	10,604	11,049	11,714	≈ 11,749

Source:INSEE

### Size of each selected industry

Industry	Number of firms	Average Turnover/Sales (millions)	Number of Employees	Largest two firms
Accountancy services & auditing (2006)	19,791	12,880	139,741	- Deloitte & partners - Ernst&Young
Architecture (2006)	30,793	7,627	83,574	- Architecture Studio - Groupe 6
Engineering(2006)	32,742	36,110	215,186	- Altran Technologies - CGG Servives
Management Consultancy (2006)	57,959	20,187	156,456	- ADP GSI consulting - Ineumconsulting
Travel Agencies( including Tourist Guide Services &Tours operators)	4,263	12,635	40,483	- Nouvelles Frontières - Fram -Groupe Kuoni -Voyageurs du Monde

Source:INSEE

Distribution of Firms by Size Based on Number of Employees (% in each category)

Firm Size (number of employees)	1-10	11-20	21-50	Over 50
Accountancy services & auditing	83%	8%	6%	3%
Architecture	93%	2%	1%	4%
Engineering	87%	4%	3%	8%
Management Consultancy	92%	4%	2%	2%
Tourist Guide Services	95%	2%	2%	1%
Tour Operators	80%	12%	7%	1%

Source: Survey of relevant associations

d) **Trade related issues in the selected industries**

**Exports and imports for 2003-2007 in each selected service industry**

**Exports (Millions€)**

<b>Industry</b>	<b>2003</b>	<b>2004</b>	<b>2005</b>	<b>2006</b>	<b>2007</b>
Accountancy services & auditing	n/a	NC	3	3	5
Architecture	15	15	19	30	21
Engineering	1506	1487	1881	2367	2576
Management Consultancy	113	118	233	303	730
Travel agencies(including Tourist Guide Services& Tour Operators)	n/a	1	2	1	2

Source:INSEE

**Imports (Millions €)**

<b>Industry</b>	<b>2003</b>	<b>2004</b>	<b>2005</b>	<b>2006</b>	<b>2007</b>
Accountancy services & auditing	8	6	3	8	7
Architecture	3	4	5	9	9
Engineering	1 221	1 285	2 152	2 851	2 576
Management Consultancy	203	157	372	599	730
Travel agencies(including Tourist Guide Services& Tour Operators)	6	3	2	3	5

Source:INSEE

### **Outsourcing (off-shoring)**

Outsourcing (off-shoring) of selected services to firms overseas by large firms in Europe.

In France statistics concerning imports or exports of services, particularly by sector are scarce although the services represent 6% of France Foreign exchange earnings in 2006.

For regulated professions like accountant/public auditor or architecture the outsourcing is not significant. The services of engineering and technical studies constitute the heading within the exchanges of services.

### **Cross-border trade in the selected service industries**

The geographical distribution of trade in services for France is not very different from that of goods. In exports, as in imports, the business of services with the European Union represents a little more than half of trade, against 25% for the United States and Canada and 25% for the rest of the world.

The bilateral structure of trade in services for France varies according to a logic which respects most frequently the level of development. The greater proportion of trade in services (architecture, accounting consulting , engineering...) is dominated by trade with the most industrialized countries, such as the United States or the European Union, but also by the countries of Central and Eastern Europe. On the other hand, there is relatively little trade with Asia and Africa.

## Industry Specific Opportunities

<b>1. Accounting and Auditing Industry specific opportunities</b>	<b>Opportunity Score (Max = 10)</b>	<b>Assessment Criteria</b>
Industry size		
Industry competitiveness	1	Very competitive
Pricing opportunities	10	Local prices are higher
Quality related opportunities	5	Fairly good for smaller companies but international standards for larger and international companies. Smaller domestic companies seem to find it harder to locate very good accountants
Skill shortage opportunities	4	Local service providers are moderately to readily available – possible opportunities exist for providing services to smaller entities, if skepticism does not prevent this.
Niche opportunities		
different user groups	5	Opportunities with Multinationals because they are one of the main users of accounting & auditing services. However, it may be difficult to break into such niches in France.
circumvention of challenges	3	Meeting the necessary qualification requirements and the increased competition due to economic meltdown is a

		major challenge.
Attitude towards joint ventures/partnerships	5	Attitude towards joint ventures with foreigners is neither positive or negative - skeptical
Perceptions towards foreigners		
openness and appreciation	5	Attitude towards foreigners entering the market is neither positive or negative - skeptical
willingness to use foreign service providers (user perception)	4	Somewhat willing but a little skeptical – for small local firms there is a preference for someone nearby even if it is a foreigner.
Opportunities created through EU regulations	6	Foreign providers must fulfill some conditions to be registered on the Order Board
Different Mode opportunities	5	There may be some Mode 1 opportunities for back office or simple bookkeeping type activities due to high labour costs.

<b>2. Architecture Industry specific opportunities</b>	<b>Opportunity Score (Max = 10)</b>	<b>Assessment Criteria</b>
Industry size		
Industry competitiveness	1	Very competitive
Pricing opportunities	4	Local prices are about same as foreign prices
Quality related opportunities	4	Fairly good
Skill shortage opportunities	2	Local service providers are moderately to readily available
Niche opportunities		
i. different user groups	5	Opportunities with Multinationals because they are one of the main users of architectural services. However, it may be difficult to break into such niches in France.
ii. circumvention of challenges	5	Developing new markets for local architects is a major challenge. Cariforum architects could look for opportunities and seek French partners to work with.
Attitude towards joint ventures/partnerships	8	Attitude towards joint ventures with foreigners is quite positive

Perceptions towards foreigners		
openness and appreciation	5	Attitude towards foreigners entering the market to offer services is neither positive or negative - skeptical
willingness to use foreign service providers (user perception)	10	Users are quite willing to use foreign suppliers from outside the EU – the quality of the service is what matters
Opportunities created through EU regulations	1	Service providers must have an EU Diploma to be registered
Different Mode opportunities	4	There may be some Mode 1 opportunities for certain activities



<b>Engineering Industry specific opportunities</b>	<b>Opportunity Score (Max = 10)</b>	<b>Assessment Criteria</b>
Industry size		
Industry competitiveness	1	Very competitive
Pricing opportunities	10	Local prices are higher
Quality related opportunities	1	International standards prevail in the country
Skill shortage opportunities	4	Local service providers are moderately available
Niche opportunities		
different user groups	5	Opportunities with Multinationals because they are one of the main users of services. However, it may be difficult to break into such niches in France.
circumvention of challenges	5	The major challenges are maintaining a sustainable level of business and adjusting to the impact of technology and modernization. Cariforum engineers could partner with French engineers and use technology to create new markets
Attitude towards joint ventures/partnerships	5	Attitude towards joint ventures with foreigners is neither positive or negative - skeptical

Perceptions towards foreigners		
openness and appreciation	4	Attitude towards foreigners entering the market to offer services is not positive but rather skeptical
willingness to use foreign service providers (user perception)	10	Users are quite willing to use foreign suppliers from outside the EU
Opportunities created through EU regulations	1	Service providers must have an EU Diploma to be registered
Different Mode opportunities	4	There may be some Mode 1 opportunities due to lower labour costs elsewhere.

<b>Management Consulting Industry specific opportunities</b>	<b>Opportunity Score (Max = 10)</b>	<b>Assessment Criteria</b>
Industry size		
Industry competitiveness	1	Very competitive
Pricing opportunities	4	Local prices are about same as foreign prices
Quality related opportunities	4	Fairly good quality already available
Skill shortage opportunities	1	Local service providers are readily available
Niche opportunities		
different user groups	7	Opportunities with Multinationals because they are one of the main users of services. However, it may be difficult to break into such niches in France.
circumvention of challenges	1	Main challenge is to demonstrate the value of management consultancy services to the market. Cariforum Consultants would have to be very creative to make an impact here.
Attitude towards joint ventures/partnerships	10	Attitude towards joint ventures with foreigners is very positive

Perceptions towards foreigners		
openness and appreciation	8	Attitude towards foreigners entering the market to offer services is quite positive
willingness to use foreign service providers (user perception)	3	Not very willing and quite skeptical
Opportunities created through EU regulations	10	There are no major restrictive EU regulations
Different Mode opportunities	7	There may be some Mode 1 and 4 opportunities.

<b>Tour Guide Industry specific opportunities</b>	<b>Opportunity Score (Max = 10)</b>	<b>Assessment Criteria</b>
Industry size		
Industry competitiveness	4	Moderately competitive
Pricing opportunities	4	Local prices are about the same as foreign prices
Quality related opportunities	4	Fairly good quality already available
Skill shortage opportunities	1	Local service providers are readily available
Niche opportunities		
different user groups	3	Foreign entities do not seem to be amongst the main users of these services – Cariforum Tour Guides will have to promote themselves and their importance in enriching the tourism experience for visitors to the Caribbean.
circumvention of challenges	5	Main challenge is dealing with the lack of respect of the professional regulation by Tour Guides. Cariforum Tour Guides could turn this into an advantage by linking up with French Tour Guides to offer tours in the EU and Caribbean.
Attitude towards joint ventures/partnerships	8	Attitude towards joint ventures with foreigners is quite positive

Perceptions towards foreigners		
openness and appreciation	8	Attitude towards foreigners entering the market to offer services is quite positive
willingness to use foreign service providers (user perception)	10	Users are quite willing to use foreign suppliers from outside the EU
Opportunities created through EU regulations	6	All Tour Guides need to have a professional card
Different Mode opportunities	8	Could use mode 1 (online approaches) to sell services to French tourists then provide Caribbean Tours (Mode 2).
<b>Tour Operator Industry specific opportunities</b>	<b>Opportunity Score (Max = 10)</b>	<b>Assessment Criteria</b>
Industry size		
Industry competitiveness	4	Moderately competitive
Pricing opportunities	4	Local prices are similar to foreign prices
Quality related opportunities	4	Fairly good
Skill shortage opportunities	1	Local service providers are readily available
Niche opportunities		
different user groups	6	Foreign entities are amongst the main users of these services – Cariforum Tour Operators will

		have to conduct market research and package vacations that Italian tourists are attracted to
circumvention of challenges	6	The main challenge is in dealing with new technologically driven competition and large foreign competition. Cariforum Tour Operators must examine how they can use creative online methods to gain a competitive edge
Attitude towards joint ventures/partnerships	10	Attitude towards joint ventures with foreigners is very positive
Perceptions towards foreigners		
openness and appreciation	10	Attitude towards foreigners entering the market to offer services is very positive
willingness to use foreign service providers (user perception)	10	Users are very willing to use foreign suppliers from outside the EU
Opportunities created through EU regulations	8	There seems to be no serious constraints
Different Mode opportunities	8	Could use Mode 1 (online approaches) to attract more tourists

### IV.3 Germany: Opportunities for Cariforum Service Providers

Country specific opportunities	Score	Assessments
Country specific opportunities		
1) Positively disposed to diversity	5	Germans are very proud of things German rendering it a little more difficult to penetrate their market
2) Language	10	Most people speak English well
3) Proximity to other regions	8	Conveniently located relative to other EU countries
4) Persons willing and prepared to coordinate and cooperate	2	Given the size of the German market and the geographical span, it is a lot more challenging to coordinate and generate cooperation.

#### iii. Size of each selected industry

Industry	Number of firms	Average Turnover/Sales	Number of Employees	Largest two firms
Accountancy Services & Auditing	<u>2006:</u> - 31,559 sole company - 5,957 partnership - 6,906 corporation limited by	<u>2006:</u> 20,574,104,647 € <i>(Federal Statistic Office, Genesis-Online, Code 47415-0006)</i>	<u>2006:</u> - 48,108 principal/co-principal, non-paid family members - 265,862 paid	<u>2007:</u> 1. PWC AG, Frankfurt (1,349.0 mill € average turnover)



	<p>shares</p> <p>- 142 others</p> <p>(Federal Statistic Office, Genesis- Online, Code 47415-0002)</p>		<p>employees</p> <p>(Federal Statistic Office, Genesis- Online, Code 47415-0010)</p>	<p>2. KPMG Germany (1,215.4 mill € average turnover)</p>
		<p><u>2007 -</u></p> <p><u>Top 25 auditing and accountancy companies:</u></p> <p>5.3 bill €</p> <p>(<a href="http://www.luenendonk.de">www.luenendonk.de</a>)</p>	<p><u>2007 -</u></p> <p><u>Top 25 auditing and accountancy companies:</u></p> <p>35,745 employees in Germany</p> <p>(<a href="http://www.luenendonk.de">www.luenendonk.de</a>)</p>	<p>(<a href="http://www.luenendonk.de">www.luenendonk.de</a>)</p>
Auditing	<p><u>01/01/2009:</u></p> <p>- 17,236 auditors, (6,510 practising in their own office)</p> <p>- 2.629</p> <p>auditing companies including 338 partnership companies and 1,575 joint cooperations</p> <p>(<a href="http://www.wpk.de">www.wpk.de</a>, Annual Report 2008, p. 1, 3, 4)</p>			

Accountancy	<u>01/01/2008:</u> - 34,845 = 74,7 % sole offices, - 7,563 = 16,2 % corporate bodies – mostly company with limited liability or partnership company - 4,256 = 9,1 % joint cooperation with lawyers, accountants and auditors ( <a href="http://www.bstbk.de">www.bstbk.de</a> , Annual Report 2007, p. 8)			
Architecture	<u>2008:</u> 95,000 number of architects <i>(Architects Council of Europe, The Architectural Profession in Europe, Germany, 18/12/2008)</i>	<u>2007:</u> 3,988,103,000 € Total value of the revenue generated by the profession <i>(Architects Council of Europe, The Architectural Profession in Europe, Germany, 18/12/2008)</i>	<u>2008:</u> 78,695 economically active <i>(Architects Council of Europe, The Architectural Profession in Europe, Germany, 18/12/2008)</i>	<u>2009:</u> 1. Gerkan, Marg & Partner (gmp) <i>(info bak)</i>  2. without ranking: Behnisch Architekten
Architecture	<u>01.01.2008:</u> - 95,036 architect			

	(houses) - 6,223 garden & landscape architect - 4,854 interior architect - 3,657 urban planner (BAK e.V., <a href="http://www.bak.de">www.bak.de</a> 26/03/2008)			
Engineering	<u>2007:</u> 91,926 ( <a href="http://www.bingk.de/2613.htm">www.bingk.de/2613.htm</a> )	<u>2007:</u> 33.08 billion € ( <a href="http://www.bingk.skygate.de/2617htm">www.bingk.skygate.de/2617htm</a> )	<u>2007:</u> - 842,000 employees 8.000 worker - 157,000 self-employed people  ( <a href="http://www.bingk.de/2631htm">www.bingk.de/2631htm</a> )	<u>2007:</u> 1. Volkswagen AG (108,9 bill € turnover)  2. Daimler (99.4 bill € turnover)  <i>(according "Die Welt" ranking list 2008)</i>
Civil Engineering	<u>2007:</u> 30,001 ( <a href="http://www.bingk.de/2613.htm">www.bingk.de/2613.htm</a> )		<u>2007:</u> - 115,000 employees - 34,000 self-employed people  ( <a href="http://www.bingk.de/2631.htm">www.bingk.de/2631.htm</a> )	

Architecture & Engineering	<u>2006:</u> - 68,390 sole company - 10,974 partnership - 12,029 corporation limited by shares - 291 others  <i>(Federal Statistic Office, Genesis-Online, Code 47415-0002)</i>	<u>2006:</u> 35,864,048,351 €  <i>(Federal Statistic Office, Genesis-Online, Code 47415-0006)</i>	<u>2006:</u> - 97.808 principal/co-principal, non-paid family members - 277,182 paid employees  <i>(Federal Statistic Office, Genesis-Online, Code 47415-0010)</i>	
Management Consultancy	<u>2007:</u> 14,000  <a href="http://www.luenendonk.de">www.luenendonk.de</a>	<u>2007:</u> 16.4 billion €  <a href="http://www.luenendonk.de">www.luenendonk.de</a>	<u>2007:</u> <u>Top 25 Management Consultancy companies:</u>  14,776 employees in Germany  <a href="http://www.luenendonk.de">www.luenendonk.de</a>	<u>2007:</u> 1. Mc Kinsey & Company Inc. Germany  (630 million € average turnover)  2. Roland Berger Strategy Consultants (365 million € average turnover)  <a href="http://www.luenendonk.de">www.luenendonk.de</a>

Management &- Public-Relations-Advisory	<u>2006:</u> - 27,837 sole company - 3.222 partnership,-12,519 corporation limited by shares - 385 others <i>(Federal Statistic Office, Genesis-Online, Code 47415-0002)</i>	<u>2006:</u> 20,437,057,203 € <i>(Federal Statistic Office, Genesis-Online, Code 47415-0006)</i>	<u>2006:</u> - 39,099 principal/co-principal, non-paid family members - 119,696 paid employees <i>(Federal Statistic Office, Genesis-Online, Code 47415-0010)</i>	
Law, Taxes, Management Consultancy and others ...	<u>2006:</u> - 95,836 sole company - 23,836 partnership - 29,554 corporation limited by shares - 789 others <i>(Federal Statistic Office, Genesis-Online, Code 47415-0002)</i>	<u>2006:</u> 97,101,431,724 € <i>(Federal Statistic Office, Genesis-Online, Code 47415-0006)</i>	<u>2006:</u> - 164,173 principal/co-principal, non-paid family members - 691,366 paid employees <i>(Federal Statistic Office, Genesis-Online, Code 47415-0010)</i>	
Tourist Guide Services	<u>2009:</u> about 15,000 – 20,000 tour guides <i>(information BfGV)</i>	Not available <i>(information BfGV)</i>	Not available	Not available

Tour Operators & Travel Agents	<u>2006:</u> - 5,456 sole company - 1,070 partnership - 2,996 corporation limited by shares - 95 others <i>(Federal Statistic Office, Genesis-Online, Code 47415-0002)</i>	<u>2006:</u> 20,081,009,187 € <i>(Federal Statistic Office, Genesis-Online, Code 47415-0006)</i>	<u>2006:</u> - 97,808 principal/co-principal, non-paid family members - 277,182 paid employees <i>(Federal Statistic Office, Genesis-Online, Code 47415-0010)</i>	2007 - biggest travel distribution systems: 1. Rewe Touristik (4,313 mill € average turnover/2. 565 distribution offices) 2. Quality Travel Alliance (4,271 mill € average turnover/6. 626 distribution offices) <b>Vertriebsstellen</b> <i>(DRV, Fakten und Zahlen zum Deutschen Reisemarkt 2008, p. 13)</i>
	<u>2008:</u> - 3,192 <b>classical</b> travel agencies - 6,903 <b>touristical</b> travel agencies - 951 business travel <i>(DRV, Fakten und Zahlen zum Deutschen Reisemarkt 2008, p. 15)</i>		<u>2008:</u> 73,958 employees subject to social insurance contribution <i>(DRV, Fakten und Zahlen zum Deutschen Reisemarkt 2008, p. 20)</i>	

Tour Operators		<u>2008:</u> 21.4 billion €/39.3 million tours <i>(fvw 26/08, Dossier, Deutsche Veranstalter 2008, p. 6)</i>	<u>2008:</u> 1. TUI Germany (4,722.9 mill € average turnover/12 .928,538 participants) 2. Thomas Cook 2,840.0 mill € turnover/5. 460.000 participants) <i>(fvw 26/08, Dossier, Deutsche Veranstalter 2008, p. 6)</i>
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Distribution of Local Firms by Size Based on Number of Employees (% in each category)

<b>Firm Size (number of employees)</b>	<b>1-10</b>	<b>11-20</b>	<b>21-50</b>	<b>Over 50</b>
Accountancy services & auditing	95.7 %	1.7 %	1.0 %	0.5 %
Architecture	85%	9%	5%	1%
Engineering				
Management Consultancy	78%	12%	7.5%	2.5%
Tourist Guide Services	95%	3%	2%	
Tour Operators				

**Trade related issues in the selected industries (2003-2008)**

**Exports**

<b>Industry</b>	<b>2003</b>	<b>2004 extra</b>	<b>2004</b>	<b>2005</b>	<b>2006</b>
Accountancy services & auditing	19.731.872 € turnover on total	19.496.855 € turnover in total	19.958.633 € turnover on total	20.131.297 € turnover on total	20.574.105 € turnover on total
<u>- unit</u> <u>1000 €</u>	- 182.739 € turnover derived from customers outside Germany  <i>(Statistical Office, Strukturerhebungen im</i>	- 518.903 € turnover derived from customers outside Germany  <i>(i.e.,</i> - 251.734 € within	- 198.007 € turnover derived from customers outside Germany  <i>(Statistical Office, Strukturerhebungen im</i>	- 324.869 € turnover derived from customers outside Germany  <i>(Statistical Office, Strukturerhebungen im</i>	- 557.844 € turnover derived from customers outside Germany  <i>(Statistical Office, Strukturerhebungen im</i>



	<i>Diensleistungsbereich 2003, published 12/12/2006 - code 74.12)</i>	EU - 267.169 € outside EU) <i>(Statistical Office, Diensleistungssumsätze nach Arten 2004 - code 74.12)</i>	<i>Diensleistungsbereich 2004, published 14/12/2006 - code 74.12</i>	<i>Diensleistungsbereich 2005, published 26/09/2007 - code 74.12)</i>	<i>Diensleistungsbereich 2006, published 29/08/2008 - code 74.12)</i>
Architecture	7.289.077 € turnover on total	31.030.331 € turnover in total architects and engineering	6.580.585 € turnover on total	6.580.395 € turnover on total	6.909.478 € turnover on total
<u>- unit</u> <u>1000 €</u>	- 67.392 € turnover derived from customers outside Germany  <i>(Statistical Office, Strukturerhebungen im Diensleistungsbereich 2003 published 12.12.06 - code 74.20.1,2,3 )</i>	- 4.037 801 € turnover derived from customers outside Germany  (i.e., - 1.789.681 € within EU  -2.248.120 € outside EU)  <i>(Statistical Office, Diensleistungssumsätze nach Arten 2004 - code 74.20)</i>	- 88.193 € turnover derived from customers outside Germany  <i>(Statistical Office, Strukturerhebungen im Diensleistungsbereich 2004, published 15.12.2006 - code 74.20.1,2,3 )</i>	- 136.069 € turnover derived from customers outside Germany  <i>(Statistical Office, Strukturerhebungen im Diensleistungsbereich 2005, published 00/08/2007 - code 74.20.1,2,3 )</i>	- 161.012 € turnover derived from customers outside Germany  <i>(Statistical Office, Strukturerhebungen im Diensleistungsbereich 2006, published 21/08/2008 - code 74.20.1,2,3 )</i>

Engineering  <u>- unit</u> <u>1000 €</u>	Engineering - construction planning 21.016.738 € turnover on total  - 1.511.869 € turnover derived from customers outside Germany  (Statistical Office, Strukturhebungen im Dienstleistungsbereich 2003, published 12.12.06 - code 74.20.1,23)	See architecture	Engineering - construction planning 20.323.446 € turnover on total  - 1.356.202 € turnover derived from customers outside Germany  (Statistical Office, Strukturhebungen im Dienstleistungsbereich 2004, published 15.12.2006 - code 74.20.4, 5)	Engineering - construction planning 21.098.312 € turnover on total  - 1.512.778 € turnover derived from customers outside Germany  (Statistical Office, Strukturhebungen im Dienstleistungsbereich 2005, published 00/08/2007 - code 74.20.4, 5)	Engineering - construction planning 24.163.161 € turnover on total  - 1.856.735 € turnover derived from customers outside Germany  (Statistical Office, Strukturhebungen im Dienstleistungsbereich 2006, published 21/08/2008 - code 74.20.4, 5)
Management Consultancy  and Public Relations  <u>- unit</u> <u>1000 €</u>	16.686.093 € turnover on total  - 759.687 € turnover derived from customers outside Germany  (Statistical Office, Strukturhebungen im Dienstleistungsbereich 2003, published 12/12/2006 - code	16.326.629 €  turnover in total  - 3.016.925 € turnover derived from customers outside Germany (i.e., - 1.797.985 € within EU - 1.218.940 € outside EU)	16.663.684 € turnover in total  - 576.716 € turnover derived from customers outside Germany  (Statistical Office, Strukturhebungen im Dienstleistungsbereich 2004, published 14/12/2006 - code	17.330.976 € turnover in total  - 857.487 € turnover derived from customers outside Germany  (Statistical Office, Strukturhebungen im Dienstleistungsbereich 2005, published 26/09/2007 - code	20.437.057 € turnover in total  - 1.056.291 € turnover derived from customers outside Germany  (Statistical Office, Strukturhebungen im Dienstleistungsbereich 2006, published 29/08/2008 code 74.14)

	74.14)	(Statistical Office, Diensleistungsumsätze nach Arten 2004)	74.14)	74.14)	
Expenditure by German Tourists Abroad	57,2 bill € (BTW-Yearbook 2007/08, p. 91)		57,1 bill € (BTW-Yearbook 2007/08, p. 91)	58,2 bill € (BTW-Yearbook 2007/08, p. 91)	60,5 bill € (BTW-Yearbook 2007/08, p. 91)

### Imports

Industry	2003	2004	2005	2006	2007	2008
Accountancy services & auditing						
Architecture						
Engineering						
Management Consultancy						
Revenue Germany's by international guests	20,4 bill € (BTW-Yearbook 2007/08, p. 91)	22,2 bill € (BTW-Yearbook 2007/08, p. 91)	23,3 bill € (BTW-Yearbook 2007/08, p. 91)	26,0 bill € (BTW-Yearbook 2007/08, p. 91)	26,5 bill € (BTW-Yearbook 2007/08, p. 91)	Not available

Further data regarding import/export were not available.

## Industry Specific Opportunities

<b>1. Accounting and Auditing Industry specific opportunities</b>	<b>Score</b>	<b>Assessment</b>
Industry size		
Industry competitiveness	1	Very competitive
Pricing opportunities	4	Local and foreign prices are about the same
Quality related opportunities	2	Fairly good to international standard
Skill shortage opportunities	1	Local service providers readily available and customers tend to prefer to stay with the same accountant for years
Niche opportunities		
different user groups	7	Opportunities with Multinationals because they are amongst the main users of accounting & auditing services.
circumvention of challenges	4	Dealing with the challenges of the German Accounting Modernisation Act and the more competitive market will be quite tough
Attitude towards joint ventures/partnerships	n/a	
Perceptions towards foreigners	n/a	
openness and appreciation	8	Attitude towards foreigners entering the market to offer services is quite positive
willingness to use foreign service providers (user perception)	1	Generally unwilling
Opportunities created through EU regulations	6	EU regulations have been heavily influenced by UK accounting rules so Cariforum accountants should be able to take advantage of this
Different Mode opportunities	10	There may be some Mode 1 opportunities due to high labour costs.

<b>2. Architecture</b>	<b>Score</b>	<b>Assessment</b>
Industry size		
Industry competitiveness	4	Moderately competitive
Pricing opportunities	4	Local and foreign prices are about the same
Quality related opportunities	3	Fairly good to international standard
Skill shortage opportunities	1	Local service providers readily available
Niche opportunities		
different user groups	1	Multinationals and foreign entities are not amongst main users. Local public and private sector will tend to be conservative
circumvention of challenges	6	Main challenge is gaining familiarity with the standards so Cariforum Architects are going to have to find a way to do this
Attitude towards joint ventures/partnerships	8	Overall quite favourable towards joint ventures and partnerships
Perceptions towards foreigners		
openness and appreciation	4	Not that open to foreigners penetrating the market without partnering with locals
willingness to use foreign service providers (user perception)	4	Somewhat willing and very skeptical because of risks and a preference for local providers
Opportunities created through EU regulations	n/a	
Different Mode opportunities	8	Mode 1 could be used to provide drawings to EU partners

<b>3. Engineering</b>	<b>Score</b>	<b>Assessment</b>
Industry size		
Industry competitiveness	1	Very competitive
Pricing opportunities	4	Local and foreign prices are about the same
Quality related opportunities	3	Fairly good to international standard
Skill shortage opportunities	1	Local service providers readily available
Niche opportunities		
different user groups	n/a	
circumvention of challenges	n/a	
Attitude towards joint ventures/partnerships	6	
Perceptions towards foreigners		
openness and appreciation	4	Not that open to foreigners penetrating the market without partnering with locals
willingness to use foreign service providers (user perception)	2	Somewhat willing (tending towards not willing) and very skeptical because of risks, desire for personal contact and a preference for local providers
Opportunities created through EU regulations		
Different Mode opportunities	7	Mode 1 could be used to provide drawings for German partners

<b>4. Management Consultants</b>	<b>Score</b>	<b>Assessment</b>
Industry size		
Industry competitiveness	4	Moderately competitive
Pricing opportunities	4	Local and foreign prices are about the same
Quality related opportunities	2	Fairly good to international standard
Skill shortage opportunities	1	Local service providers readily available – high density of Management Consultants
Niche opportunities		
different user groups	7	Opportunities in all segments of the market so multinational and foreign companies should be targeted
circumvention of challenges	8	Getting the confidence of customers is a major challenge so Cariforum consultants must plan carefully and should seek matchmaking opportunities
Attitude towards joint ventures/partnerships	8	Quite amenable to joint ventures
Perceptions towards foreigners		
openness and appreciation	8	Quite open to foreigners penetrating the market without partnering with locals
willingness to use foreign service providers (user perception)	4	Somewhat willing and skeptical
Opportunities created through EU regulations	10	There are no specific EU regulations
Different Mode opportunities	10	Modes 1, 2 and 4 could be exploited

<b>5. Tour Guides</b>	<b>Score</b>	<b>Assessment</b>
Industry size		
Industry competitiveness	1	Very competitive
Pricing opportunities	4	Local and foreign prices are about the same
Quality related opportunities	2	Fairly good to international standard
Skill shortage opportunities	3	Local service providers readily to moderately available
Niche opportunities		
different user groups	7	Opportunities in all segments of the market so foreign companies should be targeted
circumvention of challenges	10	Training and quality management is a major challenge so well trained multilingual Cariforum Tour Guides should have opportunities.
Attitude towards joint ventures/partnerships	10	Very amenable to joint ventures
Perceptions towards foreigners		
openness and appreciation	8	Seemingly quite open to foreigners penetrating the market without partnering with locals
willingness to use foreign service providers (user perception)	5	Somewhat willing and skeptical in some cases
Opportunities created through EU regulations	4	Standard EN 15565 - Training and quality programs for tourist guides
Different Mode opportunities	10	Mode 2 could be used by providing tours to visitors to the Caribbean Mode 3 & 4 could be exploited by setting up in Germany and offering tours to Caribbean and non-EU visitors to Germany



<b>6. Tour Operators</b>	<b>Score</b>	<b>Assessment</b>
Industry size		
Industry competitiveness	1	Very competitive
Pricing opportunities	4	Local and foreign prices are about the same
Quality related opportunities	3	Fairly good to international standard
Skill shortage opportunities	1	Local service providers readily available
Niche opportunities		
different user groups	10	Opportunities in all segments of the market so Cariforum Tour operators should develop customized packages and sell them to targeted groups. There are significant numbers of German tourists that visit the Caribbean.
circumvention of challenges	8	Getting the confidence of customers is a major challenge so Cariforum consultants must plan carefully and should seek opportunities to meet German travel agents
Attitude towards joint ventures/partnerships	n/a	
Perceptions towards foreigners		
openness and appreciation	n/a	Quite open to foreigners penetrating the market without partnering with locals
willingness to use foreign service providers (user perception)	4	Somewhat willing and skeptical – concerns about personal support, language issues, liability issues
Opportunities created through EU regulations		
Different Mode opportunities	10	Mode 1 is taking over the Tour Operator market so Cariforum tour operators should exploit this Mode and get German tourists to book their vacations and travel directly through online portals

#### IV.4 Italy: Opportunities for Cariforum Service Providers

Country specific opportunities	Score	Assessments
1) Positively disposed to diversity	8	The Italians are very proud of their heritage and things Italian however they seem quite open to foreigners visiting and are not averse to foreign goods and services
2) Language	5	Most people speak some English but communication often has to take place in Italian (depending on where you are)
3) Proximity to other regions	6	Not as good a gateway as other EU countries
4) Persons willing and prepared to coordinate and cooperate	2	Given the size of the Italian market and the geographical span, it is a lot more challenging to coordinate and generate cooperation.

Contribution of selected industries to GDP (in Euros Millions)

<b>Industry</b>	<b>2003</b>	<b>2004</b>	<b>2005</b>	<b>2006</b>	<b>2007</b>	<b>2008</b>
Accountancy services & auditing	9392	11393	10512	15037	-	-
Architecture and Engineering <sup>1</sup>	21140	25612	27202	22726	-	-
Management Consultancy	9350	9600	11783	12320		
Tourist Guide Services	96	111	129	138	147	150
Tour Operators	3840	4250	4950	5300	5800	6000

Source: Eurostat and Ernst & Young for ASTOI (Associazione Tour Operator Italiani), 2009

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<sup>1</sup> The data are referred to both to the category "Architecture" and "Engineering", which are grouped together in the category "Architecture and Engineering". Data relative to 2007 and 2008 were not available.

iv. Size of each selected industry

Industry	Number of firms	Average Turnover/Sales (million/€)	Number of Employees (average)	Largest two firms (by relevant business organization)
Accountancy services & auditing	99,418	0.106	208,328	1. Gianni, Origoni, Grippo & Partners ( <a href="http://www.gop.it/default.asp">http://www.gop.it/default.asp</a> ) 2. Bonelli, Erede e Pappalardo ( <a href="http://www.beplex.com/">http://www.beplex.com/</a> )
Architecture and Engineering <sup>2</sup>	247,481	0.11	338,652	1. Studio Renzo Piano ( <a href="http://rpbw.rui-pro.com/">http://rpbw.rui-pro.com/</a> ) 2. Maire Tecnimont ( <a href="http://www.mairetecnimont.it/">http://www.mairetecnimont.it/</a> )
Management Consultancy	60,403	0.195	137,776	1. McKinsey ( <a href="http://www.mckinsey.it/">http://www.mckinsey.it/</a> ) 2. Accenture Italia <a href="http://www.accenture.com/Countries/Italy/default.htm">http://www.accenture.com/Countries/Italy/default.htm</a>
Tourist Guide Services <sup>3</sup>	8000	150	8000	not relevant
Tour Operators <sup>4</sup>	200	4950	30000	gruppo alpitour 600 hotelplan 350

Source: Eurostat

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<sup>2</sup> The data are referred to both to the category "Architecture" and "Engineering", which are grouped together in the category "Architecture and Engineering". Data relative to year 2005. Data relative to average turnover/sales expressed in millions of EUROS.

<sup>3</sup> Tour Guides are mainly self employed operators

<sup>4</sup> over 67% of tourism sector turnover is produced by the first 3 Italian operators, in consideration of their size, 31% is produced by 15 operators and the remainder by 30 small-medium sized operators.

Distribution of Local Firms by Size Based on Number of Employees  
(% in each category)

<b>Firm Size (number of employees)</b>	<b>1-10</b>	<b>11-20</b>	<b>21-50</b>	<b>Over 50</b>
Accountancy services & auditing	77.04%	6.95%	4.09%	11.92%
Architecture & Engineering <sup>5</sup>	86.41%	3.07%	2.10%	8.42%
Management Consultancy <sup>6</sup>	77.04%	6.95%	4.09%	11.92%
Tourist Guide Services	90%	6%	4%	0%
Tour Operators	3%	15%	57%	25%

Source: Eurostat

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<sup>5</sup> Percentage of firms obtained by the sum of Architecture and Engineering (NACE categories K742) – source Eurostat (2005)

<sup>6</sup> Percentage of firms obtained by the sum of Accountancy services & auditing and Management Consultancy (NACE categories K7412 and K7414) – source Eurostat (2005)

## Exports & Imports of Selected Service Industries for 2003-2008 (€mill)

### Exports

Industry	2003	2004	2005	2006	2007
Accountancy services & auditing	136	165	197	297	278
Architecture & Engineering	1546	1541	1867	2273	2442
Management Consultancy					
Tourist Guide Services					
Tour Operators					

Source: "Annuario ISTAT – ICE 2007"

### Imports

Industry	2003	2004	2005	2006	2007
Accountancy services & auditing	411	208	205	245	243
Architecture & Engineering	1498	1455	1852	1421	1696
Management Consultancy					
Tourist Guide Services					
Tour Operators					

Source: "Annuario ISTAT – ICE 2007"

### Industry Specific Opportunities

<b>Accounting and Auditing Industry specific opportunities</b>	<b>Opportunity Score (Max = 10)</b>	<b>Assessment Criteria</b>
Industry size		
Industry competitiveness	1	Very competitive
Pricing opportunities	4	Local prices are same as foreign prices. Italy is slightly more expensive than new EU states.
Quality related opportunities	1	International standard
Skill shortage opportunities	1	Local service providers are readily available
Niche opportunities		
different user groups	5	Opportunities with Multinationals because they are one of the main users of accounting & auditing services. However, it may be difficult to break into such niches in Italy.
circumvention of challenges	8	How to develop international clientele is the main challenge. Opportunities may be created through joint ventures with Cariforum service providers which may help to lower average costs as well as bring the British accounting system to the table.
Attitude towards joint ventures/partnerships	5	Attitude towards joint ventures with foreigners is neither positive or negative - skeptical
Perceptions towards foreigners		
openness and appreciation	2	Attitude towards foreigners entering the market is quite negative - skeptical
willingness to use foreign service providers (user perception)	3	Somewhat willing but a little skeptical – the main difficulties are related to knowledge of the language and national laws.
Opportunities created through EU regulations	8	No significant EU regulations or restrictions
Different Mode opportunities	6	There may be some Mode 1 opportunities for back office or simple bookkeeping type activities due to higher labour costs than in Cariforum.

<b>Architecture &amp; Engineering Industry specific opportunities</b>	<b>Opportunity Score (Max = 10)</b>	<b>Assessment Criteria</b>
Industry size		
Industry competitiveness	4	Moderately competitive
Pricing opportunities	4	Local prices are about same as foreign prices
Quality related opportunities	2	International standards
Skill shortage opportunities	1	Local service providers are readily available
Niche opportunities		
different user groups	5	Opportunities with Multinationals because they are one of the main users of architecture & engineering services. However, it may be difficult to break into such niches in Italy.
circumvention of challenges	6	Developing new international markets for local architects is a major challenge. Cariforum architects could look for opportunities and seek local partners to work with.
Attitude towards joint ventures/partnerships	8	Attitude towards joint ventures with foreigners is quite positive
Perceptions towards foreigners		
openness and appreciation	5	Attitude towards foreigners entering the market to offer services is neither positive or negative - skeptical
willingness to use foreign service providers (user perception)	10	Users are quite willing to use foreign suppliers from outside the EU – the quality of the service is what matters
Opportunities created through EU regulations	8	No significant EU regulations or restrictions
Different Mode opportunities	8	There may be some Mode 1 opportunities for certain activities



<b>Management Consulting Industry specific opportunities</b>	<b>Opportunity Score (Max = 10)</b>	<b>Assessment Criteria</b>
Industry size		
Industry competitiveness	4	Somewhat competitive
Pricing opportunities	4	Local prices are in between original EU and new EU prices
Quality related opportunities	4	Fairly good quality already available from the various sizes and types of service providers
Skill shortage opportunities	1	Local service providers are readily available
Niche opportunities		
different user groups	2	Multinationals and foreign entities are not main users which severely restricts the opportunities.
circumvention of challenges	8	Main challenge is to develop the international market. Cariforum Consultants could forge joint venture relationships with local partners and penetrate new markets together..
Attitude towards joint ventures/partnerships	8	Attitude towards joint ventures with foreigners is quite positive
Perceptions towards foreigners		
openness and appreciation	4	Attitude towards foreigners entering the market to offer services is quite negative
willingness to use foreign service providers (user perception)	3	Not very willing and quite skeptical – there is general skepticism about using foreign suppliers from outside the EU due to technical and cultural reasons.
Opportunities created through EU regulations	10	There are no apparent major restrictive EU regulations
Different Mode opportunities	10	There may be some Mode 1 and 4 opportunities.

<b>Tour Guide Industry specific opportunities</b>	<b>Opportunity Score (Max = 10)</b>	<b>Assessment Criteria</b>
Industry size		
Industry competitiveness	1	Very competitive
Pricing opportunities	4	Local prices are about the same as foreign prices
Quality related opportunities	1	International standard service available
Skill shortage opportunities	1	Local service providers are readily available
Niche opportunities		
different user groups	9	Foreign entities are amongst the main users of these services – Cariforum Tour Guides will have to promote themselves and their importance in improving the tourism experience for visitors to the Caribbean.
circumvention of challenges	5	Main challenge is dealing with illegal Tour Guides. Cariforum Tour Guides could link up with local Tour Guides to offer tours in the EU and the Caribbean.
Attitude towards joint ventures/partnerships	4	Attitude towards joint ventures with foreigners is quite negative
Perceptions towards foreigners		
openness and appreciation	6	Attitude towards foreigners entering the market to offer services is neither positive or negative
willingness to use foreign service providers (user perception)	4	Somewhat willing but quite skeptical
Opportunities created through EU regulations	2	Service providers need to be compliant with EU competition rules
Different Mode opportunities	8	Could use mode 1 (online approaches) to sell services to Italian tourists and then provide Caribbean Tours (Mode 2).

<b>Tour Operator Industry specific opportunities</b>	<b>Opportunity Score (Max = 10)</b>	<b>Assessment Criteria</b>
Industry size		
Industry competitiveness	4	Moderately competitive
Pricing opportunities	4	Local prices are similar to foreign prices
Quality related opportunities	4	Fairly good quality service is available
Skill shortage opportunities	1	Local service providers are readily available
Niche opportunities		
different user groups	6	Foreign entities do not seem to be amongst the main users of these services – Cariforum Tour Operators will have to conduct market research and package vacations that tourists are attracted to
circumvention of challenges	6	The main challenge is dealing with cumbersome administrative procedures associated with international travel. Cariforum Tour Operators must examine how they can use creative online methods to gain a competitive edge
Attitude towards joint ventures/partnerships	10	Attitude towards joint ventures with foreigners is very positive
Perceptions towards foreigners		
openness and appreciation	10	Attitude towards foreigners entering the market to offer services is quite positive
willingness to use foreign service providers (user perception)	10	Users are quite willing to use foreign suppliers from outside the EU
Opportunities created through EU regulations	1	Tour Operators must have a Travel Agency Licence
Different Mode opportunities	8	Could use Mode 1 (online approaches) to attract more tourists

#### IV.5 Malta: Opportunities for Cariforum Service Providers

Country specific opportunities	Score	Assessments
Country specific opportunities		
a. Positively disposed to diversity	4	Malta is very proud of its heritage and things Maltese
b. Language	8	Most people speak some English but communication often takes place in Maltese
c. Proximity to other regions	10	Excellent gateway to North Africa
d. Persons willing and prepared to coordinate and cooperate	10	Consultants met with a team of professionals who are very willing to coordinate and cooperate in setting up matchmaking opportunities and arranging missions.

Contribution to GDP in €'000	2003	2004	2005	2006	2007	2008
Legal, accounting, book-keeping and auditing activities; tax consultancy; market research and public opinion polling; business and management consultancy; holdings	112,548	119,597	123,415	139,099	144,002	179,838
Architectural and engineering activities and related technical consultancy	29,751	32,662	34,330	37,519	39,553	39,315
Activities of travel agencies and tour operators; tourist assistance activities n.e.c.	24,071	25,010	24,306	25,068	24,940	19,979
Total Economy	3,867,659	3,898,887	4,126,035	4,404,054	4,706,250	4,933,521

Source: National Statistics Office of Malta.

#### Malta's Trade with the Caribbean of Selected Services 2004-2009

LEGAL, ACCOUNTING, MANAGEMENT, CONSULTING AND PUBLIC RELATIONS SERVICES	2004		2005		2006		2007		2008	
	Exports	Imports	Exports	Imports	Exports	Imports	Exports	Imports	Exports	Imports
	€ 000s		€ 000s		€ 000s		€ 000s		€ 000s	
	147	0	56	12	822	273	876	263	876	238

Source: National Statistics Office of Malta.

<b>Industry</b>	<b># of firms</b>	<b>Industry Turnover/Sales (million/€)</b>	<b>Number of Employees (average)</b>	<b>Largest two firms (by relevant business organization)</b>
Accountancy services & auditing	763	2674	1544	
Architecture and Engineering	778	90	1,100	Two leading firms on the basis of projects undertaken are Mangion, Mangion and Partners, and IAS Malta Architects and Structural Engineers.
Management Consultancy	1469	14809	1516	
Travel Guides and Tour operators	804	90397	1595	Mondial Holidays SMS Travel and Tourism

### Industry Specific Opportunities

<b>1. Accounting and Auditing Industry specific opportunities</b>	<b>Opportunity Score (Max = 10)</b>	<b>Assessment Criteria</b>
Industry size		
Industry competitiveness	1	Very competitive
Pricing opportunities	1	Local prices are less expensive than traditional EU states.
Quality related opportunities	1	International standard
Skill shortage opportunities	1	Local service providers are readily available
Niche opportunities		
different user groups	4	Opportunities with Multinationals because they are one of the main users of accounting & auditing services. However, it may be difficult to break into such a small market.
circumvention of challenges	8	How to develop international clientele is the main challenge. Opportunities may be created through joint ventures with Cariforum service providers to offer services in the North Africa market
Attitude towards joint ventures/partnerships	8	Attitude towards joint ventures with foreigners is quite negative and skeptical because most businesses are family owned SMEs. However, since Malta's accession to the EU the Maltese Government has been encouraging joint ventures
Perceptions towards foreigners		
openness and appreciation	2	Attitude towards foreigners entering the market is quite negative – skeptical. Given that the economy is small and businesses are small and family owned, there is a natural tendency to be protective.
willingness to use foreign service providers (user perception)	3	The Accounting profession has achieved high standards so users are happy with locals and would be concerned about giving their information to foreigners .

Opportunities created through EU regulations	4	The audit profession in Malta needed to revise its system of public oversight to conform to European requirements.
Different Mode opportunities	6	There may be some Mode 1 opportunities for cooperation with Maltese services providers for back office or simple bookkeeping type activities for other EU states due to higher labour costs than in Cariforum.

<b>Architecture &amp; Engineering Industry specific opportunities</b>	<b>Opportunity Score (Max = 10)</b>	<b>Assessment Criteria</b>
Industry size		
Industry competitiveness	1	Very competitive
Pricing opportunities	1	Local prices are lower than the old EU
Quality related opportunities	2	The profession has achieved International standards with the Chamber of Architects and Civil Engineers being very active with ongoing training programmes and knowledge based events.
Skill shortage opportunities	1	Local service providers are readily available. There are many architecture and civil engineering firms, with a good number specialising in particular project types including industrial engineering designs, road networks, residence unit developments, and environmental landscaping
Niche opportunities		
different user groups	5	Opportunities with Multinationals because they are one of the main users of architecture & engineering services. However, it may be difficult to break into such niches in a small protective market like Malta..
circumvention of challenges	10	Given the small size of the domestic market the biggest challenge for local Architectural & Engineering firms is to expand their international dimension as well as possibly expand their service portfolio offered to clients.. Cariforum architects could look for opportunities and seek local partners to work with in seeking international markets in the rest of the EU and



		North Africa.
Attitude towards joint ventures/partnerships	8	Attitude towards joint ventures with foreigners is quite negative amongst the predominantly small family owned Maltese businesses but the Maltese Government has realized that this is a mindset that needs to be changed now that Malta is in the EU.
Perceptions towards foreigners openness and appreciation	5	
		Attitude towards foreigners entering the market to offer services is negative – because they are competing for a small market
willingness to use foreign service providers (user perception)	10	In instances where the project is long-term and complex, Maltese businesses are willing to use foreign partners. For example Bridge works, New hospital project etc
Opportunities created through EU regulations	8	No significant EU regulations or restrictions
Different Mode opportunities	9	There may be some Mode 1 opportunities for certain activities especially if work is sought in the rest of the EU or in North Africa.

<b>Management Consulting Industry specific opportunities</b>	<b>Opportunity Score (Max = 10)</b>	<b>Assessment Criteria</b>
Industry size		
Industry competitiveness	1	Very competitive
Pricing opportunities	4	Local prices are lower than EU15
Quality related opportunities	1	The Management Consultancy profession operates at international standard levels and has been reinforced with various management training programmes offered by both the private sector and the University of Malta. The training programmes being offered are both at diploma level and also at post graduate level
Skill shortage opportunities	1	There are an extensive number of management consultancy firms, with a good number specialising in particular niches and industries. Given Malta's entry in the European Union a number of firms are providing consultancy services on EU funding, helping small SMEs to benefit from various EU Programmes
Niche opportunities		
different user groups	5	Multinationals are amongst main users so there are possibilities
circumvention of challenges	10	Given the small size of the domestic market the biggest challenge for local management consultancy firms is to expand their international dimension as well as possibly expand their service portfolio offered to clients. Cariforum Consultants could forge joint venture relationships with local partners and penetrate new markets together, including the nearby North Africa market
Attitude towards joint ventures/partnerships	8	Attitude towards joint ventures with foreigners is quite negative but there are opportunities because the Maltese

		government has been encouraging this approach since Malta entered the EU
Perceptions towards foreigners		
openness and appreciation	1	Attitude towards foreigners entering the market to offer services is quite negative
willingness to use foreign service providers (user perception)	8	Somewhat willing but skeptical. In instances where consultancy required is highly specialised with very little knowledge available locally, Maltese businesses are willing to use foreign suppliers, especially those firms who had assignments in small economies similar to Malta and can understand the local issues. There are joint venture opportunities here for Cariforum consultants
Opportunities created through EU regulations	10	There are no apparent major restrictive EU regulations so this should make it easier for Cariforum Consultants to operate in the EU market.
Different Mode opportunities	10	There may be some Mode 1 and 4 opportunities in joint ventures aimed at other EU countries as well as North Africa.

<b>Tour Guide Industry specific opportunities</b>	<b>Opportunity Score (Max = 10)</b>	<b>Assessment Criteria</b>
Industry size		
Industry competitiveness	1	Very competitive
Pricing opportunities	4	Local prices are cheaper than EU15 countries.
Quality related opportunities	1	International standard service available - the professions in the Tourism Industry have achieved international standard and has been reinforced with various management training programmes being offered by both the private sector, the Institute of Tourism Studies and the University of Malta. The training programmes being offered are both at diploma level and also at graduate level.
Skill shortage opportunities	1	Local service providers are readily available. The industry is well served with its human resources well geared vis-a-vis language availability
Niche opportunities		
different user groups	9	The main users of tourism operator and tour guide services are the individual tourists visiting the island for both business and leisure. The Conference and Incentive market makes up approximately 5% of incoming tourism, with the biggest majority of the business being generated from foreign private entities which have chosen Malta as their country venue and will require the services of both the incoming travel handling agent and also the tour guide. Cariforum Tour Guides will have to promote themselves and their importance in improving the tourism experience for visitors to the Caribbean.
circumvention of challenges	8	The biggest challenge is the rapid growth of the internet with more internet savvy users preferring to build their own

		dynamic package and then purchase excursions once in Malta. The players in the industry have to adapt to this new reality.. Cariforum Tour Guides could link up with local Tour Guides to offer tours in the rest of EU and the Caribbean.
Attitude towards joint ventures/partnerships	5	Attitude towards joint ventures is neither negative nor positive. Since Malta joined the European Union in 2004, Maltese companies have continuously searched potential joint venture opportunities with both EU and non-EU based companies
Perceptions towards foreigners		
openness and appreciation	4	Attitude towards foreigners entering the market to offer services is somewhat negative as Maltese try to maintain their markets.
willingness to use foreign service providers (user perception)	2	Users are not very willing to use foreign guides.To provide a service as a tourist guide or as an incoming agent representing a foreign tour operator company one has to be based in Malta and experience the product.
Opportunities created through EU regulations	8	There are no EU regulations or restrictions
Different Mode opportunities	8	Could use mode 1 (online approaches) to sell services to tourists and then provide Caribbean Tours (Mode 2) across the EU..

<b>Tour Operator Industry specific opportunities</b>	<b>Opportunity Score (Max = 10)</b>	<b>Assessment Criteria</b>
Industry size		
Industry competitiveness	4	Moderately competitive
Pricing opportunities	4	Local prices are similar to foreign prices
Quality related opportunities	4	Fairly good quality service is available
Skill shortage opportunities	1	Local service providers are readily available
Niche opportunities		
different user groups	6	Foreign entities do not seem to be amongst the main users of these services – Cariforum Tour Operators will have to conduct market research and package vacations that tourists are attracted to
circumvention of challenges	6	The main challenge is dealing with cumbersome administrative procedures associated with international travel. Cariforum Tour Operators must examine how they can use creative online methods to gain a competitive edge
Attitude towards joint ventures/partnerships	10	Attitude towards joint ventures with foreigners is very positive
Perceptions towards foreigners		
openness and appreciation	10	Attitude towards foreigners entering the market to offer services is quite positive
willingness to use foreign service providers (user perception)	10	Users are quite willing to use foreign suppliers from outside the EU
Opportunities created through EU regulations	1	Tour Operators must have a Travel Agency Licence
Different Mode opportunities	8	Could use Mode 1 (online approaches) to attract more tourists

## IV.6 Spain: Opportunities for Cariforum Service Providers

Country specific opportunities	Score	Assessments
7. Country specific opportunities		
a. Positively disposed to diversity	4	The Spanish are very proud of their heritage and things Spanish
b. Language	5	Many people speak some English but communication often has to take place in Spanish (depending on where you are)
c. Proximity to other regions	5	Not as good a gateway as other EU countries
d. Persons willing and prepared to coordinate and cooperate	2	Given the size of the Spanish market and the geographical span, it is a lot more challenging to coordinate and generate cooperation.

### (g) Size and structure of domestic market for each service

#### i. Contribution of selected industries to GDP (in Euros Millions)

Industry	2003	2004	2005	2006
Accountancy services & auditing	7,161,747	8,262,515	9,083,871	10,464,956
Technical services: Architecture & Engineering	13,329,411	14,760,920	17,919,282	21,931,514
Management Consultancy	3,059,432	3,029,097	3,552,168	3,890,656
Tourism	13,570,083	15,133,424	16,347,856	17,859,600

SOURCE: Spanish Statistic Institute ("Instituto Nacional de Estadística. INE). "Yearly services survey (2006)". '000 Euros.

#### ii. Size of each selected industry

Industry	Number of firms	Average Turnover/Sales	Number of Employees	Largest two firms
Accountancy services & auditing	52,187	10,464,956	192,987	PWC Deloitte
Technical services: Architecture & Engineering	102,733	21,931.514	258,581	ACS Acciona
Management Consultancy	11,729	3,890,656	54,986	Deloitte KPMG
Tour Operators	9,092	17,859,600	1,418,464	Viajes Iberojet Travelplan

SOURCE: Spanish Statistic Institute ("Instituto Nacional de Estadística. INE). "Yearly services survey (2006)".

**(h) Trade related issues in the selected industries**

1) Data on exports and imports for 2003-2008 in each of the selected service industries

**Exports** (Euros millions)

<b>Industry</b>	<b>2003</b>	<b>2004</b>	<b>2005</b>	<b>2006</b>	<b>2007</b>	<b>2008</b>
BUSINESS SERVICES	11,865	12,929	14,393	17,398	20,006	22,616
CONSTRUCTION	931	1,065	1,340	1,741	3,000	3,674
TRAVEL & TOURISM	35,047	36,376	38,558	40,715	42,061	41,901

**Imports** (Euros millions)

<b>Industry</b>	<b>2003</b>	<b>2004</b>	<b>2005</b>	<b>2006</b>	<b>2007</b>	<b>2008</b>
BUSINESS SERVICES	13,521	14,696	16,101	19,651	23,635	24,306
CONSTRUCTION	365	692	860	1,049	1,376	1,934
TRAVEL & TOURISM	8,010	9,772	12,125	13,266	14,360	13,834

Source: Banco de España (Spanish National Bank). Yearly Summary of Statistics. Balance of Payments and relative investment position vs. other countries in Euro Zone and Rest of the world. Unit: millions of Euro

<b>Firm Size (number of employees)</b>	<b>Less than 2</b>	<b>2 to 4</b>	<b>5 to 19</b>	<b>20 to 99</b>	<b>Over 99</b>
Accountancy services & auditing	12%	21%	35%	14%	17%
Technical services: Architecture & Engineering	26.4%	48.4%	24%	1.1%	0.1%
Management Consultancy	15%	23%	29%	18%	15%
Tour Operators	30.3%	35.7%	32.3%	0.9%	0.9%

SOURCE: Spanish Statistic Institute ("Instituto Nacional de Estadística. INE). Eurostat "Industry Structure Data (2005)".



### Industry Specific Opportunities

<b>8. Accounting and Auditing Industry specific opportunities</b>	<b>Opportunity Score (Max = 10)</b>	<b>Assessment Criteria</b>
a. Industry size		
b. Industry competitiveness	1	Very competitive
c. Pricing opportunities	1	Local prices are cheaper than other old EU members' prices.
d. Quality related opportunities	2	International standard - well developed and mature market
e. Skill shortage opportunities	2	Local service providers are readily available - Well distributed market (large companies branches and local firms) through all Spain. Capillary distribution of business.
f. Niche opportunities		
i. different user groups	5	Opportunities with Multinationals because they are one of the main users of accounting & auditing services. However, it may be difficult to break into such niches in Spain.
ii. circumvention of challenges	8	Diversification and increase of services offered were the main challenges for existing companies (but the main challenge now is to survive the economic crisis). Opportunities may be created through joint ventures with Cariforum service providers which may help to lower average costs as well as bring the British accounting system to the table.
g. Attitude towards joint ventures/partnerships	5	Attitude towards joint ventures with foreigners is neither positive or negative - skeptical
h. Perceptions towards foreigners		
i. openness and appreciation	5	Attitude towards foreigners entering the market is quite is neither positive or negative - skeptical
ii. willingness to use	1	Spanish users are often not

foreign service providers (user perception)		willing to use the services of some EU countries and from developing countries.
i. Opportunities created through EU regulations	6	There are specific requirements in relation to fees, proved experience and qualification requirements
j. Different Mode opportunities	3	There may be some Mode 1 opportunities but the conservative Spanish attitude and language issues may mitigate against this..
TOTAL		

<b>9. Architecture &amp; Engineering Industry specific opportunities</b>	<b>Opportunity Score (Max = 10)</b>	<b>Assessment Criteria</b>
a. Industry size		
b. Industry competitiveness	1	Very competitive
c. Pricing opportunities	1	Local prices are lower
d. Quality related opportunities	2	International standards - mature market in re-structuring process
e. Skill shortage opportunities	1	Local service providers are readily available. Industry now has too many suppliers for the demand of services.
f. Niche opportunities		
i. different user groups	5	Opportunities with Multinationals because they are one of the main users of services. However, it may be difficult to break into such niches.
ii. circumvention of challenges	8	The impact of the global crisis is the major challenge. Cariforum professionals could look for cost reducing opportunities and seek local partners to work with.
g. Attitude towards joint ventures/partnerships	5	Attitude towards joint ventures with foreigners is not very positive as there is a preference for business relationships with those from more traditional markets.
h. Perceptions towards foreigners		
i. openness and appreciation	5	Attitude towards foreigners entering the market to offer services is neither positive or negative – skeptical. The Spanish market is not open to services emanating from developing countries.
ii. willingness to use foreign service providers (user perception)	1	Spanish companies would not be willing to use firms coming from Caribbean, or other foreign countries not traditionally associated to technical & scientific culture
i. Opportunities created through EU regulations	8	No specific requirements in relation to fees, but there are requirements about proved

		experience and qualification
j. Different Mode opportunities	3	There may be some Mode 1 opportunities but the conservative Spanish attitude and language issues may mitigate against this.

<b>10. Management Consulting Industry specific opportunities</b>	<b>Opportunity Score (Max = 10)</b>	<b>Assessment Criteria</b>
a. Industry size		
b. Industry competitiveness	1	Very competitive
c. Pricing opportunities	1	Local prices are lower and falling
d. Quality related opportunities	2	International standards - mature market
e. Skill shortage opportunities	1	Local service providers are readily available. Good spread of large companies branches and small local firms through all Spanish territories.
f. Niche opportunities		
i. different user groups	2	There may be some opportunities with multinationals - not easy to break into the market because of "suspicion".
ii. circumvention of challenges	8	Main challenge is to develop the international market. Cariforum Consultants could seek project opportunities and forge joint venture relationships with Spanish partners and penetrate new markets together..
g. Attitude towards joint ventures/partnerships	5	Attitude towards joint ventures with foreigners is not very positive as there is a preference for doing business with those from more traditional markets.
h. Perceptions towards foreigners		
i. openness and appreciation	5	Attitude towards foreigners entering the market to offer services is indifferent/skeptical. The Spanish market is not open to services emanating from developing countries.
ii. willingness to use foreign service providers (user perception)	3	Not very willing and quite skeptical – there is general skepticism about using foreign suppliers from outside the EU due to technical and cultural reasons.
i. Opportunities created	10	No specific requirements for

through EU regulations		fees, proved experience & qualification
j. Different Mode opportunities	6	There may be some Mode 1 and 4 opportunities – needs to be initiated from Cariforum end because of skepticism from the Spanish end..

<b>11. Tour Guide Industry specific opportunities</b>	<b>Opportunity Score (Max = 10)</b>	<b>Assessment Criteria</b>
a. Industry size		
b. Industry competitiveness		
c. Pricing opportunities		
d. Quality related opportunities		
e. Skill shortage opportunities		Chaotic industry, not properly developed and only available in traditional tourist cities
f. Niche opportunities		
i. different user groups		
ii. circumvention of challenges		
g. Attitude towards joint ventures/partnerships		
h. Perceptions towards foreigners		
i. openness and appreciation		
ii. willingness to use foreign service providers (user perception)		
i. Opportunities created through EU regulations		
j. Different Mode opportunities		

<b>12. Tour Operator Industry specific opportunities</b>	<b>Opportunity Score (Max = 10)</b>	<b>Assessment Criteria</b>
a. Industry size		
b. Industry competitiveness	1	Very competitive
c. Pricing opportunities	2	Local prices are cheaper than many other EU 27 countries
d. Quality related opportunities	1	International standards
e. Skill shortage opportunities	1	Local service providers are readily available - Tour Operators are very accessible with an excellent spread through all Spanish territories.
f. Niche opportunities		
i. different user groups	6	Typical users are small local private sector entities and private consumers and households (most tour operators are also retailers). Public sector organizes and outsources tourist activities for the retired people- Cariforum Tour Operators will have to conduct market research and package vacations to which Spanish tourists are attracted
ii. circumvention of challenges	6	The main challenge is to sustain business activity especially in current economic environment. Cariforum Tour Operators must examine how they can use creative online methods to gain a competitive edge
g. Attitude towards joint ventures/partnerships	4	Attitude towards joint ventures with foreigners is very positive
h. Perceptions towards foreigners		
i. openness and appreciation	3	Industry is quite closed sector to new comers in general and foreign companies in particular
ii. willingness to use foreign service providers (user perception)	2	Users are not at all willing to use foreign suppliers from outside the EU
i. Opportunities created through EU regulations	2	There are specific requirements in relation to



		proved experience and qualification requirements
j. Different Mode opportunities	8	Could use Mode 1 (online approaches) to attract more tourists

#### IV. UK: Opportunities for Cariforum Service Providers

Country specific opportunities	Score	Assessments
Country specific opportunities		
k. Positively disposed to diversity	10	Diversity is the order of the day
l. Language	10	Everyone speaks people speak English
m. Proximity to other regions	10	A natural gateway to the former Soviet, Baltic and Scandinavian States
n. Persons willing and prepared to coordinate and cooperate	8	Consultants have linkages with which are favorably disposed to coordinating training and conducting matchmaking. However, the UK market because of its maturity may be tougher to penetrate

#### Contribution to GDP by Selected Services Industry

Industry	2000	2001	2002	2003	2004
Accountancy services	8 743	9 597	9 781	10 018	10 303
Market research, management consultancy	8 726	9 666	10 365	11 539	12 677
Architectural activities & technical consultancy	15 128	16 268	17 167	18 430	19 261
Hotels, catering, pubs etc.	26 005	27 384	29 023	30 509	33 074
Other business services	29 556	31 567	32 479	34 810	38 343
Other service activities	5 026	5 444	5 791	6 171	6 486

Source: The UK economy - Analyses at a glance, 1992-2004

#### Trade in Selected Services Industries

Exports in selected industries

SECTOR £ million	2000	2001	2002	2003	2004	2005
Accounting	662	642	728	733	892	1 000
Business management and management consulting	1 083	1 069	2 545	3 127	3 288	3 310
Architectural	76	153	71	106	110	87
Engineering	2 441	3 239	3 049	3 475	3 501	3 102

#### Imports in selected industries

SECTOR (£ million)	2000	2001	2002	2003	2004	2005
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Accounting	213	228	251	300	324	311
Business management and management consulting	456	569	1 428	1 924	2 328	2 550
Architectural	724	1 075	868	1 107	1 325	1 354
Engineering	55	31	29	24	48	85

### Balance of trade in selected industries

SECTOR £ million	2000	2001	2002	2003	2004	2005
Accounting	449	414	477	433	568	689
Business management and management consulting	627	500	1 117	1 203	960	760
Architectural, Engineering & other technical services	2 477	3 106	3 728	3 718	3 678	3 108

Source: [http://www.statistics.gov.uk/downloads/theme\\_economy/PinkBook2006.pdf](http://www.statistics.gov.uk/downloads/theme_economy/PinkBook2006.pdf)

#### i. Size of each selected industry

Industry	# of firms	Average Turnover/Sales (million/€)	Number of Employees (average)	Largest two firms (by relevant business organization)
Accountancy services & auditing				3. Pricewaterhouse Coopers 4. Deloitte
Architecture				3. Aedas LPT / Aedas AHR 4. Foster and Partners
Engineering				1.
Management Consultancy				3. Accenture 4. IBM Business Consulting Services
Tourist Guide Services				3.
Tour Operators				4. Thomson 3. Thomas Cook

Sources:

<http://www.accountancyage.com/resources/top50>

<http://ivory.vnunet.com/assets/binaries/accountancy-age/pdf/aa-top-50-2008.pdf>

<http://www.brightknowledge.org/projects/architecture-futures/null,671,AR.html>

<http://www.managementconsultancy.co.uk/webdirectory/top75-01>

<http://www.managementconsultancy.co.uk/webdirectory/top50>

<http://www.holidaynet.com/combined/selectoperator.asp>

\*The engineering sector is huge. The Engineering Employers' Federation (EEF) is more than 6,000 member firms strong. There are an estimated 800,000 engineers in a sector employing roughly 1.7 million people in total. At the end of 2007 the

total number of [Engineering Council UK \(ECUK\)](#) registered engineers stood at around 250,000.

[http://www.prospects.ac.uk/cms/ShowPage/Home\\_page/Explore\\_job\\_sectors/Engineering/overview/p!eXefdcI](http://www.prospects.ac.uk/cms/ShowPage/Home_page/Explore_job_sectors/Engineering/overview/p!eXefdcI)

Distribution of Local Firms by Size Based on Number of Employees  
(% in each category)

<b>Firm Size (number of employees)</b>	<b>1-10</b>	<b>11-20</b>	<b>21-50</b>	<b>Over 50</b>
Accountancy services & auditing	92%	4%	2%	2%
Architecture	90%			1%
Engineering	85%			2%
Management Consultancy				
Tourist Guide Services				
Tour Operators				

Source: Industry Associations and Professionals

### Industry Specific Opportunities

<b>1. Accounting and Auditing Industry specific opportunities</b>	<b>Opportunity Score (Max = 10)</b>	<b>Assessment Criteria</b>
o. Industry size		
p. Industry competitiveness	1	Very competitive
q. Pricing opportunities	4	Local and foreign prices are about the same
r. Quality related opportunities	4	Fairly good
s. Skill shortage opportunities	1	Local service providers readily available
t. Niche opportunities		
i. different user groups	10	Opportunities with Multinationals and foreign private sector because they are two of the main users of accounting & auditing services.
ii. circumvention of challenges	10	The major challenge faced is high labour costs and competition so there are possible opportunities for Cariforum services providers
u. Attitude towards joint ventures/partnerships	10	Attitude towards joint ventures with foreigners is very positive
v. Perceptions towards foreigners		
i. openness and appreciation	8	Attitude towards foreigners entering the market to offer services is quite positive
ii. willingness to use foreign service providers (user perception)	4	Somewhat willing but a little skeptical
w. Opportunities created through EU regulations	10	There are no major restrictive EU regulations
x. Different Mode opportunities	10	There may be some Mode 1 and 4 opportunities due to high labour costs. User interviews supported the fact that these Modes have already been used

<b>13. Architecture Industry specific opportunities</b>	<b>Opportunity Score (Max = 10)</b>	<b>Assessment Criteria</b>
a. Industry size		
b. Industry competitiveness	4	Moderately competitive
c. Pricing opportunities	1	Local prices are cheaper
d. Quality related opportunities	1	International standards already available in Estonia
e. Skill shortage opportunities	1	Local service providers readily available
f. Niche opportunities		
i. different user groups	10	Opportunities with Multinationals and foreign private sector because they are two of the main users of services.
ii. circumvention of challenges	10	High labour costs and lack of professional competence
g. Attitude towards joint ventures/partnerships	10	Attitude towards joint ventures with foreigners is very positive
h. Perceptions towards foreigners		
i. openness and appreciation	10	Attitude towards foreigners entering the market to offer services is very positive because foreign knowledge is highly valued
ii. willingness to use foreign service providers (user perception)	4	Generally not willing to use foreign service provider but there may be a niche for cruise passengers who come from the Caribbean or North America
i. Opportunities created through EU regulations	10	There are no special EU regulations or restrictions
j. Different Mode opportunities	3	There may be some Mode 1 and 4 opportunities due to high labour costs. User interviews supported the fact that these Modes have already been used

<b>14. Engineering Industry specific opportunities</b>	<b>Opportunity Score (Max = 10)</b>	<b>Assessment Criteria</b>
a. Industry size		
b. Industry competitiveness	4	Moderately competitive
c. Pricing opportunities	1	Local prices are cheaper
d. Quality related opportunities	1	International standards already available in Estonia
e. Skill shortage opportunities	1	Local service providers readily available
f. Niche opportunities		
i. different user groups	7	Opportunities with foreign private sector because this is one of the main users of services.
ii. circumvention of challenges	10	The major challenge faced is high labour costs and competition so there are possible opportunities for Cariforum services providers
g. Attitude towards joint ventures/partnerships	8	Attitude towards joint ventures with foreigners is positive
h. Perceptions towards foreigners		
i. openness and appreciation	10	Attitude towards foreigners entering the market to offer services is very positive
ii. willingness to use foreign service providers (user perception)	4	Somewhat willing but a little skeptical
i. Opportunities created through EU regulations	7	There are no major restrictive EU regulations but foreign service providers must have a relationship with specialists in the construction sector
j. Different Mode opportunities	7	There may be some Mode 1 opportunities due to high labour costs. User interviews supported the fact that these Modes have already been used

<b>15. Management Consulting Industry specific opportunities</b>	<b>Opportunity Score (Max = 10)</b>	<b>Assessment Criteria</b>
a. Industry size		
b. Industry competitiveness	1	Very competitive
c. Pricing opportunities	6	Local prices are about same as EU15 - they used to be higher before sterling depreciated
d. Quality related opportunities	1	Amongst the highest international standards so users are reluctant to look elsewhere unless there is a critical differentiator
e. Skill shortage opportunities	1	Readily available and at the moment there is an oversupply of consultants – big practices have been hit by the impact of the decline in the financial sector.
f. Niche opportunities		
i. different user groups	7	<p>No clear niche opportunities based on sector, Cariforum Consultants will have to use either price as a differentiator or pursue Diaspora and ethnic markets as niches</p> <p>45% of UK consultancy is carried out on behalf of the public sector (central government, local government, etc) 25% for financial services entities 5% for NGOs 5% for pharmaceutical and food</p> <p>Retail and manufacturing are not spending much on management consultancy at the moment. However, not all sectors are shedding consultants</p>
ii. circumvention of challenges	2	Main challenge is meltdown but for only certain sectors.
g. Attitude towards joint ventures/partnerships	8	<p>Attitude towards joint ventures with foreigners is fairly positive.</p> <p>UK firms would be interested</p>



		in Joint Ventures to share work with Caribbean companies in the UK or aligning with Diaspora and other ethnic community
h. Perceptions towards foreigners		
i. openness and appreciation	5	UK firms would show indifference towards Cariforum consultants entering their market of 80,000 consultants because the addition of Caribbean consultants will not make a statistically significant difference,
ii. willingness to use foreign service providers (user perception)	6	UK users would a natural prejudice/ skepticism about what skills could be brought to the table that are not already available. The UK is a highly sophisticated G8 member! Price differentiation might be an option by partnering with a large UK company as part of a large team.
i. Opportunities created through EU regulations	10	There are no major restrictive EU regulations – some former Soviet countries have tried to implement an EU consultant designation but this is being gradually replaced by the CMC qualification.
j. Different Mode opportunities	7	There may be some Mode 1 and 4 opportunities due to higher labour costs. Outsourcing possibilities exist for Management Consultants who tend to recommend this approach to other industries but fail to make a habit of it themselves.

<b>16. Tour Guide Industry specific opportunities</b>	<b>Opportunity Score (Max = 10)</b>	<b>Assessment Criteria</b>
a. Industry size		
b. Industry competitiveness	10	<p>Very competitive – depending where you are, in some areas there are relatively few tour guides. In UK and some EU countries there are no legal guidelines for tour guiding. In UK there is just the Blue Badge.</p> <p>There is a niche for offering tours to Caribbean people</p>
c. Pricing opportunities	8	Pricing is subject to competition law. The UK is upper middle in terms of prices for guides. Note that there are different bases for time, number of persons, language, etc. In the UK it is about 120 pounds for half day and 190 pounds for a full day.
d. Quality related opportunities	1	UK tourist guide is international standard and amongst the best in the world. Blue Badge guides carry out all the tours of parliament with over 90% satisfaction rate.
e. Skill shortage opportunities	4	They are readily available except for being subject to language or peaks. There are about 2500 registered tour guides in England. There are numerous unqualified persons who come and go. There are also city guides who do not have Blue badge. Has only met two Caribbean background guides in UK.
f. Niche opportunities		
i. different user groups	8	<p>Main user groups were traditionally service tour companies (package tours) who would offer tours from London.</p> <p>Users are now shifting to niche markets and specialty and educational tours. For</p>

		<p>example, foreign Universities may have a tour in UK.</p> <p>Another niche opportunity is with Caribbean Diaspora as well as those living in the Region for whom travelling is no longer a luxury - so this an excellent niche opportunity</p>
ii. circumvention of challenges	10	<p>Main challenge to the industry is to champion quality and standards. The EU is very keen on quality and standards. Caribbean Tour Guides should get Blue Badge trained and promote this. Blue Badge training can be done online from the Caribbean as opposed to visiting the UK.</p>
g. Attitude towards joint ventures/partnerships	10	<p>Attitude towards joint ventures with foreigners is very positive. The Institute of Tourist Guides would fully support joint ventures but there are practitioners who would be concerned.</p>
h. Perceptions towards foreigners		
i. openness and appreciation	8	<p>As long as proper qualification is in place the Institute of Tourist Guides would not have a problem with foreign guides entering the market to offer service. Other Guides may have a problem. Attitude towards foreigners entering the market to offer services is not likely to be negative.</p>
ii. willingness to use foreign service providers (user perception)	10	<p>Quite willing as long as people are qualified. There is a very good opportunity to provide niche tours for the Caribbean Diaspora and other ethnic groups.</p>
i. Opportunities created through EU regulations	10	<p>EU does not interfere with individual state arrangements and has not sought to harmonize training across the EU</p>
j. Different Mode opportunities	8	<p>Could provide cross border tours in the EU as well as</p>

		business welcoming services.
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Follow up activities:

- Arrange a matchmaking meeting with Tour Guides in UK
- Contact a very reputable agency - Tour Guides Limited based on Duke Street, London W1 – Richard Skinner and Monica Carney – 44 207 495 5504
- Contact Institute of tour Guides Jennifer Basannavar – 44- 207-953-1257

<b>17. Tour Operator Industry specific opportunities</b>	<b>Opportunity Score (Max = 10)</b>	<b>Assessment Criteria</b>
a. Industry size		
b. Industry competitiveness	7	Very competitive but seriously threatened by online bookings but this is an opportunity for Caribbean Tour Operators – “unpackaging” is now very fashionable.
c. Pricing opportunities	4	UK Tours are the cheapest by far in the EU. Dutch are next and the Germans are most expensive.
d. Quality related opportunities	2	They are international standard and many owned by Germans
e. Skill shortage opportunities	1	Tour Guides are readily available
f. Niche opportunities		
i. different user groups	10	Niche tours such as music tours, young people tours
ii. circumvention of challenges	6	Main Challenges for the industry: 1. Competition from online agencies 2. Airlines do not give discounts to travel agents
g. Attitude towards joint ventures/partnerships	10	There are opportunities in terms of: 1. Commission based relationship 2. Ground handling and back office would be excellent JV opportunities. 3. Niche market opportunities
h. Perceptions towards foreigners		
i. openness and appreciation	10	UK Tour operators would be indifferent to Caribbean Tour Operators entering the market – they are relatively few so it would not phase them or significantly reduce their market share.
ii. willingness to use foreign service providers (user perception)	5	UK travellers would be prepared to use Caribbean Tour Operators if they are well marketed and meet the

		<p>international standards</p> <ol style="list-style-type: none"> <li>1. Mutual qualifications</li> <li>2. Member of AITO or ABTA.</li> </ol> <p>Moreover this is consistent with Fair Trade Tourism and authentic experience wherein more of the money from tours are retained by the destination country rather than remaining in the UK or overseas country.</p> <p>Local products should be used in the tourism experience</p> <p>Niche tours – reggae tours</p> <p>Diaspora would definitely respond to this for tours back to the Caribbean and to the rest of the world.</p>
i. Opportunities created through EU regulations	<b>3</b>	
j. Different Mode opportunities	10	<p>Online Tour Operation is a major opportunity. People going to Caribbean should be encouraged to book through a Caribbean Tour company. This would not stop them from selling services to anywhere. Doing back office work for TO companies e.g. monitoring website and offering a friendly Caribbean voice in advertising</p>

## **V. GENERAL REGULATORY AND ADMINISTRATIVE FRAMEWORK FOR SUPPLYING SERVICES**

### **V.1 Estonia**

#### **1. Setting Up a Business**

The Estonian legal system is based on the continental European model. The new Commercial Code was adopted on 15 February 1995 and has been effective since 1 September 1995. The law expresses the basic principles of Estonian entrepreneurship according to European traditions and standards and sets out the role of the Commercial Register.

Certain activities must be registered in the Register of Economic Activities. Registration is necessary in the following sectors:

- Tourism Sector
  - operation as travel undertaking.
  - provision of accommodation services.
- Building Sector
  - construction.
  - designing.
  - construction geodetic and geological surveys.
  - expert assessments of a building design documentation.
  - expert assessments of construction works.
  - construction management.

The undertakings can submit an application through the X-Road Company Registration Portal at <https://www.portaal.riik.ee/x/eit> (for undertakings registered in the commercial register) or by written application (submitting by post).

The full list on activities that need to be registered can be found here: [http://mtr.mkm.ee/failid/Info/Tegevusalad\\_sept\\_2007\\_eng.doc](http://mtr.mkm.ee/failid/Info/Tegevusalad_sept_2007_eng.doc). If the activity is not on the list the registration is not necessary and activities are free for all undertakings.

Registration proceedings take 10 minutes (electronically) or when submitting the application by post the registration is active usually within 3-4 days. The Stamp Tax is approximately €20.

#### **2. Estonian Chamber of Commerce and Industry**

Membership is voluntary and does not grant any legal privileges to provide services. To become a member the undertaking must file an application

and pay a membership fee. The fee is usually based on the number of employees working at the company and is calculated on the same principles for all members. Membership is active as soon the membership fee is paid. The membership fee pricelist (per year) is as follows (depending on the amount of contractual employees):

<b>Employees</b>	<b>Annual Membership Fee (EEK)</b> <i>(1 EEK=15,6466 EUR)</i>
1...4	2 000
5...9	3 000
10...19	3 700
20...49	4 300
50...99	6 000
100...249	8 500
250...499	13 000
500...999	25 000
1000...	30 000

- **Sole Proprietorship**

### **3. Types of Business Undertaking**

According to the Commercial Code there are five forms of business entities, which are created by entry into the Commercial Register:

- Sole Proprietorship (*füüsilisest isikust ettevõtja* or FIE)
- General Partnership (*täisühing* or TÜ)
- Limited Partnership (*usaldusühing* or UÜ)
- Private Limited Company (*osaühing* or OÜ)
- Public Limited Company (*aktsiaselts* or AS)



### *Sole Proprietorship*

The rules governing the setting up in business in Estonia apply to all types of business, except where otherwise specified below. Any natural person can set up in business as a sole trader provided that he or she complies with any laws governing the need for special permits or licences needed for certain professions (those relevant to this study are discussed below), those governing premises etc. He/she may be entered into the Commercial Register at his/her request.

However, a sole proprietor must be entered into the Commercial Register if he or she is registered with the Tax Board as a taxpayer under the Value Added Tax Act. The law may provide other cases in which a sole proprietor must be entered in the Commercial Register.

A sole trader may set up a business bank account and, for personal reasons, separate his/her assets as being business assets and personal assets. However, for the purposes of liability to creditors there is no such distinction. The advantages of being a sole trader are the same as elsewhere: the trader accounts to no-one other than him or herself and the tax authorities. Decisions are for him/her alone. The main disadvantage is that there is unlimited liability for the debts of the business.

### *General Partnership.*

A general partnership is a commercial undertaking in which two or more partners operate under a common business name and are jointly and severally liable for the obligations of the partnership. As with the sole trader, their private assets are attachable for the debts of the business.

A general partnership operates on the basis of the partnership agreement concluded by the partners. There is no minimum capital requirement and partners make monetary or non-monetary contributions in the amount prescribed by the partnership agreement. The partners must agree on and enter in the Commercial Register: the business name of the partnership; the area of activity and the amount of the contributions of the partners.

Each partner receives a portion of the distributed profit corresponding to the partner's contribution (unless the partnership agreement prescribes otherwise). A partner that withdraws from the partnership is liable with the other partners for any obligations of the partnership which arose before the date of withdrawal or arises within five years after departure or exclusion from the partnership. The date of the removal of the partner's name from the Commercial Register is used for this purpose.

The partnership can be dissolved: by resolution of the partners; by court judgement; or upon the expiry of a term or achievement of an object set out in the partnership agreement.

### *Limited Partnership*

The provisions concerning general partnerships also apply to limited partnerships unless otherwise provided in Commercial Code. A limited partnership is a firm in which two or more persons operate under a common business name, and at least one of the persons (the general partner or partners) has unlimited liability for the obligations of the firm. At least one partner (a limited partner) is only liable for the obligations of the firm to the extent of his/her contribution to the firm's assets.

A limited partner does not have the right to manage or represent the limited partnership unless the partnership agreement provides otherwise. A limited partner who has paid a contribution in full does not have any further liability for the obligations of the firm and he/she is entitled to the corresponding portion of its profits.

### *Private Limited Company*

The private limited company is the most common type of business set up by foreigners in Estonia. A private limited company is a company that has share capital divided into private limited company shares. Its shareholders are not personally liable for the obligations of the company. The company is a legal "person" in law and is liable as such for the performance of its obligations with all of its assets.

The minimum share capital is EEK 40000 (approximately € 2556). The minimum nominal value of a share is EEK 100 (approx. €6.39). A shareholder may freely transfer a share to another shareholder of the company. However, if the shareholder attempts to transfer shares to a third person, the other shareholders have the right of pre-emption.

Shares of a private limited company can be pledged, encumbered, divided or transferred to a successor of the shareholder unless stated otherwise in the Articles of Association. The shareholder is required to make a contribution to the company's assets corresponding to the nominal value of the shares which he/she holds.

The Management Board is responsible for the accounting requirements of the private limited company. The company must have an auditor if the share capital is greater than EEK 400,000 (approx. € 25560) or if so stated in the Articles of Association. An auditor is also mandatory when the company surpasses certain threshold values in terms of turnover, number of employees and asset value.

In establishing the company the founder(s) should consider whether to buy a pre-registered company or register a new one. Pre-registered companies are sold by numerous accountancy and law firms and this is usually the fastest way to have a company registered. However, in addition to the stamp taxes, a fee will additionally be charged by the intermediary (generally € 500-1000).

In registering a new private limited company the share capital (minimum EEK 40 000/ €26556 approx.) must firstly be paid into a designated bank

account. If non-monetary contributions are made, special rules apply. Then, the Memorandum and the Articles of Association must be prepared in Estonian and notarised.

The Memorandum of Association sets out, amongst other things: the business name; address; area of activity; the names and residential addresses of the founders; the amount of share capital; the nominal value of the shares and their division among the founders and the members of the management board. The Articles of Association contains, amongst other things: the name, business address and business activity of the company; the share capital; the procedure for payment of shares; reserve capital; and other terms and conditions for the company.

The founders must sign the documentation. If a founder is a foreign company, the power of attorney given to its representative must also have been notarised. The notarised documentation is then submitted to the Commercial Register.

In 2007 a speedier process for registration was introduced using the Estonian electronic identification system and digital signature. It is now possible to register a company electronically under the new fast track procedure (the target is within two hours). However, this procedure is limited to founders who are registered as Estonian residents. More details are available at:

[https://ettevotjaportaal.rik.ee/help/help\\_eng.html](https://ettevotjaportaal.rik.ee/help/help_eng.html)

#### Public Limited Company

A public limited company is a company that has a share capital divided into public limited company shares. Shareholders are not personally liable for the obligations of the company. As with a private limited company, it is a legal "person" and the company is liable for the performance of its obligations with all of its assets. It may be founded by one or more natural or legal persons with or without share subscription.

A public limited company must have a minimum share capital of EEK 400000 (approx. €25560) and the minimum nominal value of a share should be EEK 100 (approx. €6.39). The shareholding must be entered in the Estonian Central Register of Securities. The rights attached to registered shares belong to the person who is entered as the shareholder in the share register maintained by the company. The management board must ensure the timely submission of the correct information. The number of shares a shareholder can own in a company is unlimited and shares can be freely transferred to third parties. A share cannot be divided.

The remuneration of auditors is obligatory and the general meeting, who specifies the procedure for the remuneration of auditors, will also specify the number of auditors.

The management of a public limited company operates through general meetings of shareholders, the Management Board and the Supervisory

Board. A private limited company operates through the Management Board.

The general meeting of the shareholders is the highest authority in the company and must be convened at least once a year. It approves the annual report; distributes profits; elects the Supervisory Board and the auditors; amends the Article of Association; increases and decreases the share capital; decides on dissolution in the case of a public limited company); and other matters according to law. Resolutions are usually passed by a simple majority vote. However, for a change in the Articles of Association or termination of its operations and for a resolution to decrease or increase share capital, a majority of 2/3 is required.

The Management Board is the executive body of the company and is responsible for representing and managing it. It must report the company's activities and economic situation to the Supervisory Board at least once every four months. At least one-half of the members of the Management Board must be resident in the European Union, EEA or Switzerland.

The Supervisory Board plans the strategic activities of the company, arranges its management, and controls the Management Board. A member of the Management Board cannot be a member of the Supervisory Board.

As with a private limited company, before it is entered in the Commercial Register, the founders must draft a Memorandum and Articles of Association which must be signed by all founding members and notarised in Estonia or at the Estonian diplomatic representation in a foreign country. Upon foundation, the founders must open a bank account in the name of the newly founded company into which monetary contributions should be paid in. The required minimum share capital requirement must be paid in before the registration of the company.

Contributions may be monetary or non-monetary, but not by means of service or work provided for the company or any activities of the founders in founding the company. If the non-monetary contribution exceeds EEK 40000 (approx. € 2556) or if non-monetary contributions in total exceed one half of the share capital, an evaluation is required by an auditor. An auditor must audit the valuation of a non-monetary contribution paid in to a public limited company.

The Memorandum of Association of a public limited company must include the following information:

- the business name, location, address and area of activity of the company;
- the names and residences or seats of the founders;
- the proposed amount of share capital;
- the nominal value and number of shares and, upon of issue of more than one class of shares, their denotation and the rights

attaching to the shares and their division among the founders;

- the amount to be paid for the shares, and the time, place and procedure of payment;
- if a share is paid for by a non-monetary contribution, the item of the non-monetary contribution, its valuation method and value;
- the names, personal identification codes and places of residence of members of the management board, supervisory board, procurator (if appointed) and auditors;
- the assumed amount of foundation expenses and the procedure for payment thereof.

The Management Board must submit a petition application for registration in the Commercial Register within six months of concluding the Foundation Agreement. The application must be signed by all members of the board and include the following information to be entered in the Commercial Register:

- the business name of the public limited company;
- the area of activity, location and address of the public limited company;
- the amount of share capital;
- the date of approval of the Articles of Association;
- the names, personal identification codes and residences of the management board;
- the members of the management board entitled to represent the public limited company differently than provided for in subsection 307(1) of the Commercial Code;
- the beginning and end of the financial year;
- other information provided by law.

The following documents should be enclosed with the application:

- the Memorandum of Association;
- the Articles of Association;
- a bank notice concerning the payment of share capital;
- upon payment by a non-monetary contribution, the agreement concerning the transfer of the contribution to the public limited company, documents certifying the value of the contribution and an opinion on the valuation of the non-monetary contribution signed by the auditor;
- the names, personal identification codes and residences of the members of the management board, the supervisory board, and the auditors;
- specimen signatures of the members of the management board;
- telecommunication numbers (telephone, fax, etc.);

- a notice from the registrar of the Estonian Central Register of Securities concerning registration of the shares;
- other documents required by law.

In the case where the founder is a foreign company, an official certificate proving the existence of the company in the country of incorporation is required. This certificate as well as a foundation resolution must be notarised in the foreign country by a public notary, which is legalised by the Ministry of Foreign Affairs of the foreign country and the Estonian Embassy or its diplomatic representative. If there is a translator available in the Estonian Embassy, these documents may be translated in a foreign country and legalised at the Estonian Embassy. In that case, no further legalisation is required in Estonia. However, if there is no acceptable translator available in a foreign country, the documents must be legalised at the Estonian Embassy and sent to Estonia for translation and notarisation.

All documents must be submitted to the Commercial Register in Estonian or with an appended notarised translation. The Foundation Agreement must be signed by all founders or by their notarised proxy. As a rule, the registration process takes up to 2 or 3 weeks. The fee for notaries services will be approx €20 and the stamp duty is approximately €140.

Since 2007 it has become possible to use a speedier procedure for registration by using the Estonian electronic identification system and digital signature. The company can become registered within two hours. However, this procedure is limited to founders who are registered as Estonian residents. At the moment this is available for owners of Estonian, Finnish, Portuguese or Belgian ID-card or the Lithuanian Mobile-ID. During the one e-procedure a bank account will be opened and minimum share capital will be paid (approx. € 2556). A stamp fee is payable (approx. €185). Once the registration process is complete (less than 2 hours) the company is fully established and active.

#### **4. Foreign Enterprise Entities Operating in Estonia**

If a foreign commercial undertaking wants to permanently offer goods or services in its own name in Estonia, it must register that branch in the Commercial Register. In accordance with the law, a foreign commercial undertaking must obtain a license in order to open a branch (*filiaal*) in Estonia. All entities not registered in the Commercial Register (e.g. permanent establishments) must be separately registered with the Tax Authorities.

As a branch is not a legal person, the foreign company is liable for the obligations of the branch. The branch of a foreign company is established after its registration in the Commercial Register. To register a branch, the application must contain the same data about the branch and the parent company as for a public or private limited company. The application also has to state the country under whose jurisdiction the company operates.

The foreign company must appoint a director or directors for the branch. A director must be a natural person with active legal capacity. The residence of at least one director must be in Estonia. A bankrupt or a person whose right to engage in economic activity has been taken away pursuant to law cannot act as a director. If the branch or company conducts banking activities in Estonia it will need a foreign investment licence from the Council of the Bank of Estonia.

The branch must maintain separate records for its transactions from those of the parent business and these must provide a true and fair basis for determination of the income and expenses attributable to the branch. The branch must generally follow the Estonian Accounting Law. There are, in that law, minor exceptions stipulated as applicable solely to branches of foreign companies (e.g. the branch is not required by law to have a statutory audit performed).

## **5. Business Accounting Principles**

The Law on Accounting (valid from 1 January 2003) regulates basic accounting functions in all business entities registered in Estonia. It does not regulate accounting for taxes, which are regulated by other laws and acts. The essence of the law is framed in compliance with International Accounting Standards (IAS) except that no consolidation is required (equity method is used to account for subsidiaries) and notes to financial statements are usually fewer.

In addition to the Law on Accounting there are a number of regulations issued by the Estonian Accounting Committee which interprets and supplements the law. Each business entity may also establish additional rules regulating some aspects of its own accounting and reporting.

A fiscal year is twelve months long. A business entity can choose a fiscal year ending on 31 March, 30 June, 30 September or 31 December. If a company wishes to use any other fiscal year, permission must be obtained from the Ministry of Finance. The law also prescribes that a parent company and its subsidiary should have the same financial year, which may also be a fiscal year.

All accounting records should be maintained for seven years. Contracts, business plans and other documents, necessary for reconstructing business transactions should be maintained for ten years.

## **6. Auditing Standards**

All companies registered in Estonia are required to submit their audited financial statements to the authorities within 6 months of the end of the fiscal year. An audit is not required for a private limited company if its share capital is less than EEK 400000 (€ 25560) and if its net sales in the previous fiscal year did not exceed four times the mandatory VAT registration limit set in the Law on Value Added Tax. This is currently EEK 1 million (€ 63900).



An audit is not required for sole proprietorships or for partnerships, provided the partners are neither public nor private limited companies nor business cooperatives. The auditing process is regulated by Estonian Standards of Auditing. General requirements concerning auditing are regulated by the Accounting Law and the Commercial Code.

The Estonian Auditing Standards are composed in accordance with generally accepted auditing standards and are based on the standards of the International Federation of Accountants (IFAC), International Standards on Auditing (ISA) as well as on the standards of the American Institute of Certified Public Accountants (AICPA). Currently, all major international accounting firms are present in Estonia.

## **7. Taxation**

The Estonian tax system consists of national taxes and local taxes collected by local governments in their jurisdiction. National taxes include income tax, social tax, land tax, gambling tax, value-added tax, duty and excise taxes and heavy goods vehicle tax. Local governments have the authority to impose local taxes, but effectively only a few municipalities have introduced local taxes, in particular: sales tax, boat tax, advertisement tax, tax for closing of streets, motor vehicle tax, tax on keeping domestic animals, amusement tax, and parking fees.

Estonia does not impose any gift, inheritance or estate taxes. Various transactions may be subject to payment of state fees (stamp duties).

### *Income Tax*

The income of Estonian resident individuals is generally subject to a 21% flat income tax. Estonian residents are individuals that have a permanent home in Estonia or who have been staying in Estonia 183 days or more in a calendar year. Credit is given for taxes paid abroad. Non-residents are subject to Estonian tax on their Estonian sourced income. The relatively low tax rate in Estonia is however balanced by the small number of allowable deductions for resident individuals.

Since 1 January 2000, resident companies and permanent establishments of foreign entities (including branches) are subject to income tax only in respect of all distributions (both actual and deemed), including:

- dividends and other profit distributions;
- gifts, donations and representation expenses; and
- expenses and payments not related to business.

All distributions are be subject to income tax at the gross rate of 21/79 of the amount of taxable payment. The transfer of assets of the permanent establishment to its head office or to other non-residents is also treated as a distribution. Dividends paid to non-residents are additionally liable to withholding tax at the general rate of 21%, unless the non-resident legal entity holds at least 15% of the share capital of the distributing Estonian company. Various withholding taxes may apply also to other payments to non-residents, if they do not have a permanent establishment in Estonia or



unless the tax treaties otherwise provide. As the tax period of corporate entities is on a monthly basis, the income tax must be returned and paid monthly by the 10th day of the following month.

Under the income tax legislation corporate entities are exempt from income tax on undistributed profits, regardless of whether these are reinvested or merely retained. As there is no annual net taxation of corporate profits, corporate entities are also not subject to tax depreciation rules.

Capital gains realized by a resident corporate entity (including a non-resident permanent establishment) are not taxed until the actual or hidden distributions, which are subject to 21/79 income tax on a monthly basis. Estonia does not have any thin capitalisation rules.

### *Value Added Tax*

The principal mechanism for collecting the VAT requires the VAT registered person to charge VAT on the goods or services supplied, to take credit for VAT paid on business expenditure and pay the net VAT over to the authorities. Input VAT is recoverable by Estonian VAT registered entities and in certain cases also by foreign legal entities that do not have a permanent establishment in Estonia.

VAT is charged at the rate of 18% (reduced rates of 0% and 5% apply to certain goods and services) unless the goods or services are outside the scope of VAT or exempt from VAT. The tax rate for exports is zero. However, the VAT treatment for the export of services is subject to the restricted list of services established by the Ministry of Finance.

The taxable period is one calendar month and value added tax returns must be submitted to the tax authority by the twentieth day of the month following the taxable period. Taxable persons are individuals and legal entities having a taxable supply as a result of conducting business. With respect to importation, an importer is a taxable person, whether or not he is engaged in a business. Special procedures apply to the temporary importation of goods. Taxpayers with annual supplies of less than EEK 250000 (€15975) are not required to register for VAT purposes.

Under certain conditions, temporary importation procedure may be applied with the consent of the Customs Authorities. In such a case, the import VAT is not applied to the goods imported temporarily, which must be processed and exported in due time from Estonia. The processing of such goods under a written service agreement is generally subject to zero-rated VAT.

Foreign legal entities are generally not registered for VAT purposes. However, the permanent establishments of foreign entities must register in the same manner as local legal entities. Provided that the foreign country grants reciprocal rights to Estonian residents, under certain conditions

Estonian VAT is refunded to non-resident legal entities, which have incurred input VAT in relation to purchasing goods or services in Estonia.

### *Social Tax*

Employers registered in Estonia (including permanent establishments of foreign entities) must pay social tax on all payments made to employees, except on those specifically exempted by law. In case of an individual engaged in business and registered as such with the Tax Authorities, social tax liability lies with the individual. Fringe benefits and the income tax thereof are also included in the taxable base. Currently only employers and individuals engaged in business are liable to make social tax contributions. Employees are not required to pay social tax. The rate of social tax is 33% (20% for social security and 13% for health insurance).

### *Other Taxes*

Land Tax is levied on the taxable value of all land (other than that which is specifically exempt). This is based on an official valuation. The owners of the land are liable to land tax. The annual land tax rate varies between 0.1% and 2.5% of the assessed value of the land. The council of the local authority is authorised to establish the rate of land tax.

Excise Duties are levied on tobacco, alcoholic beverages, motor fuel, motor vehicles and packages. Gambling Tax is imposed on amounts received from operating games of skill, totalisator, betting and lotteries. Tax is charged also on gambling tables and machines used for games of chance located on licensed premises.

More information on taxation in Estonia is available at the Estonian Tax and Customs Board website at [www.emta.ee/?lang=en](http://www.emta.ee/?lang=en).

### *Tax Treaties*

Estonia has effective tax treaties with Armenia, Austria, Belarus, Belgium, Canada, China, Croatia, Czech Republic, Denmark, Finland, France, Georgia, Germany, Hungary, Iceland, Ireland, Italy, Latvia, Lithuania, Luxembourg, Kazakhstan, Malta, Moldova, Netherlands, Norway, Poland, Portugal, Romania, Singapore, Slovak, Slovenia, Spain, Sweden, Switzerland, Turkey, Ukraine, United Kingdom, and USA. It may be noted that none are Caribbean countries.

Under the double tax treaties a significant reduction of withholding taxes on various payments to non-residents is available. In order to apply the lower tax treaty rates, the residence certificate of the recipient of income must be submitted to the Tax Authorities by the 10th day of the month following the payment.

## **8. Working in Estonia**

### *Visas*

EU and EEA citizens do not require a visa. The holders of the following passports of certain other countries, none of them CARIFORUM members, do not require a visa to enter Estonia for stays of no more than three months in a 6 month period. Citizens of all other states require a visa to enter Estonia.

There are five types of visas:

- Airport transit visa - given for entry into the international transit zone at an Estonian airport. This visa does not grant the alien the right to enter Estonia or stay in Estonia.
- Transit visa - given for single- or dual-entry transit journey through Estonia to the next transit country or arrival country, where the person has a legal basis to enter. The transit visa may also be given for multiple journeys when necessary for the completion of professional or employment duties.
- Short-term visa - given for single- or multiple-entry stays up to 90 days during a 6-month period in the Schengen<sup>7</sup> area.
- Short-stay visa without invitation. This is available for short visits of up to five calendar days and can be issued to an alien to enter and stay in Estonia for the purpose of tourism or entertainment services. The financial status of a visa applicant has to be sufficient in order to cover the costs of his or her accommodation, stay and departure from the country. In those circumstances the alien is not required to have a sponsor
- Long-term visa - given for single- or multiple-entry and stay in Estonia (e.g. for persons who have registered their short term employment before applying for visa, also their family members (spouse, minors and dependant adult children).
- Diplomatic visa.

State fees for processing visa applications:

- Airport transit visa 938 EEK (60 €)
- Transit visa 938 EEK (60 €)
- Short-term visa 938 EEK (60 €)
- Long-term visa 1250 EEK (80 €)

### *Work Permits*

In order to work in Estonia an alien must hold a work permit. For this purpose. The activities of a sole proprietor, employment under an employment contract or any other contract, or any activity which may result in gaining profit or any other benefit, irrespective of the type or form

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<sup>7</sup> Austria, Belgium, Denmark, Germany, The Netherlands, Greece, Finland, France, Iceland, Italy, Luxembourg, Norway, Spain, Sweden, Portugal, Czech Republic, Poland, Hungary, Slovakia, Slovenia, Latvia, Lithuania, Malta.

of the contract, or the location or place of residence of the other party to the contract, is deemed to be employment, unless an international agreement stipulates otherwise. The period of validity of the work permit cannot exceed the period of validity of the holder's residence permit.

### *Short-term Employment in Estonia*

An employer may apply for the registration for short-term employment in Estonia for the following persons:

- aliens who arrive in Estonia either on the basis of a visa or on a visa-free basis (unless any international agreement stipulates otherwise);
- aliens who stay in Estonia either on the basis of a visa or on a visa-free basis (unless any international agreement stipulates otherwise).

For the purposes of short-term employment foreign nationals who need an entry visa to Estonia are required to apply for a long-term visa. Before applying for a visa the short-term employment must be registered at the Citizenship and Migration Board (CMB). Short-term employment cannot exceed a period of 6 months a year.

An alien who stays in Estonia on the basis of a residence permit cannot be registered for short-term employment. In this case, the alien has to apply for a work permit or a residence permit for employment. European Union citizens do not have to register their short-term employment in Estonia.

An application for registration for short-term employment may be submitted in the following cases:

- persons engaged in creative activities who work in a performing arts institution;
- for working as a teacher or lecturer in an educational institution, which complies with requirements established by Estonian law;
- for working as a scientist if the alien has appropriate professional training or experience;
- for working as a sportsman, coach, referee or sports official for professional activities on the basis of an invitation from a respective sports federation;
- for employment as a trainee in order to obtain vocational education intermediated by an educational institution or a student organisation located abroad if this is a part of the relevant training programme;
- in order to serve in the diplomatic representation of a foreign country with the permission of the Ministry of Foreign Affairs;
- for working as an au pair;
- for working as an expert, adviser or consultant providing that the alien has the required professional training;

- for working as an installer of equipment or a skilled worker providing that the alien has the required professional training
- for working as a seasonal worker processing agricultural products;
- on the basis of an international agreement.

#### *Temporary Residence Permit for Employment*

This information applies to third country nationals e.g. citizens of CARIFORUM countries. A residence permit for employment grants an alien the right to stay in Estonia for the purpose of employment according to the conditions determined by the residence permit. The permit is issued for a period of guaranteed employment in Estonia by an employer with a period of validity of up to two years and it can be extended for up to five years at a time.

An alien can be granted a residence permit for employment if an open competition has been carried out to staff the post and if, within three weeks, it has not been possible to recruit anybody through the state employment mediation service. An alien must have the qualifications, education, health, work experience, special skills and knowledge required for the job. The Labour Market Board has to give its consent before an alien can be employed.

A residence permit is issued only if the wages of an alien ensure his/her subsistence in Estonia. An employer must pay an alien a salary which is at least equal to the product of the recent average yearly wages in Estonia published by the Statistical Office of Estonia and the coefficient 1,24.

An alien may apply for a residence permit for employment without the consent of the Labour Market Board, public competition or fulfilling the salary criterion in specified circumstances of which the following are relevant to this study:

- an alien holding long-term residence permit of the EU Member State;
- persons who have the right, proceeding from international law, to work in Estonia without a work permit;
- teachers and academic staff to work in an educational institution which comply with the requirements established by the relevant national legislation;
- aliens who come to Estonia to work as members of the management body of a legal entity registered in Estonia in order to perform managerial or supervisory functions;

An alien may be granted a residence permit for employment without the consent of the Labour Market Board and without public competition but by fulfilling the salary criterion for working as an expert, advisor or consultant if an alien has an appropriate qualification.

### *Need for a Standard Visa Invitation.*

In order to invite an alien to Estonia a sponsor must formalise a visa invitation, except in the case of differences proceeding from visa simplification agreements. An alien can be invited to Estonia by:

- Estonian citizens with active legal capacity staying permanently in Estonia; aliens with active legal capacity holding residence permits or the right of residence in Estonia and staying permanently in Estonia;
- a legal entity entered in a register foreseen by Estonian law or a state or local government authority.

If the sponsor is a natural person he/she must have a registered place of residence in Estonia. A visa invitation will be valid for six months from the date the Citizenship and Migration Board has affirmed it. It must be examined within 30 days. The applicant (or his/her representative) must be informed about the date of announcement of the decision on the confirmation of a visa invitation at the time of accepting the visa invitation. The state fee for the visa invitation is 300 kroons (approx. €20).

### *Single Entry Visas for Short Visits*

This is available for short visits of up to five calendar days and can be issued to an alien to enter and stay in Estonia for the purpose of tourism or entertainment services. The financial status of a visa applicant has to be sufficient in order to cover the costs of his or her accommodation, stay and departure from the country. In those circumstances the alien is not required to have a sponsor.

More information on Visas, Work and Residence Permits:

- Citizenship and Migration Board:  
[www.mig.ee/index.php/mg/eng](http://www.mig.ee/index.php/mg/eng)
- Estonia's Representations around the world:  
[www.mfa.ee/eng/kat\\_150/](http://www.mfa.ee/eng/kat_150/)
- Ministry of Foreign Affairs: [www.mfa.ee/eng/](http://www.mfa.ee/eng/)
- Customs Guide for Travellers: [www.emta.ee/?id=1089](http://www.emta.ee/?id=1089)

## **V.2 France.**

### **1. General.**

In general, anyone can set up in business in France and there is no minimum capital requirement, except where establishing a public limited company which requires a minimum share capital of € 37000.

In 2003 the Economic Initiative Law (*La loi pour l'initiative économique*)<sup>8</sup> simplified the administrative procedures for setting up in business and lightened the tax burden. In 2005 another law was passed to provide support to SMEs (*La loi en faveur des PME du 2Août 2005*). The objectives of this law were to ensure the durability of newly created and existing enterprises; improve conditions for passing on and preserving know-how and employment; and to sustain the growth of SMEs. The Ministry of Small and Medium Enterprises (*Ministre des Petites et Moyennes Entreprises, du Commerce, de l'Artisanat et des Professions Libérale*) set out 50 measures to help SMEs<sup>9</sup>. The outcome of all of this is that France has

- Established a one-stop shop for entrepreneurs i.e. the business start-up centre (*Centre des formalités des entreprises* - CFE).
- Shortened the time needed to set up a new business to less than a week.
- Reduced the average cost of setting up a new business to € 84.

The CFEs are organized according to the type of business (market-orientated businesses, artisan businesses, agriculture businesses or independent professionals).

## **2. Types of Business Undertakings.**

In France, an entrepreneur can choose between two kinds of legal structure: sole trader (*entreprise individuelle* - EI) and company (*société*). All businesses must also be conducted under a legal form, the most common of which are:

- Limited Liability Company (SARL)
- Single Owner Limited Liability Company (EURL)
- Public Limited Company (SA)
- Simplified Joint Stock Company (SAS)
- General Partnership (SNC)

### *Sole Trader*

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<sup>8</sup> [http://www.minefi.gouv.fr/notes\\_bleues/nbb/nbb256/256\\_pme.htm](http://www.minefi.gouv.fr/notes_bleues/nbb/nbb256/256_pme.htm).

<sup>9</sup> <http://www.pme.gouv.fr/essentiel/vieentreprise/brochure-loi-dutreil.pdf>

The legal position of the sole trader (*entreprise individuelle*) is the same as that in other Civil Law systems and those with a Common Law system. The sole trader is in charge of his/her business, accounts to no-one else except public authorities (tax, social security etc) but has unlimited liability for the debts of the business.

A person setting up in business as a sole trader must register the activity with the URSSAF (*Unions de Recouvrement des Cotisations de Sécurité Sociale et d'Allocations Familiales*). This is the organization responsible for the payment of social security and family benefit contributions. The URSSAF is in fact a network of private organizations whose main task is to collect the employer and employee social security contributions, which finance the French social security system. The URSSAF also manages two other salary deductions for the French Minister of Economy, Industry and Employment: the CSG (*Contribution Sociale Généralisée*) i.e. the "General Social Contribution" and the CRDS (*Contribution au Remboursement de la Dette Sociale*), a contribution for the repayment of the French social security deficit.

In addition, the sole trader must:

- Take out insurance to cover the professional liability of the business.
- Join an ARRCO or AGIRC employee retirement fund.
- Register the business with the tax office.
- Publish a notice of establishment in a legal notices publication.

Alternatively, the sole trader may set up a Private Limited Company under Sole Ownership (*Entreprise Unipersonnelle à Responsabilité Limitée* (EURL)). This is a limited liability company comprised of a sole partner (natural person or legal entity). There is no minimum capital requirement. The capital may comprise of contributions in cash and/or in kind. 20 % of the contributions in cash must be paid up when the company is formed, and the rest within 5 years. The company is run by its manager. This may be either the sole partner, or a third party. The appointment and powers are set out in Articles of Incorporation or by means of a separate legal instrument.

The sole trader is responsible for debts of the EURL only up to the amount of his/her contributions. However, if it is established that he/she did not manage the company properly that responsibility may be extended to his or her personal property. The notion of management fault is quite extensive in France: it ranges from simple negligence or carelessness to fraudulent dealings.

The appointment of a statutory auditor is mandatory whenever the company exceeds 2 of the following thresholds:

- Balance sheet greater than €1.55 million,
- yearly pre-tax turnover greater than €3.1 million,
- more than 50 employees.



The sole trader may, alternatively, establish a Company Limited by Shares under Sole Ownership. (*Société par Actions Simplifiée Unipersonnelle* - SASU). The SASU is a company limited by shares comprised of a sole member (natural person or legal entity). The minimum capital is € 37000, at least half of which must be paid up at the moment of setting up of the company, and the rest within 5 years. It may be subscribed in cash contributions and/or contributions in kind.

### *Partnership*

Two or more entrepreneurs may form a partnership (*Société en Nom Collectif* - SNC). There must be a minimum of two partners and these may be a natural person or legal entities. There is no maximum number. No minimum amount is set for the authorized capital and no obligation to pay up the capital contribution immediately. The capital may be comprised of contributions in cash and/or in kind.

The SNC is run by one or more managers (third parties or partner). If nothing is stipulated in the Partnership Agreement, all the partners are considered as managers. All are responsible for the firm's debts, jointly and severally. Partnership shares may be transferred only with the approval of all partners. The partners are not obliged to appoint a statutory auditor unless the firm exceeds certain thresholds (same rules as for the SARL).

### *Representation Office*

A CARIFORUM business may simply open a representation office or a sub-office. This is a simple "observation post". It enables the business to make contacts on the spot, provide advertising, supply the business with market information. But the representation office may not be involved in any trade activity.

A sub-office is a secondary establishment. It can engage in trade activity and thus facilitate relations with customers. Nonetheless, as it has no legal autonomy, it acts in the name of and on behalf of the parent business.

### *Companies*

To establish a company the entrepreneur(s) must declare its activity and seek registration in:

- The National Directory of Companies (RNE) maintained by the National Institute of Statistics and Research (INSE)
- The Register of Companies (RCS) maintained by the Commercial Court.
- In the Trade Directory (RM) run by the Chamber of Trade and Crafts (CMA),
- With the Tax authorities.

All this administrative procedure can be done at the CFE: [www.cfe.fr](http://www.cfe.fr)

The creation of a company requires:

- An audit report, when the associates make contributions others than cash to the capital of the company,
- The deposit cash contributions in a blocked account during the time necessary for the registration of the company.
- To indicate one or several founders.
- To prepare the foundation documents (Memorandum and Articles of Association).

The fees for registration of a company are between €30 to €230 depending on the type of company. Other than those already mentioned, there are the following types of company:

- SA: public limited company with a minimum of 7 members.
- SAS: simplified limited company, 1 or several members.
- SARL: limited liability Company comprising 2 to 100 members.
- SEL: company for the liberal professions, common for architects or other professions.

### **3. Other Legal Requirements**

A person wishing to establish a business in France must have a right of residence. The resident's permit automatically gives the holder the right to work. To have this permit the non-EU must prove that they have enough financial resources to live in France and have complete health insurance.

Certified accountants, auditors and architects must have professional liability insurance.

A professional service provider may practice his/her activity in business premises or at his/her home. If they do the latter the activity must not cause a nuisance to neighbours e.g. the frequent passage of customers or goods.

The Employment Law obliges employer to pay their employees at a minimum of €8.71 an hour. The working week is approximately 35 hours and an employee can have 5 weeks of vacation and 12 days of RTT (diminution of working time).

The rules governing repatriation of profits depend on the agreement between France and the country concerned. France has agreement avoiding double taxation of profit with a wide range of countries, including Haiti and Jamaica.

Non EU citizen can open a bank account provide they can show their identity papers, resident's permit and proof of address in France.

### **4. Regulated Professions wishing to Provide Professional Services in France (Chartered Accountant, Architects, Auditors, Tourist-Guide)**

*Steps at Home*

- Submit qualifications to the relevant professional association or authority in France in order to seek recognition or to discover any additional qualifications that must be obtained. It may require an aptitude test.
- If the diploma or professional experience isn't recognized, the applicant can contact the school from which he/she obtained the diploma and seek recognition through the VAE system (this may mean years in school or in internship and the applicant may need a student visa where this must be undertaken in France or elsewhere in the EU).
- If admitted to the aptitude test the applicant will need proof of capacity to be registered by the professional association.
- Have an address in France where you intend to provide professional services.
- Contact the local French consulate; they will check the viability of the project and the applicant's capacity to bring enough financial resources for staying and working in France.

#### *Steps in France*

- Within the first two months of arriving in France the applicant must obtain the resident's permit.
- Open a bank account.
- Go to the regional professional association to register as a member of the regulated profession.
- Visit the local Chamber of Commerce and Trade (CCI) to find out which CFE is competent for the applicant's region and kind of activity.
- G to the CFE to obtain the application form needed to be registered as a company.
- Contact social bodies such as the URSSAF and the local Tax Office to declare the activity.

### **5. Visas and Work Permits Etc.**

The CARIFORUM professional that has a contract with a French employer needs a visa to enter France. The time that it takes to process depends on the particular French consulate in the entrepreneur's country. The applicant will need a Record of Introduction. The employer must contact the DDTE (*Direction Départementale du Travail et de l'Emploi*) i.e. the department labour office of the department where the applicant will be resident. The employer must notify the ANPE (*Agence Nationale Pour l'Emploi*) (job office) 3 weeks in advance of the appointment. The employer must receive a favourable opinion of the ANPE on the appointment of a non-French/EU national. The introduction record goes to the ANAEM (*Agence National pour l'Accueil des Etrangers et des Migrations*).

The DDTE sends the record to the local French consulate. The consulate holds an interview with the employee and determines the match between the job description, the applicant's qualifications and his/her knowledge of French. The consulate then decides whether or not to grant the visa. If granted, the holder must, within 8 days of arrival in France apply for a

residence permit at the local prefecture. The resident card is for one year and must be renewed every year. This procedure is for an ongoing contract of employment. The employer must pay between €900 and €1600 depending on the employee's wages. For fixed term employment contracts lasting less than 3 months the procedure is easier: the resident permit and the visa are given for the duration of the contract.

Where a non-EU business entity wants to trade professional services in France, the individuals delivering those services requires a visa and resident card. The business entity must contact the local French consulate. The consulate will check the viability of the project and the capacity of the business to cover the financial needs of those delivering the services during their sojourn in France.

## **6. Taxation**

Businesses in France are generally subject to three types of taxes:

- Corporation Tax: generally 19 to 33% of the profit. The company must submit its accounts to the local Tax Office, declare its accounts and the Tax Office will notify the amount which has to be paid.
- Local Professional Tax.
- VAT.

For the sole trader there is no differentiation between personal income and assets and those of the business. The sole trader is liable to Income Tax. In France there are several categories of Income Tax depending on the income origin (industrial and commercial, salaries, non commercial, tax on property, capital income, agricultural). They may also be subject to certain additional taxes: tax on salaries, apprenticeship tax, taxes on the vehicles of company. There is no requirement for professional service businesses to register with Customs.

## **7. E-commerce**

E-commerce is practiced freely within France with the exception of the following:

- Games of chance, including in the form of betting and of lotteries, unless legally authorized;
- Activities of legal representation and assistance in justice;
- Certain activities exercised by lawyers.

A person engaging in e-commerce must provide (potential) customers with the following information:

- Where the provider is a natural person, his or her name and first names.
- In the case of a provider that is a legal entity, its business name; the address where it is established, its email address as well as its telephone number allowing it to be easily contacted. It is subject to the formalities of registration in the

register of companies or in the trade directory, the number of its registration, its share capital and the address of its head office;

- If it is subject to VAT and identified by an individual number, it must supply its individual VAT number.
- If its activity is subject to a regime of authorization, the name and the address of the authority granting authorization.
- If it is member of a regulated profession, the reference to the applicable professional rules, his/her/its professional title, the member state in which it was granted as well as the name of the association or the trade organization beside of which it a member.

Any price indication must be in a clear and unambiguous manner and must indicate, for example, whether taxes and expenses of delivery are included.

## **8. Contacts**

Agence Pour la Création d'Entreprises (ACPE), 14 rue Delambre, 75682 Paris, Cedex 14, France.  
Tel: 01 42 18 58 58  
Fax: 01.42.18.58.00  
E-mail: info@apce.com

## **V.3 Germany.**

### **1. General.**

Generally – except for freelance professionals (e.g. architects and accountants) businesses have to register with the local trade office (*Gewerbeamt*). The minimum capital requirements depend on legal form of the business. The bonding/insurance/financial guarantees requirements depend upon the particular professions and are set out below under those headings.

### **2. Types of Business Undertakings.**

#### *Sole Trader*

In order to set up in business as a *sole trader* and provide professional services, the person must first register with the relevant professional body, if there is one. Then, immediately afterwards he/she must:

- Open up (rent) an office.
- Give notice of the office with a business sign outside the premises.
- Obtain business stationery making public the name of the owner and the address of the office.
- Register at the competent inland revenue office and get a tax identification number.
- Obtain health insurance.

- Join a pension scheme.

### Partnerships

The rules for establishing a partnerships are:

- That there must be (at least) two partners that conclude a partnership agreement.
- No minimum business capital is required.
- The liability of the partners depends on the form of partnership.

The registration costs vary but are approximately €400. The place of registration depends on the type of partnership i.e.:

- Civil Law Partnership (*Gesellschaft bürgerlichen Rechts*, GbR). Registration: local trade office.
- General Commercial Partnership (*Offene Handelsgesellschaft*, OHG). Registration: commercial register, local trade office.
- Limited Partnership (*Kommanditgesellschaft*, KG). Registration: commercial register, local trade office
- Corporate Partnership (*GmbH & Co.KG*). Registration: commercial register, local trade office
- Partnership Company (*Partnergesellschaft*, PartG). Registration: partnership register.

### Companies

It is also possible for a professional service provider to set up in business, for instance as a limited liability company (*Gesellschaft mit beschränkter Haftung* – *GmbH*). Under German Law a company:

- Is a legal person;
- With a minimum share capital;
- With liability limited to the corporation's business assets, including share capital.

The place and requirements for registration depends on the type of company i.e.:

- Limited Liability Company (*Gesellschaft mit beschränkter Haftung*, GmbH). Minimum share capital required: €25.000. Registration: commercial register, local trade office.
- Limited Liability Entrepreneurial Company (*Unternehmergesellschaft* (UG), *haftungsbeschränkt* „Mini GmbH“. Minimum share capital required: €1-less then €25.000. Registration: commercial register, local trade office.
- Stock Corporation (*Aktiengesellschaft*, AG). Minimum share capital required: €50.000. Registration: commercial register, local trade office.
- Partnership Limited by Shares (*Kommanditgesellschaft auf Aktien*, KGaA). Combination of stock corporation (AG) and

limited partnership (KG). Registration: commercial register, local trade office

In addition it needs:

- A foundation agreement/articles of association which have to be notarized by a notary. The notary will draft the agreement/articles if asked to do so. The fee for the notary depends on the value of share capital.
- Opening a bank account and deposit of paid-up share capital.
- Public announcement in the electronic federal free paper.

The period of time it all takes: about 3 weeks. The cost is about €750-1000.

### **3. Taxation**

The most relevant taxes for doing business, depending on the legal form of business, are VAT, income tax, trade tax, corporation tax, capital gains tax and in case of acquisition of land: land transfer tax and land tax. The rates are:

1. VAT: 19 %.
2. Trade Tax: depending on place / town in which business is opened up because of regional taxes. The highest rates are in big cities like Berlin, Munich, Cologne and Hamburg. These are only to be paid by commercial business, in contrast to independent professions.
3. Income Tax: depending on various personal facts like if person is married, with children etc.
4. Corporation Tax: 25 %

Germany does not have any tax treaties with any CARIFORUM countries.

### **4. Business Premises Law.**

German Law provides special rules governing commercial tenancy. Further, as general rule, business premises have to disclose the owner of the business or the full name of the service providing company so that the customer is informed with whom he or she is dealing with.

### **5. Employment Law Provisions.**

Employers have to pay social security contributions for their employees including those for health, nursing care and unemployment insurance. Employers have to give a monthly salary statement/pay slip to employees and the competent authorities and pay the insurance to the health insurance companies and monthly income tax to the tax authorities directly.

In addition, an extensive Labour Law is to be taken into account regarding safety at the place of work, maximum working hours, minimum payments, dismissal, protection against unlawful dismissal, etc.

Generally, German Employment Law is based on the provisions for service contracts of the German Civil Code (§§ 611 seq.) and case law (especially collective labour law). Labour law is further governed by additional statutes and regulations as for instance:

- Statute to provide employment protection measures to improve safety and health protection of employees (*Gesetz über die Durchführung von Maßnahmen des Arbeitsschutzes zur Verbesserung der Sicherheit und des Gesundheitsschutzes der Beschäftigten bei der Arbeit*).
- Regulations on occupational health insurance (*Siebtes Buch Sozialgesetzbuch, Gesetzliche Unfallversicherung, SGB*).
- Insurance covering especially accidents at work, health risk at work.
- Working Hours Act (*Arbeitszeitgesetz, ArbZG*) regulating working hours of employees
- Continuing Payment Act (*Entgeltfortzahlungsgesetz, EntgFG*) regulating payments especially in case of illness and public holidays.
- Federal Vacation Law (*Bundesurlaubsgesetz, BUrlG*) regulating number of vacation days, payments.
- Federal Parental Payments and Parental Leave Act (*Bundeselterngeld-und Elternzeitgesetz, BEEG*) regulating payments to parents of young children.
- General Equal Treatment Act (*Allgemeines Gleichbehandlungsgesetz, AGG*).
- Employments Retirement Benefits Law (*Betriebsrentengesetz, BetrAVG*).
- Unfair Dismissal Act (*Kündigungsschutzgesetz, KSchG*).
- Act on Part Time and Temporary Work (*Teilzeit-und Befristungsgesetz, TzBfG*).
- Act on notification of conditions governing the employment relationship (*Nachweisgesetz, NachwG*) regulating content and form of working contract.

Special legislation in regard to collective labour law includes for instance the:

- Work Constitution Act (*Betriebsverfassungsgesetz, BetrVG*).
- Collective Bargaining Agreements Act (*Tarifvertragsgesetz, TVG*).

## **6. Rules governing Business Stationery.**

Business paper of business men/women needs to make public the name of the owner of the business or in case of a company the full name of the



company including the management board and the address, §§ 37 a, 125 a Commercial Law Code (*Handelsgesetzbuch – HGB*), § 35 a Limited Partnership Act (*GmbHG*). If registered the register number and the competent trade register at the district court needs to be shown. If a turnover tax identification number received by tax authorities this number needs to be on business letters as well.

## **7. Fair Trading and Anti-competitive Practices.**

Fair trading and anti-competitive practices are addressed by the Unfair Competition Act (*Gesetz gegen den unlauteren Wettbewerb – UWG*) and the Act on Injunction Claim (*Unterlassungsklagegesetz – UKlaG*).

## **8. Discrimination Law.**

The General Equal Treatment Act (*Allgemeines Gleichbehandlungsgesetz – AGG*), also publicly called Anti-Discrimination Act, is a German Federal Law that prohibits, and provides remedies for the victims of, discrimination for reasons regarding race, ethnic background, sex, religion or ideology, age, handicap or sexual orientation. The victim has a legal claim (e.g., for damages) against employers and private persons who violated these rules.

## **9. Visas and Permits.**

Generally, a foreign national (i.e., a citizen from outside the European Union (EU), the European Economic Area (EEA) and Switzerland who wants to enter Germany needs a visa. When applying for a visa, the foreigner has to state for which purpose it is intended.

A foreign national who intends to work in Germany needs a residence permit which also grants access to the labour market. He/she has to apply for a residence permit for the purpose of taking up employment. The application has to be submitted before entering Germany to the German mission abroad. (Exceptions may apply for some countries but, does not include Caribbean countries, see website: <http://www.auswaertiges-amt.de/diplo/en> )

The application for a residence permit requires information regarding the employer, the intended employment and the name of the place of stay.

The German mission abroad will forward the application for decision to the German foreigners authority – in the place where the job in Germany is to be commenced. Before decision, the German foreign authority has to request the German Federal Employment Agency to grant its approval. The residence permit may only be issued if a job offer can be proved (§ 18 (5) Residence Act).

Exceptions may apply for instance for some highly qualified foreigners (§ 19 Residence Act), researcher (§ 20 Residence Act) but also for foreigners who are running their own business and perform freelance activities (§ 21 Residence Act). Generally, the residence permit will be granted if the foreigner invests a minimum of €250.000,00 and establishes at least 5 posts or jobs. If the foreign national does not meet this requirements the

approval may be granted depending on the single case (§ 21 (5) Residence Act).

A foreigner who intends to perform some business activities may apply for a Schengen Travel Visa. It allows foreign nationals to stay up to three month per half a year in Germany for business purposes (Schengen Business Visa). However, to be issued with a Schengen Business Visa does not guarantee to get granted a German national visa with a residence permit for the purpose of taking up employment or running a business.

See for visa information and documents:

<http://www.auswaertiges-amt.de/diplo/en> (Welcome to Germany)

For Jamaica and the Commonwealth of the Bahamas see:

[www.kingston.diplo.de](http://www.kingston.diplo.de) (German Embassy, Kingston)

Citizens from CARIFORUM - countries need a visa to enter Germany.

<http://www.auswaertiges-amt.de/diplo/en/WillkommeninD/EinreiseUndAufenthalt/StaatenlisteVisumpflicht.html>

CARIFORUM	VISA requirement <a href="http://www.auswaertiges-amt.de">www.auswaertiges-amt.de</a>
Antigua	yes
Barbuda	yes
Bahamas	yes
Barbados	yes
Belize	yes
Dominica	yes
Dominican Republic	yes

Grenada	yes
Guyana	yes
Jamaica	yes
Saint Christopher and Nevis	yes
Saint Lucia	yes
Saint Vincent and the Grenadines	yes
Suriname	yes
Trinidad and Tobago	yes

Responsibility for issuing a visa lies with the missions of the Federal Republic of Germany i.e., the German Embassy or German Consulate General of the respective home country (§ 71 (2) Residence Act). This depends on the mission responsible for the area in which the applicant has his/her ordinary residence or domicile.

To apply for a visa, the applicant has to submit the visa application, together with all necessary documents, in person at the competent German mission. Visa application forms may be obtained from the mission abroad free of charge (in the local language). They also can be downloaded from the German Federal Foreign Office website.

See: <http://www.auswaertiges-amt.de/diplo/en/WillkommeninD/EinreiseUndAufenthalt/Visabestimmungen.html>

Generally, missions require two to ten working days to decide on an application for a short stay visa. Applications for visas entitling the holder to a longer stay or to take up gainful employment may take several months to process. During the peak travel season there may be a waiting period for making an application to a German mission.

The fee for a national German Visa (valid in Germany for stays of more than 90 days) is €60. A Schengen visa (permitting stays of up to 90 days in Schengen countries) costs € 60. Exceptions to prices may apply (for instance for children under the age of 6, people under the age of 18, researchers or, applicants married to an EU-national). Fee waivers or reductions in individual cases may be requested at the German mission.

See: [www.auswertiges-amt.de](http://www.auswertiges-amt.de)

Depending on the country the fee may be paid in another currency. For instance, the German Embassy in Kingston requires cash payment in US-Dollars (i.e., € 60 = \$ 95) according to the exchange rate of the Embassy.

See: [www.kingston.diplo.de](http://www.kingston.diplo.de)

All persons entering the EU from, or leaving it for, Non-Member States and who carry cash with a total value of €10.000,00 or more are required to declare the cash to the competent national authorities. (Regulation (EC) No 1889/2005, OJ L 309, p. 9) In Germany, the declaration is to be lodged in writing with the customs administration.

German Customs Authorities:

<http://www.zoll.de/>

[http://www.zoll.de/english\\_version/a0\\_passenger\\_traffic/d1\\_movement\\_of\\_cash/index.html](http://www.zoll.de/english_version/a0_passenger_traffic/d1_movement_of_cash/index.html)

See further:

[http://www.kingston.diplo.de/Vertretung/kingston/en/01/Zollvorschriften/Download Explanatory Leaflet Customs.property=Daten.pdf](http://www.kingston.diplo.de/Vertretung/kingston/en/01/Zollvorschriften/Download%20Explanatory%20Leaflet%20Customs.property=Daten.pdf)

## **10. E-commerce?**

E-commerce is governed by several provisions and statutes. The German legislation includes rules regulating distance contracts into the German Civil Code (§§ 312b – 312f German Civil Code). Distance contracts are statutorily defined as: *"Contracts for the supply of goods or the rendering of services, including financial services, which are entered into between an entrepreneur and a consumer solely by the use of means of distance communication, except where the entering into the contract does not take place in the context of a sales or service system organised for distance sales."* (§ 312b(1) German Civil Code, translation according German Ministry of Justice, [www.bundesrecht.juris.de](http://www.bundesrecht.juris.de) ).

The regulations deal with information duties, rights of revocation from the distance contract or to return delivered goods and further, special duties of the entrepreneur toward the consumer as to for instance to provide the consumer with technical means to identify and correct input errors or to make it possible to the consumer to retrieve the contract terms including standard business terms at the time of conclusion of the contract and to save the forms in a way that allows for reproduction.

E-commerce is further covered by special legislation as for instance (but not limited to):

- Telemedia Act (*Telemediengesetz*, TMG).

- Unfair Competition Act (*Gesetz gegen den unlauteren Wettbewerb, UWG*).
- Federal Data Protection Act (*Bundesdatenschutzgesetz, BDSG*).
- Trademark Act (*Markengesetz*).
- Copyright Act (*Urheberrechtsgesetz, UrhG*).
- Electronic Signature Act (*Signaturgesetz, SigG*).

## 11. Bank Accounts

In general, there are no restrictions for non-EU citizens to open up a bank account. If opening a bank account a person must give proof of identity with a valid official ID and a valid official registration address, § 154 taxation order (*Abgabenordnung – AO*). Most likely proof is given personally at the bank. If the registration address is not in Germany, but overseas, the bank may ask for a service address of a representative in Germany, especially with a credit agreement. Usually only balance account is granted without overdraft facility.

## 11. Contacts

Bundesamt für Statistik	Deutsche Bundesbank
<i>Federal Statistical Office</i>	<i>German Federal Bank</i>
Gustav-Stresemann-Ring 11	Wilhelm-Epstein-Strasse 14
65189 Wiesbaden / Germany	60431 Frankfurt am Main
Phone: 00 49 - 611 72 4000 (switchboard)	Phone: 00 49 69 9566 – 0
Fax: 00 49 - 611 72 4000 3511 + 3512 <a href="mailto:poststelle@destatis.de">poststelle@destatis.de</a>	Phone: 00 49 69 9566 – (press office)
<a href="http://www.destatis.de">http://www.destatis.de</a>	Fax: 00 49 - 69 9566 – 3077
	Fax: 00 49 - 69 9566 – 4679
	(only for ordering material)
	<a href="mailto:presse-information@bundesbank.de">presse- information@bundesbank.de</a>
	<a href="http://www.bundesbank.de">http://www.bundesbank.de</a>

Contact information for head of Immigration or Visa Department in each country

Auswärtiges Amt, *Federal Foreign Office*, Werderscher Markt 1

10117 Berlin / Germany

Phone: 00 49 - 3018 -17 - 0 (switchboard)

Phone: 00 49 - 3018 -17 - 2000 (Citizen service)

Fax: 00 49 - 3018 -17 - 3402

<http://www.auswaertiges-amt.de>

[poststelle@auswaertiges-amt.de](mailto:poststelle@auswaertiges-amt.de)

Contact information for head of the agency that distributes work permits

Auswärtiges Amt, *Federal Foreign Office*, Werderscher Markt 1

10117 Berlin / Germany

Phone: 00 49 3018 -17 - 0 (switchboard)

Phone: 00 49 - 3018 -17 - 2000 (Citizen service)

Fax: 00 49 - 3018 -17 - 3402

<http://www.auswaertiges-amt.de>

[poststelle@auswaertiges-amt.de](mailto:poststelle@auswaertiges-amt.de)

General information on living, working and networking in Germany under:

<http://www.young-germany.de>

## **V.4 Italy.**

### **1. General.**

The basic matrix for establishing a professional undertaking in Italy is the same for all types of service providers and does not depend on the particular field of services provided. The exception is in respect of accountants, auditors and book-keepers. These may only set up in business as sole traders with unlimited liability.

The vast majority of engineers, architects and management consultants also establish themselves as sole traders. However, in law they may establish themselves as a partnership or as part of a company. Most tour operators are limited companies and all tourist guides work as independent businesses.

### **2. Types of Business Undertakings.**

*Sole Trader*

The legal position of the sole trader is the same as that in other Civil Law systems and those with a Common Law system. The sole trader is in charge of his/her business, accounts to no-one else except public authorities (tax, social security etc) but has unlimited liability for the debts of the business.

### *Partnership*

An unlimited partnership (*s.n.c.*) is a commercial undertaking in which two or more partners operate under a common business name and are jointly and severally liable for the obligations of the partnership. As with the sole trader, their private assets are attachable for the debts of the business.

It operates on the basis of the partnership agreement concluded by the partners. There is no minimum capital requirement and partners make monetary or non-monetary contributions in the amount prescribed by the partnership agreement. The partners must agree on the business name of the partnership; the area of activity and the amount of the contributions of the partners. The partnership agreement (*Deposito Registro Imprese*) must be registered in the R.E.A. (Economic and Administrative Inventory). The firm must also obtain a VAT and tax code.

Each partner receives a portion of the distributed profit corresponding to the partner's contribution (unless the partnership agreement prescribes otherwise). A partner that withdraws from the partnership is liable with the other partners for any obligations of the partnership which arose before the date of withdrawal or arises within five years after departure or exclusion from the partnership. The partnership can be dissolved: by resolution of the partners; by court judgement; or upon the expiry of a term or achievement of an object set out in the partnership agreement.

### *Limited Partnership*

A limited partnership (*s.a.s.*) is a firm in which two or more persons operate under a common business name, and at least one of the persons (the general partner or partners) has unlimited liability for the obligations of the firm. At least one partner (a limited partner) is only liable for the obligations of the firm to the extent of his/her contribution to the firm's assets.

A limited partner does not have the right to manage or represent the limited partnership unless the partnership agreement provides otherwise. A limited partner who has paid a contribution in full does not have any further liability for the obligations of the firm and he/she is entitled to the corresponding portion of its profits. The provisions concerning general partnerships also apply to limited partnerships unless otherwise provided in Civil Code.

### *Companies*

The private limited company (*s.r.l.*) is a company that has share capital divided into private limited company shares. Its shareholders are not personally liable for the obligations of the company. The company is a legal "person" in law and is liable as such for the performance of its obligations with all of its assets. The minimum share capital is €10,000 divided into shares of the minimum value of €0.5 and / or multiples of it. A shareholder may freely transfer a share to another shareholder of the company. However, if the shareholder attempts to transfer shares to a third person, the other shareholders have the right of pre-emption.

Shares of a private limited company can be pledged, encumbered, divided or transferred to a successor of the shareholder unless stated otherwise in the Articles of Association. The shareholder is required to make a contribution to the company's assets corresponding to the nominal value of the shares which he/she holds.

A public limited company (*s.p.a.*) is a company that has a share capital divided into public limited company shares. Shareholders are not personally liable for the obligations of the company. As with a private limited company, it is a legal "person" and the company is liable for the performance of its obligations with all of its assets. It may be founded by one or more natural or legal persons with or without share subscription.

## **1. Visas and Work Permits etc**

In order for a non-EU citizen to go and work in Italy he/she must have a contract, albeit one which is conditional on a residence permit being granted.

A non-EU citizen must obtain a visa. There are different types of visa according to State from which they come from. Visa fees are variable (approximately from €60 to €75). Visas are applied for at the nearest Italian Embassies and Consulates. The likely hitches are long waiting times.

See [http://www.esteri.it/visti/home\\_eng.asp](http://www.esteri.it/visti/home_eng.asp)

Non-EU self-employed professionals seeking to do business in Italy require the following:

- A passport or travel document valid for at least three months after visa expiry date.
- A visa.
- A declaration by the office authorised to issue eventual certifications, licences and authorisations, or to receive notices of commencement of business activity, or by bodies authorised to oversee professional associations.
- Availability of suitable lodgings to be proven according to one of the following means:

4.1 rental lease or ownership deed;



4.2 declaration in keeping with Articles 2 and 4 of Law No. 15 of 4.1.1968 by an Italian or foreign citizen legally residing in Italy of having made suitable lodgings available to the visa applicant that fulfil the minimum requirements foreseen by regional legislation for public housing.

- Proof of income, earned during the preceding fiscal period in the country of residence, higher than the minimum level foreseen by the law for exemption from participation in health services contributions (€8,400)
- "Nulla osta" (entry clearance) issued no more than 90 days earlier by the competent Italian Questura (Police Commissary).

For non-EU self-employed business persons, merchants, artisans:

- A passport or travel document valid for at least three months after visa expiry date.
- A visa.
- A statement describing the parameters of the economic resources required to carry out the said business, commercial or artisan activity, issued by the Chamber of Commerce authorised for the area in which the activity is to be carried out. These resources must not be less than the annual unemployment subsidy (€4,962.36).
- Economic means in Italy sufficient to provide for the resources necessary.
- Availability of suitable lodgings to be proven according to one of the following means:

4.3 rental lease or ownership deed;

4.4 declaration in keeping with articles 2 and 4 of Law no. 15 of 4.1.1968 by an Italian or foreign citizen legally residing in Italy of having made suitable lodgings available to the visa applicant that fulfil the minimum requirements foreseen by regional legislation for public housing.

- proof of income earned during the preceding fiscal period in the country of residence, higher than the minimum level foreseen by the law for exemption from participation in health services contributions (€8,400)
- "nulla osta" (entry clearance) issued no more than 6 months earlier by the competent Italian Questura (Police Commissary)
- statement describing the parameters of the economic resources required to carry out the said business, commercial or artisan activity, issued by the Chamber of Commerce authorised for the area in which the activity is to be carried out. These resources must not be less than the annual unemployment subsidy (€4,962.36).

Once the right to work is granted there are no geographical restrictions on where they can and cannot do business.

## **2. Bank Accounts**

There are no restrictions on a non-EU citizen opening a bank account. To open a bank account he/she needs his/her tax code and his/her ID.

### **V.5 Malta.**

#### **1. Types of Business Undertaking**

The Commercial Code governs the types of business undertakings and how they are formed and managed.

##### *Sole Trader*

A person that sets up in business as an independent sole trader is only required to register for VAT. How he/she manages the business is their own concern. For liability purposes, however, there is no distinction between the business assets and the private assets of the sole trader. He/she has unlimited liability for the debts of the business. He/she is subject to Income Tax.

##### *Partnerships*

Two or more professionals may form a partnership *en nom collectif*. There must be a minimum of two partners. As in Scotland, this partnership has a separate legal personality, but its members do not enjoy the benefit of limited liability. A partnership agreement is drawn up and it will set out the management of the firm, the amount of share capital and provisions for dissolution. The partners are jointly and severally liable for the debts of the business. The partnership agreement is sent to the Registrar of Companies and, if verified as complying with the necessary legal requirements, a Certificate of Registration is issued and the partnership comes into being on that date.

##### *Limited Partnership*

Another type of undertaking is the limited partnership. This partnership has two types of partners, namely the general partners who assume unlimited responsibility for the obligations of the partnership and the limited partners, whose liability is limited to the amount, if any, left unpaid on their contribution. The capital of such a partnership may be divided into shares.

##### *Companies*

The limited liability company is the most common form of business structure in Malta and the most popular with foreign investors. Under Maltese Companies Act 1995, it may have only one member. However, the sole member cannot be a corporate body and where there is only one member the objects clause of the memorandum is restricted to one main type of activity.

A company is formed by means of capital divided into shares held by its members. The minimum capital requirement for a limited company is €1165 with 20% fully paid up and for a public limited company it is €46590 with 25% fully paid up. In order to form a limited liability company, founding members subscribe to a memorandum of association which, when signed, is submitted to the Registrar of Companies who verifies it for compliance with the necessary legal requirements. It can be signed by the legal representatives of the subscribers, so they do not actually have to be in Malta in order to set up the company.

The registration fee ranges between €350 and €1750. The company comes into existence from the date of registration indicated in its certificate of registration. The articles of association, a separate document relating to the internal management of a company, may also be registered with the memorandum. Unless such articles are registered, the model articles found in the First Schedule to the Companies Act automatically apply.

An annual registration fee is also payable to the Registry of Companies with the minimum fee being €165 for Malta companies having a share capital not exceeding €11,645 and the maximum fee being €979 for Malta companies with a share capital of €1,164,686.

## **2. Taxation**

### *Income Tax*

A Maltese Resident pays tax on his/her income as a wage earner or as a self-employed person. A person who meets the criteria of a "permanent resident" (usually, a stay of more than 183 days a year) will be taxed on his/her income in Malta and overseas. A foreign resident who is employed in Malta pays tax only on the income he earns in Malta.

Taxes are deducted at source by the employer. There is the usual system of allowances.

The Income tax rates in 2008 were:

■ €0-€8150	0%
■ €8150- €14000	15%
■ €14001-€19000	25%
■ €19001 +	35%

### *Corporation Tax*

Companies resident in Malta are liable to Corporation Tax. The rate is 35%. A company is resident if incorporated in Malta. Companies not incorporated in Malta but having their business management in Malta are regarded as resident too.

There is no obligation to deduct tax at source from a dividend paid to foreign residents. There is zero withholding tax on interest and royalties paid to foreign residents.

Malta has a Tax Treaty with Barbados.

### **3. Visas, Work Permits etc.**

#### *Visas*

The Central Visa Unit is responsible for the issuance of Visas to Malta. Nationals of more than 100 countries or territories who wish to come to Malta must obtain entry clearance before they travel, whatever the purpose of their visit.

Committed to ensuring all those who have a genuine reason to come to Malta to do so with as little inconvenience as possible, the Central Visa Unit, is an effective and professional immigration control authority, set up in 2006, in the interests of sustainable growth and social inclusion, not only in respect of Malta but also for the rest of Europe.

As Malta's central authority, the CVU is equipped to forward and process visa requests rapidly, via the Visa Management System, which together with the networking facilitation between all of Malta's diplomatic missions and consular posts, plays a vital role in the acceleration of application and authorisation procedures.

The Visa Managements System is a web browser driven application and accessed via intranet, by all of Malta's diplomatic missions and consular posts, which are connected to the Government network via a VPN (Virtual Private Network) connection, using high encryption levels.

Recognising the need to process applications in a timely manner, the CVU faces daily challenges in managing the competing priorities of service, delivery and control. It responds to an increasing demand for Schengen visas and a rapidly changing visa policy environment and changes to the nationalities that require such entry clearance.

The Head of Central Visa Unit is Mr. Paul Demajo Albanese – telephone number 0035622042310; email - [visa.mfa@gov.mt](mailto:visa.mfa@gov.mt)

In order to work in Malta a non-EU citizen must have a prior contract of employment. For non-EU citizens a visa is necessary. There are different types of visa according to the Country of Origin. The cost of Visa Issuance is approximately EUR60 and can be done through the Maltese embassies and consulates.

Visas may be individual - issued to an individual applicant and apposed to an individual passport - or group visas - issued to a group of aliens, all having the same nationality of the passport-issuing country, and provided that the document is expressly and formally recognised by Malta. Group visas cannot exceed 30 days.

Visas are divided into three main categories:

- Schengen Visas: valid for the territories of all the Schengen Member States. These may be:

4.5 Airport Transit Visa (Type A)

4.6 Transit Visa (Type B)

4.7 Short-Stay Visa (Type C), valid for up to 90 days and for single or multiple entries

Exceptionally, the Schengen regulation enables important or well-known persons who frequently require a visa and who can provide the necessary guarantees, to be issued with C-type visas which permit a visit of up to 90 days in any half-year and are valid for one (1), two (2), three (3) or five years (5).

- Limited Territorial Validity visas (LTV): these are only valid for the Schengen State whose representative issued the visa (or in particular cases for other Schengen states where specifically named) without any possibility of access to or transit through the territory of any other Schengen States. They are issued solely for humanitarian reasons, or in the national interest, or under international obligations as an exception to the common system. An alien may not directly apply for these visas, which are issued in a few specific cases by the diplomatic or consular representative when it deems it appropriate to issue the visa for the reasons as stated even though not all the conditions are met for the issue of a Schengen Visa, or when the applicant does not hold a validly recognised travel document, in particular emergencies or in case of need.
- Long stay or "national" visas, which are only valid for visits that are longer than 90 days (Type D), with one or more entries, in the territory of the Schengen State whose diplomatic representative issued the visa, and to transit through the territory of other Schengen States for a period of not more than five days.

Regulations on stays exceeding 90 days fall within the competence of Malta's national authorities and third-country nationals requesting to enter Malta with a purpose of a long stay, will at first be granted a "national" visa in order to receive a residence permit.

#### *Work Permits*

All foreign nationals require a work permit to work in Malta. In respect of foreigners, the Government maintains a very restrictive policy and employment licences are granted only in exceptional circumstances. Such work permits are issued to employers wishing to engage foreigners for a determined period and for a specific purpose, ONLY after it has been ascertained that every effort has been made to engage a suitable Maltese citizen.

Permits are normally issued valid for one year. Permits valid for up to three years may also be applied for at the express request of the employer and provided sufficient justification is given. Permits may be renewed thereafter where a request to that effect is justified.

Where a foreign national is an investor in the manufacturing or financial services sector and holds substantial shareholding (40%) in the enterprise, an indefinite permit may be issued.

#### *Residence Permits*

On the basis of the Schengen Convention, now integrated in the EU framework, a valid residence permit from a Schengen State, together with a travel document, can substitute for a visa. Thus a third-country national presenting his/her passport and a valid residence permit issued by a Schengen Member State can be allowed to enter another Schengen Member State for a short-stay without needing a visa. This equivalence does not apply to residence permits issued by the United Kingdom and Ireland, since they do not apply the Schengen *acquis*.

A residence permit is automatically granted with the approval of a work permit for the applicant and his/her spouse. However, this does not entitle the spouse to work or automatically qualify for an employment licence unless demand for work is felt in the respective field.

### **4. Bank Accounts**

Once granted residence a person merely requires proof of address and identity in order to open a bank account in Malta.

## **V.6 Netherlands.**

### **1. Types of Business Undertakings.**

In the Netherlands, the main types of business undertakings are the sole tradership, a partnership under common firm (*Vennootschap Onder Firma* -VOF), limited partnership (*Commanditaire Vennootschap* – CV) unlimited partnership (*Maatschap*), private limited liability company (*Besloten Vennootschap*) and public limited liability company.

### *Sole Trader*

The sole trader is in the same position as elsewhere. He/she has complete control of the business. They pay income tax and may be eligible for the self-employed tax allowance. They are personally liable for the debts of the business and there is no distinction between personal and business assets for that purpose.

### *Partnership (Maatschap)*

A partnership is the most common form of business undertaking established by professions in the Netherlands. It is based on the terms of the partnership agreement between the two or more parties. It does not have to be in writing but is in fact commonly drawn up by a notary. It will determine who makes the decisions in the firm and the contribution to capital each partner makes and provision for dissolution. Each partner is personally liable for the contracts and other obligations that he/she enters into as a provider of professional services. Those contracts are with the individual partner and not the firm. The partners are jointly and severally liable for the debts of the firm itself.

For tax purposes, each partner tends to be considered by the tax authorities as a self-employed person and they pay income tax on their share of the profits. They may be entitled to the self-employed persons' tax allowance.

### *Partnership under Common Form (VOF)*

A partnership under common form (VOF) is similar to the partnership described above. Two or more entrepreneurs work together in business and may do so informally, but more commonly under a partnership agreement drawn up by a notary. The main difference is that business is conducted in the name of the firm and the partners are jointly and severally liable for its debts. For tax purposes, each partner is considered to be self-employed, pays income tax on the share of the profits and is eligible for self-employed tax allowance.

### *Limited Partnership (CV)*

A limited partnership (CV) is a variation on the VOF with active and "sleeping" partners. The latter play no part in the activities or decision-making of the firm and their name does not appear in the firm's name. As with other partnerships this may be an informal agreement but is more commonly based on a notarised agreement. The active partner is considered to be self-employed for tax purposes; the sleeping partner is not but pays taxes on income from his/her investment. The active partners are jointly and severally and personally liable for the debts of the firm. The sleeping partner is only liable to the extent of his/her investment.

### *Private Limited Company (BV)*

The limited liability company is a legal person with a minimum capital of €18000. It is created by a notary drawing up the Articles of Association. Shares are not transferable outside of the company membership. The founders must satisfy the Ministry of Justice that they are of good conduct and have no convictions for crimes of fraud or dishonesty. They must not be bankrupts.

The company is subject to Corporation Tax and managers are subject to Income Tax. A person with more than 5% of the shares in a BV is considered to have a substantial interest and therefore pays 25% on the income from dividends and profits from the sale of shares.

## **2. Trade Register**

The business will need to be registered in the Trade Register at the Chamber of Commerce. The Chamber of Commerce can conduct a search on behalf of the person making the registration to check that the business name complies with the rules. It is forbidden to use a name which:

- Is confusing or misleading. That means that you cannot choose a name which is already being used by someone else or which is similar to it.
- Represent the business as anything other than what it really is. So, for example, you cannot use 'BV' in your business name if your business is not a BV (private limited company).
- May not conflict with existing trade names. The Benelux-Merkenbureau (Benelux Trademark Agency) in The Hague is responsible for protecting trade names.

## **3. Recognition of Foreign Qualifications**

The Netherlands follows the "apostil" stamp system<sup>10</sup>. This applies to the following countries:

- Antigua and Barbuda
- Barbados
- Belize
- Netherlands Antilles
- St. Kitts & Nevis
- Suriname

For all others the diploma needs to be legalised.

## **4. Taxation**

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<sup>10</sup> See VI A. 7.3 below



On establishing the business you must obtain a "*Opgaaf gegevens startende ondernemers*" (Statement of information by a new business) form, obtainable at the time of registering with the Chamber of Commerce and which must be submitted to the tax authorities. The tax authorities make a preliminary assessment of liabilities and which taxes need to be paid.

### *Income Tax*

This is paid by the employed and self-employed. There are a number of allowances and these include self-employment allowance. The following are liable to pay Dutch Income Tax:

- Persons resident in the Netherlands receiving a wage or salary from an employer established in the Netherlands for work they are doing or have done.
- Persons resident abroad receiving a wage or salary from an employer established in the Netherlands for work they are doing or have done in the Netherlands.
- Persons resident abroad who are members of the board of management or the supervisory board of a company established in the Netherlands for work they are doing or have done.
- Persons resident abroad receiving a wage or salary from a Dutch public corporation for work they are doing or have done.

The Tax rates (including national insurance) for 2008 may be summarized as follows:

- |                         |                   |
|-------------------------|-------------------|
| ■ Income €0-€17579:     | 33.6% or €5906.   |
| ■ Income €17579-€31589: | 41.85% or €11769. |
| ■ Income €31589-€53860: | 42% or €21222     |
| ■ Income €53860+:       | 52% or €28007.    |

These amounts are reduced by tax credits including the personal allowance of €2074.

For more details see: <http://www.expatax.nl/contentstaxation.htm>

### *Corporation Tax*

The rates for 2008 were:

- 2008: 20% over the first € 40,000, 23% over the next € 160,000 and 25.5% over the rest.
- 2007: 20% over the first € 25,000, 23.5% over the next € 35,000 and 25.5% over the rest.
- 2005: 27% over the first € 22,689, 31% over the rest

- 2006: 25.5% over the first € 22,689, 29.6% over the rest

#### *VAT*

The following transactions are subject to VAT:

- The provision of goods and services by businesses within the Netherlands;
- Intra-Community purchases of goods in the Netherlands in the course of business operations by entrepreneurs and corporations;
- Intra-Community acquisitions of new means of transport;
- Imports of goods from outside the EU.

The general rate is 19%. A lower rate of 6% applies for certain goods and services, such as food products, books, medicines, art, antiques, entry to museums, zoos, theatres and sports. Visible exports are zero-rated.

#### *Tax Treaties*

The Netherlands has tax treaties with the following:

- Netherlands Antilles
- Suriname.

### **5. Visas, Work Permits Etc**

#### *Visas*

Citizens of the following countries require a visa to visit the Netherlands for a period of less than 90 days:

- Belize
- Dominica
- Dominican Republic
- Grenada
- Guyana
- Haiti
- Jamaica
- Saint Lucia
- Saint Vincent and the Grenadines
- Suriname
- Trinidad and Tobago

An application for a Schengen visa can be made at a Dutch mission (embassy or consulate) in the country where the applicant resides or is entitled to reside. In some countries, the applicant may apply for a visa to an outside agency authorised to accept visa applications.

Addresses and websites of the Dutch missions. In the Caribbean:

[http://www.mfa.nl/noord\\_amerika?continent=noord\\_amerika](http://www.mfa.nl/noord_amerika?continent=noord_amerika)

If there is no Dutch mission in the country where you reside or where you wish to apply for a visa, you can phone the Ministry of Foreign Affairs in The Hague to ask where the nearest mission is located. Tel.: +31 (0)70 348 5622.

See also:

[http://www.minbuza.nl/en/welcome/comingtoNL,visas\\_x\\_consular\\_services/applying\\_for\\_a\\_visa.html](http://www.minbuza.nl/en/welcome/comingtoNL,visas_x_consular_services/applying_for_a_visa.html)

*Conditions for Staying in the Netherlands for a period of more than 3 months.*

The Immigration and Naturalisation Office in the Netherlands provides a comprehensive explanation of the requirements for applying for a residency/work permit. Below is a synopsis of the main requirements and criteria for non-EU persons seeking to stay in the Netherlands and work on a self-employed basis. Detailed information may be found on their website <http://www.ind.nl/EN/>

If a person wants to go to the Netherlands as an independent entrepreneur for longer than 3 months, they must meet the following conditions:

- have a valid passport
- have health insurance with cover in the Netherlands
- not constitute a risk to public order
- not have tuberculosis
- have sufficient funds
- meet the requirements for practising their profession
- engage in business activities serving a material Dutch economic purpose.

Whether the business activities serve a material Dutch purpose will be assessed on the basis of a scoring system. The scoring system consists of three parts:

- Personal experience (education, experience as a self-employed person, working experience);
- Business plan (market analysis, product/service, price, organisation, financing);
- Material economic purpose for the Netherlands (innovative, job creation, investments).

It is possible to score a maximum of 300 points for all parts combined. You at least need 90 points with a minimum of 30 points per part.

*Residence Permit*

The "Request for recommendation to obtain a Provisional Residence Permit" application form sets out all the documents that are needed. The applicant must select the purpose of residence in the form. A list of the documents required will then appear. The "Application residence permit with MVV" form specifies the documents subsequently needed to apply for the residence permit using Provisional Residence Permit following arrival in the Netherlands with the Provisional Residence Permit. Most official foreign documents must be legalised as well as translated by a court-certified translator.

### *Fees*

A fee is charged for the application to travel into and stay in the Netherlands. The costs for legalising documents differ for each country. The Dutch embassy or consulate in your country of origin may charge you for additional costs (fax costs, for instance). These funds are not refundable, even if refused access to the Netherlands.

In order to stay for a period of more than 90 days the applicant needs a provisional residence permit (MVV). This must be applied in the country of origin. The provisional residence permit can then be used to travel to the Netherlands. The applicant must then apply for a temporary residence permit.

There are two ways to start the procedure for obtaining a Provisional Residence Permit (MVV).

- A sponsor in the Netherlands starts the MVV procedure by submitting a request for advice to the IND.
- The applicant submits an application for an MVV to the Dutch embassy or consulate in the country of origin

The request for advice by a sponsor serves to support the subsequent MVV application to the embassy. The Decision made on this application is either positive or negative. There is no application for review with regard to this decision. The application made to the embassy is the official application. With regard to a negative Decision on this application, the applicant may submit an application for review.

Using the first method i.e. a sponsor in the Netherlands submits to the IND a request for advice concerning a Provisional Residence Permit (MVV):

- The sponsor in the Netherlands fills in the form "Request for recommendation to obtain a Provisional Residence Permit (MVV)" and returns it to the IND, together with all required documents. The documents required are listed on the form.
- If the IND responds positively, the application is then submitted for the MVV to the Dutch embassy or consulate in the country of origin.
- An MVV will not be issued if the applicant does not meet the conditions, nor will it be issued if the documents are invalid, incomplete or incorrect. The applicant cannot submit an

application for review with respect to a negative advice. The application for the Provisional Residence Permit (MVV) is made in the country of origin

Alternatively, before travelling to the Netherlands, an application for an MVV can be made with the Dutch embassy or consulate. In other words, starting the procedure outside the Netherlands. To do so:

- Go to the Dutch embassy or the Dutch consulate in the country of origin. They will tell the applicant which documents are needed for submission. Sometimes these documents must meet specific conditions.
- The embassy or consulate forwards the application to the IND in the Netherlands.
- The applicant must meet all conditions. If so, the IND will contact the sponsor in the Netherlands for information and documents.
- If the IND approves the application for an MVV, the applicant must contact the embassy or consulate in the country of origin to collect the MVV.
- The applicant will not be issued an MVV if he/she does not meet the conditions, or if the documents are invalid, incomplete or incorrect. He/she may submit an application for review with respect to a negative Decision on the application.

Once approved the applicant collects the MVV from the Embassy or Consulate in their country of origin. The MVV is a sticker. The Embassy or Consulate will check the passport and then attach the MVV to it. The passport should be valid for at least three months following the issue of the MVV. The applicant has 6 months to collect the MVV. Once the MVV has been attached to the passport, the applicant has 6 months to travel to the Netherlands and to apply for a residence permit.

A short stay visa (C-visa) will usually be issued in addition to the MVV (D-visa). This combination is also known as the C + D visa. The short stay visa is valid for 90 days from the date of issue and can be used during that period to travel to and from the Netherlands and to visit other Schengen countries. This combination visa helps avoid problems that can sometimes arise while awaiting for a residence permit. The applicant may, for example, wish to briefly return to their own country to make some final arrangements regarding the move to the Netherlands. The combination visa will then enable him/her to return to the Netherlands, for as long as the short stay visa remains valid.

The combination visa in the passport will state the period of validity as "90 days". This only relates to the short stay visa. The MVV itself will remain valid for six months after the date of issue.

### *Full Residence Permit*

When applying for a temporary residence permit, the IND will check whether the applicant meets all of the conditions. You will also be examined for tuberculosis. In principle, the residence permit is issued for a maximum of 1 year. If applying for a residence permit in the Netherlands, the Dutch Government will need to know the applicant's details. They aim to treat these details with care, which is why the Personal Data Protection Act [*Wet bescherming persoonsgegevens, Wbp*] applies.

If the applicant is a national of a country that does not have an MVV obligation, and he/she entered the Netherlands without an MVV, they must report to the Aliens police within 3 working days. If they are residing in the Netherlands without a valid residence permit this means that they are residing in the country illegally and must leave the Netherlands immediately. If they do not leave voluntarily they can be removed from the Netherlands.

It is possible that a person, for whatever reason, may wish to apply for a residence permit whilst he or she does not hold a valid provisional residence permit, although he or she is indeed subject to a provisional residence permit requirement. Any person who is subject to a provisional residence permit requirement and who wishes to apply for a residence permit for the first time without being in possession of a valid provisional residence permit must do so at one of the IND offices in Rijswijk or Hoofddorp. In order to do this, the applicant must contact the IND appointments desk by calling 0900-1234561 (€ 0.10 per minute). He or she must then come to the office and submit his or her application. In most cases, a decision will be reached on this application immediately.

The above also applies to children who were born in the Netherlands and who do in fact require a provisional residence permit in view of their nationality. If the child is below the age of twelve and has at least one parent who is lawfully residing in the Netherlands, he or she will be eligible for a provisional residence permit exemption. In most cases, these types of applications will be granted immediately.

If it turns out that a person has wrongly claimed that he or she is exempt from the provisional residence permit requirement, where possible a negative decision will be issued immediately. The applicant may be handed over to the Aliens Police. The Aliens Police may, if there is reason to do so, remand the applicant in custody in order to

prepare for his or her removal to his or her country of origin. Applications in which the applicant has rightfully invoked an exemption from the provisional residence permit requirement are processed by the IND. In these cases it will take longer before a decision is reached.

If the residence permit is due to expire and the holder wants to remain in the Netherlands for a longer period, he/she must apply for an extension to your residence permit, in writing, to the IND. The IND will always check whether they (still) meet all the conditions. The residence permit will generally be extended for periods of 1 year each, but will always expire a minimum of 1 month before the expiry date of the passport or other travel document.

An application for an extension must be submitted not later than 8 weeks before the current residence permit expires. The fee for extending a residence permit can be found in the brochure "Costs for staying in the Netherlands".

A residence permit only applies if the holder works as an independent entrepreneur. If he/she wants to work as an employee, the employer must apply for a work permit (in the case of non EU subjects). The applicant must inform the IND of this situation and then apply for a new residence permit.

The applicant must be able to support themselves with the proceeds from their profession or business. 80% of his/her net profits are regarded as net income. This must be at least the standard amount as stipulated in the Work and Social Assistance Act [*Wet werk en bijstand*]. If accompanied by a partner or family that is/are dependent on him/her, the applicant must meet the standard amount for married and cohabiting couples. The standard amount is a net amount and includes holiday allowance. More information on [www.ib-groep.nl](http://www.ib-groep.nl)

## **V.7 Spain.**

### **1. Types of Business Undertakings.**

In Spain, as elsewhere, the main types of business undertakings are the sole tradership, unlimited partnership, limited partnership, private limited liability company and public limited liability company.

#### *Sole Trader*

The legal position of the sole trader is the same as that in other Civil Law systems and those with a Common Law system. The sole trader is in charge of his/her business, accounts to no-one else except public authorities (tax, social security etc) but has unlimited liability for the debts of the business.

### *Partnership*

An unlimited partnership ("*sociedad civil*") is a commercial undertaking in which two or more partners operate under a common business name and are jointly and severally liable for the obligations of the partnership. As with the sole trader, their private assets are attachable for the debts of the business. There is no maximum number of partners and no minimum capital requirement. It operates on the basis of the partnership agreement concluded by the partners. The partners agree on the business name of the partnership; the area of activity and the amount of the contributions of the partners. Each partner receives a portion of the distributed profit corresponding to the partner's contribution (unless the partnership agreement prescribes otherwise).

### *Limited Partnership*

A limited partnership is a firm in which two or more persons operate under a common business name, and at least one of the persons (the general partner or partners) has unlimited liability for the obligations of the firm. At least one partner (a limited partner) is only liable for the obligations of the firm to the extent of his/her contribution to the firm's assets. A limited partner does not have the right to manage or represent the limited partnership unless the partnership agreement provides otherwise. A limited partner who has paid a contribution in full does not have any further liability for the obligations of the firm and he/she is entitled to the corresponding portion of its profits. The provisions concerning general partnerships also apply to limited partnerships unless otherwise provided in Civil Code.

### *Companies*

The private limited company ("*s.a.*") is a company that has share capital divided into private limited company shares. Its shareholders are not personally liable for the obligations of the company. The company is a legal "person" in law and is liable as such for the performance of its obligations with all of its assets. The minimum share capital is €60,101 divided into shares of the minimum value of €1 and / or multiples of it. A shareholder may freely transfer a share to another shareholder of the company. However, if the shareholder attempts to transfer shares to a third person, the other shareholders have the right of pre-emption.

A public limited company is a company that has a share capital divided into public limited company shares. Shareholders are not personally liable for the obligations of the company. As with a private limited company, it is a legal "person" and the company is liable for the performance of its obligations with all of its assets. The minimum share capital is €60,101.

## **2. Start-Up Formalities for a Company**

### *Business Name*



The founders must obtain a "negative certificate" i.e. that the business name chosen does not match that of an existing business. The applicant must submit an official form with the elected names (maximum of three in order of preference to the Central Trade Registry of the Autonomous Government (in Madrid C / Príncipe de Vergara 94).

#### *Opening a Company Bank Account*

Once the founder(s) has/have the certificate approving the company name, they must open a bank account in the name of the new company "in constitution", by entering the minimum initial capital of the company. This is €60,101 of which at least 25% must be fully paid-up). The bank must deliver a certificate to be submitted to a notary. After registration, company can use the money in the account.

#### *Preparation of the Statutes and Constitution Deeds*

The statutes are the rules that will govern the company (name, purpose, share capital, registered office, a system of participation of each member etc.). This must then be taken to a notary to sign the Constitution Deeds - perhaps the most expensive process but it is mandatory for registering the company in the Commercial Register. Required Documents:

- The certificate of Name of the Central Trade Register
- The bank certificate
- The Company Statutes
- ID card of all partners.

### **3. Taxation**

A key fundamental difference between the different types of business undertaking is on the tax rate, calculated through the income tax in the case of self-employees and partnerships or through Corporation Tax for companies. In the former case, the personal income tax works implementing a progressive tax rate, growing with the increase of profits. The Corporation Tax has a flat rate of 35%.

The company needs a Tax ID (unlike the individual entrepreneur who is identified by his NIF - Tax Identification Number). The company is first granted an initial "CIF" to start work – this is provisional and must be replaced by a final one within a 6 months period. The founder submits Form Model 036, a copy of the Constitution Deeds, a photocopy of his/her ID card or a photocopy of the power of attorney if a lawyer has been appointed to act on its behalf. The deadline: 30 days from the registration of the constitutional deeds. Then the company has 6 months to obtain the final CIF.

The business must also be registered for VAT.

In addition, there is the Registry on Economic Activities Tax (IAE). This is a local tax on the exercise of business, professional or artistic activities, even if these are not conducted in designated business premises. It is mandatory for any company, employer or professional to register. The business must register as different registrations the number of different activities that the business or professional intends to engage in. Since 1 January exemptions from this tax is given to individuals, partnerships and corporations with a net turnover of less than €1million.

If exempt from payment the individual, firm or company must complete form Model 036. These must be submitted within 10 working days before the start of the activity.

#### **4. Employment Issues**

##### *Self Employed*

There is a mandatory system of Social Security for self-employed workers, partners of a firm and for members of labour societies. They must register with this scheme within 30 calendar days following the start of the business activity.

##### *Application for an Employer Code*

This is only required once the business contracts an employee. In this way the company is registered in the Social Security list, and the employer gets a primary contribution code. This registration is valid for the lifetime of the company.

#### **5. Entry in the Commercial Register**

Companies must be registered within a period of 1 month from the notarisation of the constitutional deeds, and limited partnerships within 2 months. They must be registered at the Commercial Registry Office covering the area in which the head office is located.

To be registered, the following must be submitted:

- Certificate of name from the Central Commercial Register
- First copy of the Constitution Deeds
- Copies of the model 600 (PCR) previously paid

Once registered, the business acquires legal personality.

#### **6. Business Premises**

Business premises licences are obtained from the Ministry of Labour and Social Affairs, or from the corresponding Unit of the Autonomous Communities, since the administrative responsibilities have been transferred to them.

#### **7. Visas and Work Permits**

This depends on the country of origin. i.e. EU citizens and citizens from some LATAM countries (with bilateral agreements) do not need any visa. From other countries a visa is required and the cost and time needed varies from country to country.

Foreigners not qualifying for the EU or LATAM system require authorization to live and work in Spain, as well as a special work visa. Employers wishing to hire non-EU nationals must obtain prior authorization from the Ministry of Labour and Social Affairs. However, the lack of a work authorization does not invalidate an employment contract with regard to the foreign worker's rights, nor does it prevent the foreign worker from obtaining any benefits to which he or she may be entitled.

The Spanish Government has recently approved a special Agreement that establishes a specific procedure for the work and residence of foreigners with a professional activity that requires high qualifications and is relevant from the economic, social, and labour point of view, related with research activities, or artistic acts of special cultural interest. The procedure simplifies the procedure of obtaining authorisation for these employees and their relatives.

There are various types of work authorizations, depending on the type of work and its duration.

<b>Type of Authorization</b>	<b>Scenario</b>	<b>Duration</b>
<b>Employed work and residence authorization</b>	Ordinary work authorization for foreign employees with a steady work situation in Spain.	One year, renewable for two year periods.
<b>Self-employed work and residence authorization</b>	Ordinary work authorization for self-employed foreigners with a steady work situation in Spain.	One year, renewable for two-year periods.
<b>Cross-border workers</b>	Employed or self-employed work authorization for workers residing in a frontier area of a State to which they return every day. Only valid for that specific geographical area.	5 years at most, renewable on expiry.
<b>Temporary work authorizations</b>	The following activities or occupations are authorized: seasonal work, project work or services, senior management,	Non-renewable period of one year at most (except for

	professional sportsmen or women, artistes, and vocational training and work experience.	seasonal contracts).
<b>Cross-border assignments</b>	<p>Authorization for foreign employees of an enterprise established in a non-EU or non-EEA country temporarily assigned to Spain for the following reasons:</p> <ul style="list-style-type: none"> <li>-Contract whereby a foreign enterprise provides services to an enterprise established in Spain.</li> <li>-Temporary assignment of workers between enterprises of the same group (including for training purposes).</li> <li>-Temporary assignment of highly-qualified workers to supervise or advise on project work or services performed by Spanish enterprises abroad.</li> </ul>	A maximum of one year, renewable for a further year at most.

Foreigners who have been legally resident in Spain on a continuous basis for five years may, having renewed their employed or self-employed work and residence authorizations, obtain a permanent residence authorization. Once they have this authorization, they must apply for a permanent identity card, renewable every five years.

## 8. Bank Accounts.

Whatever the nationality, the person wishing to open a bank account must prove his/her status as a resident or a non-resident. If a resident, he or she need only go to a bank and show the resident ID to have an account opened. If a non-resident, there are two options:

- The first option is to go to the Dirección General de la Policía (in Madrid , it is located calle General Pardiñas, nº 90) with his/her passport (as well as a photocopy) and ask for a "non-resident certificate". The applicant will need to go back there within about 10 days in order to pick it up. Once this certificate has been obtained he/she can go to any bank with his/her passport in order to have an account opened. This account will be operative from the very moment of the opening of the account and the deposited funds will be available immediately.

- The other option is to go directly to a bank with the passport and ask to open an account. In this case, the bank will have the applicant sign an authorization to carry out the necessary procedures to have the non-resident certificate issued. They will charge about €15,00. The account will not be operative until they receive the certificate and the deposited funds will not be available until then.

## **V.8 United Kingdom.**

### **1. Types of Business Undertakings**

#### *Sole Trader*

A professional may wish to set up in business on his or her own as a sole trader. This is the 'one-person' business, which means that all the profits are the trader's and all the losses as well. Business premises are not required by law for most professions but where they are or the trader chooses to work from them, he/she must find suitable premises from which to operate. Suitable, that is, for use as business premises under current planning legislation and regulations (See below). The sole trader, however, does have some legal regulations imposed on him or her with regard to the business name (the name s/he intends to trade under). If the trader does not intend to do business under his or her own name, but to use a business name, the Business Names Act 1985 and Company and Business Names Regulations 1981 must be complied with.

The provisions of the Act which apply to sole traders are:

- Traders may not carry on business in the UK under a name that would be likely to give the impression that the business is connected with central or local government.
- Traders may not use a business name which includes any word or expression which has been specified in the Company and Business Names Regulations 1981, for example, 'building society', 'insurance' or 'royal'.
- If a trader does wish to use a name specified in these regulations, then it is necessary to write to the 'relevant body', if one is stated, for permission to include that word in the business name (relevant bodies include the Home Office and the Scottish Government).
- A trader's name and address must be stated clearly on all business letters, written orders for goods or services, invoices and receipts and demands for payment, and s/he must display a prominent notice containing the name and address at any premises where the business is being carried on.
- When people ask for these details traders must be able to supply a business card stating their names and addresses.
- When traders choose a trading name this must not be like that of an existing business. The reason is that the public might confuse the two businesses.

Traders commit an offence if they contravene any of these provisions. Furthermore, if they do not display their true names in the ways described they may find it difficult to enforce their contracts.

#### Special characteristics of a sole trader's business

- Sole traders put their own money into their businesses and if more is needed they may be able to convince various financial institutions to lend them some. However, sole traders are under a disadvantage because they are very limited as to the ways of attracting capital: they cannot persuade people to invest in the business because they are not a company; nor can they bring in partners with capital.
- Sole traders' liability is unlimited, which means that they are personally liable for all the debts and obligations of their businesses, so that even their private property may be used to pay the debts of the.
- There is no need to lodge an annual return and accounts. Sole traders may conduct their businesses with as little regulation as possible, though for tax purposes accounts should be checked by an accountant.
- Sole traders can cease to carry on their business whenever they like. They simply shut the door, sell up, pay their debts and liabilities and retire to the country with the remainder.

#### *Partnerships*

Partnerships are subject to the provisions of the Partnership Act 1890. This Act defines a partnership as 'the relation which subsists between persons carrying on a business in common with a view of profit'. The general characteristics of partnerships are:

- They come into existence when the parties agree the terms under which they will do business together. No particular form for this is laid down by law.
- The term 'business' implies that there is a course of business activity, even though this might be of a relatively short duration.
- The persons must have full legal capacity to enter into the partnership agreement.
- The business must be a commercial venture, trade or profession.
- The aim of this commercial venture must be a share in net profits, that is, profits less all the expenses and outgoings.
- A partnership, or firm, is the group of partners. Each partner is jointly liable with the other partners for all the firm's debts and obligations incurred while he or she is a partner.

Partnership property belongs to the partners, which means that when they die or retire there will be changes in the formal title to the firm's property. The Rules of the Supreme Court allow firms to be sued in the firm's name. This right already existed under Scottish common law.

Section 4 of the Partnership Act 1890 provides that in Scotland 'a firm is a legal person distinct from the partners of whom it is composed'. This means that:

- The firm's debts are those of the firm; however, if it cannot pay, each partner is liable jointly and severally for those debts: jointly with the firm and the other partners, and personally (severally) – that is, his or her own personal estate becomes liable to pay;
- Partnership property belongs to the firm; however, title to any heritable property (land, buildings) will be held by the partners in trust for the firm;
- A partner can contract with the firm and the firm can sue and be sued on these contracts.

If the partnership name does not contain the surnames of each partner it will be subject to the provisions of the Business Names Act 1985. The restrictions and disclosure requirements that apply to the sole trader will also apply to partnerships. Thus, the names and addresses of all the partners must be prominently displayed in a notice and on all business letters and documents.

The firm may choose to carry on business in the name of the partners, even if this causes confusion with another business. If the name the firm chooses is the same as or similar to that of a competitor, then the firm may have an action brought against it seeking an injunction (*interdict* in Scotland) to prevent it using that name.

The firm is dissolved every time a partner dies or retires because he or she, or the estate, has to be repaid his or her capital and share of the profits. A new partnership agreement between the remaining partners is drawn up. Similarly, when a new partner comes into the firm a fresh partnership agreement between all the partners is entered into.

In deciding when to become partners in a business one of the important things to discuss and agree upon is what areas of the business each partner will have special responsibility for and control (authority) over.

However, besides these specific powers that individual partners may agree upon, the Partnership Act 1890 states that every partner has the power to make himself (herself) and the other partners liable for all the acts he or she does which are within the ordinary business of the firm. If partners do agree any restrictions on their power, such restrictions have to be notified to all persons who deal with the firm, otherwise third parties may rely on the fact that the partner can bind the firm and the other partners for all acts which are within the normal course of the firm's business. Any partner who contravenes such an agreement, where persons dealing with the firm were aware of the restrictions on his or her power, will be personally bound on that contract with the third party.

Each partner is liable jointly with the other for all the debts and obligations of the firm incurred while a partner. If either dies, his or her estate will have to pay his or her share of the debts and obligations of the firm. When a partner retires liability for transactions entered into while he or she was a partner persists, unless it is possible to show that he or she is no longer liable.

In Scotland the liability of the partners for the firm's debts and obligations is joint and several. This means that a creditor looks to the firm first for payment of the debt or obligation, so any action is first brought against the firm in its name (joint liability). Only if the firm cannot pay the debt or fulfil the obligation can an action be brought against a partner personally (several liability). That partner then has the right to relief pro rata from the other partners; that is, the other partners pay their share of the debt to the partner against whom the action for payment was brought.

If the partner, while engaged in the firm's business, harms another person or his or her property, the firm is liable in damages to that third party. The partner is also personally liable. The injured third party may thus bring an action for damages against the firm and/or the individual partner. The firm may then seek to reclaim the amount paid from the partner whose negligence caused harm to the third party.

### *Limited Liability Partnership*

The Partnership Act 1890 permitted the formation of partnerships in which one or more of the partners could have limited liability i.e. his or her liability for the firm's debts would be limited to the extent of his/her share of the business. However, at least one partner had to have unlimited liability i.e. even his/her own personal assets could be used to meet the firm's debts.

The Limited Liability Partnership Act 2000 made major changes. Now a firm can be registered with the Registrar of Companies as a limited liability partnership (LLP) and all of the partners will have limited liability. The Act came into force on 6 April 2001 under implementing regulations. There are separate regulations for Scotland but the principles are the same. Some of the provisions more closely mirror previous practice in Scotland rather than in England, Wales and Northern Ireland, where it represents a more major change.

The key features of an LLP are:

- It is a body corporate i.e. a distinct legal entity from its members. The firm can own and hold property, employ people and enter into contracts in the firm's name. Debts incurred are those of the firm and not the personal debts of the partners.
- It has unlimited capacity i.e. it can enter into any type of agreement or transaction and parties with which it contracts do not have to check the partnership agreement that it is entitled to do so.



- It has "members" not directors or shareholders. It is not subject to Company Law.
- The members of the LLP have limited liability.
- It has complete flexibility as to the internal organisational structure its members wish to adopt. There are no legal requirements for board meetings, resolutions etc.
- It must maintain accounting records, as laid down in the regulations, and prepare and submit audited annual accounts to the registrar of companies.

### *Companies*

Companies have a separate personality and also have the following characteristics:

- The company can be dissolved only by process of law; it is unaffected by the death of its shareholders.
- If the company is limited by shares or guarantee then a member's liability is limited either to the unpaid portion of his or her shareholding (if any) or to his or her guarantee.
- Shares in a company are generally freely transferable though there may be some restriction on transfer in the articles (that is, they may have to be offered first to directors or other shareholders).
- A company may have as many members as it likes, though a registered company is subject to a minimum of one.
- A company must have a written constitution made up of a memorandum of association and articles of association.
- Companies can borrow for purposes which are within their objects clauses. They have additional methods of granting security for loans compared with partnerships and sole traders.
- Companies can generally be dissolved only by a formal liquidation.
- Companies have to pay corporation tax on profits and gains.

As the main form of business organisation in the United Kingdom today is the registered company, the law relating to registered companies being found principally in the Companies Acts 1985 and 2006 and case law, any further reference to 'companies' is to registered companies.

There are various types of registered company:

- Limited companies: Registered companies are most commonly limited by shares, which means that the liability of the members is limited because once they have paid the full nominal value of their shares, and any premiums that may be payable, they cannot be asked to pay any further sums in the event of the company being wound up on the grounds that it cannot pay its creditors.

- Companies limited by guarantee: These companies are not usually commercial enterprises but, rather, clubs and societies. Their members are liable only to the amount stated in the company's memorandum, which will not exceed £100. This sum becomes payable only if the company is wound up while the person is a member, or within a year after he or she ceases to be a member, for payment of the company's debts and liabilities contracted before he or she ceased to be a member, and for the expenses of the winding up.
- Unlimited companies: Members of these companies can be asked to pay sums to meet the liabilities of the company, but only if the company is wound up and has more liabilities than assets. This type of company is not very common because of this personal liability of the members.
- Public companies: The Companies Act 1985 defines a public company as one having the liability of its members limited by shares or guarantee and having a share capital, with a clause in its memorandum which states that the company is a public one. The company name has to end with the words 'public limited company' or the initials 'plc' or the Welsh equivalent 'ccc'. The company must have an authorised share capital of at least £50,000, 25 per cent of which is to be fully paid up. This requirement has to be met before a public company can commence business. Public companies can offer their shares for sale to the public.
- Private companies: These companies are not subject to the requirement as to a minimum amount of share capital and they can, therefore, commence business as soon as they obtain a certificate of incorporation from the Registrar of Companies. Their names have to end with the word 'Limited' or 'Ltd' or the Welsh equivalent. They are prohibited from offering their shares for sale to the public.

A company, limited or unlimited, private or public, is formed by applying for registration to the Registrar of Companies (in Cardiff, for English and Welsh companies; in Edinburgh, for Scottish ones; in Belfast, for Northern Ireland).

Registration means having to send certain documents to the Registrar who checks them to see that the statutory (under the Companies Act 1985) requirements have been complied with. The Registrar then issues a certificate of incorporation, which means that from the date of issue the company is a legal person able to do business and capable of exercising all the functions of an incorporated company.

The two main documents of a registered company are the memorandum of association and the articles of association. The memorandum, which sets out the essential details of the company's relationship with the outside world, contains five main clauses:

- The name of the company;
- Whether the registered office is situated in England, Wales, Scotland or Northern Ireland;
- The objects of the company - that is, what it is in business to do;
- A statement that the liability of the members is limited;
- A statement of how much authorised share capital the company has and its division into shares of a fixed amount.

If the business is a public company it will have an additional clause stating that it is a public company. If the company is one limited by guarantee there will be an additional clause stating the amount of the guarantee.

The articles of association regulate the company's internal affairs and deal with such matters as the rights which attach to the various classes of shares the company might have; the powers of directors; the procedure at company meetings; winding up. They may adopt the Articles set out in Table A to the Companies (Tables A-F) Regulations 1985. Alternatively, they could adapt the articles in Table A to suit their company's needs. If they do this they must ensure that the articles are printed and numbered consecutively.

Both the memorandum and articles have to be signed by two persons in the presence of at least one witness. These two documents may be altered by the company in general meeting; though there are statutory restrictions on this power to alter which safeguard the rights of shareholders and creditors. A company may alter its objects clause by special resolution, but this is subject to confirmation by the court (section 110(1) and (2) of the Companies Act 1989, replacing section 4 of the 1985 Act).

The articles may be altered by a special resolution passed by the members in general meeting. The statutory restrictions on this power safeguard the rights of the holders of various classes of shares in the company and can be found in sections 125-129 of the Companies Act 1985.

The directors of a company may decide that they will form a board of directors and elect one of their number as a managing director who will have power to make contracts on behalf of the company. Individual directors may have limits on their power to contract. If the director, or managing director, has power to enter into a particular contract, and it is within the objects stated in the objects clause of the memorandum, that contract will be binding on the company.

Therefore, the rule is: when a person deals with a company in a transaction that is not outside powers laid down in the articles and memorandum, the company will be bound by that transaction even if there has been some irregularity in the internal management.

When directors enter into contracts with third parties on behalf of the company they may be personally liable on those contracts. This situation would arise where a director enters into a contract for the company before that company has received its certificate of incorporation. For the director to avoid personal liability on such a pre-incorporation contract it must be clearly expressed in the contract that it was not intended that he or she should be liable.

The company can commit offences because the acts of those in control of the company become the company's acts, and may make it liable for criminal prosecution. It has been decided by case law that 'those in control' are the board of directors, the managing director and other officers who may have power delegated to them. Thus, directors and other company officers will be liable along with the company. For example, it is an offence for a director to authorise or permit contravention of the Companies Act 1985. The company is also liable.

The Company Law Reform Act 2005 made it easier to set up and run a company. The bill reduced the regulatory burden, particularly on small and medium sized companies. It addressed four matters:

- The improvement of shareholder engagement in companies and encouraging long-term investment;
- Making sure that business is better regulated so as to have a "Think Small First" approach to regulation;
- Making it easier to set up and run a company;
- The provision of greater flexibility for the future business community.

## **2. Business Premises**

There are no specific regulations requiring these professions to set up in particular types of business premises, with the exception of IATA registered travel agents. The professional can work from home but this may have implications for his/her mortgage, home insurance, tax situation and even the neighbours. The mortgage may prohibit the conduct of a business on the premises and the insurance company may require a higher premium if a business is being conducted there.

If part of a building is used for business and part for residential purposes - such as an accountant's office in a domestic property - the part used for business counts as non-domestic premises. So, if a person lives and works in the same premises, they generally pay business rates on the part of the property used for business and council tax on the residential part. You are more likely to have to pay business rates if a room is used exclusively for business, or has been modified (e.g. as a workshop). Each case is considered individually.

## **3. Taxation**

Rates, thresholds and fees, as well as rules and regulations, can alter annually with changes being announced in the Budget and usually implemented from the beginning of a tax year.

A person will normally have to pay UK tax on all of their worldwide income if they are a UK resident. A person becomes a UK resident if they:

- spend at least 183 days in the UK during any tax year - from 6 April to 5 April
- are planning to stay in the UK for at least two years
- come to the UK to visit for an average of more than 90 days per tax year over four years - residence is valid from the beginning of the fifth year.

If a person is resident, but not permanently resident in the UK, they will only have to pay tax on any overseas income that they bring into the UK. However, income generated in the Irish Republic is taxable whether or not it is brought into the UK.

The UK has tax treaties with:

- Antigua and Barbuda
- Barbados
- Belize
- Grenada
- Guyana
- Jamaica
- St.Christopher (St.Kitts)-Nevis
- Trinidad and Tobago

### *Income Tax*

This is payable if you are self-employed, employ others or you are the director of your own limited company.. How much you deduct from wages or salary depends on the appropriate tax rate and tax band. Income tax is payable to HM Revenue & Customs (HMRC) through the PAYE (Pay As You Earn) system. The basic rate is 20% on income up to £37400 (after allowances) and at 40% thereafter. Income above £150000 will be taxed at 50% from 2010-11. The personal allowance for a person under the age of 65 is £6475. From 2010-11 the basic personal allowance for those earning over £100,000 will be gradually reduced to nil. The personal allowance will be reduced by £1 for each £2 over £100,000 until it has been completely withdrawn.

### *National Insurance*

The vast majority of the working population is required to pay National Insurance contributions (NICs). These contributions go towards certain social security benefits, such as the state pension and jobseekers allowance.

An employee only starts paying NICs once they are earning above the earnings threshold (ET). If an employee earns less than the earnings threshold, they are treated as paying NICs on the earnings between the lower earnings limit (LEL) and the earnings threshold. Employees pay NICs at a lower percentage rate on earnings above the upper earnings

limit (UEL). An employer pays secondary NICs on the same level of earnings as employees but there is no upper earnings limit.

Self-employed persons are liable for Class 2 NICs, which are payable at a flat weekly rate of £2.40 per week in 2009-10. They do not have to pay Class 2 NICs if they earn less than £5,075 in 2009-10 and have a Small Earnings Exception certificate.

Class 4 NICs are paid on annual profits above a certain level, at a rate of 8 per cent between the lower and upper profits limit and 1 per cent on profits above the upper profits limits.

- Class 4 lower profits limit: £5,715 in 2009-10
- Class 4 upper profits limit: £43,875 in 2009-10

### *Corporation Tax*

Corporation Tax is payable by limited companies on profits. However, certain organisations that are not limited companies are also required to pay Corporation Tax. This should be checked with HM Revenue & Customs (HMRC). The self-employed are not required to pay Corporation Tax.

Since 1 April 2008, the small companies' rate, for all profits apart from ring fence profits (North Sea oil and gas), is 21 per cent and the fraction used in smoothing the difference between the main rate of Corporation Tax and the small companies' rate (marginal small companies' relief) is 7/400ths. The small companies' rate for ring-fence profits is 19 per cent, and the marginal small companies' relief fraction is 11/400ths.

The small companies' rate is 21% on profits up to £300000. Between £300001 and £1.5m it is taxed at the marginal relief rate of between 21% and 28%. Above £1.5m it is 28%.

### *VAT*

VAT is a tax payable on the majority of business transactions that involve the transfer of goods or services. Registration for VAT is required once the business' annual turnover reaches a certain level and VAT will then be payable to HM Revenue & Customs (HMRC). It is currently £68000. However, even if turnover has not reached the level required, one can choose to register on a voluntary basis, as this may have benefits for the business.

For more information see:

[http://customs.hmrc.gov.uk/channelsPortalWebApp/channelsPortalWebApp.portal?nfpb=true&pageLabel=pageVAT\\_ShowContent&propertyType=document&columns=1&id=HMCE\\_CL\\_001596](http://customs.hmrc.gov.uk/channelsPortalWebApp/channelsPortalWebApp.portal?nfpb=true&pageLabel=pageVAT_ShowContent&propertyType=document&columns=1&id=HMCE_CL_001596)

## **4. Business Licenses**

### *Auditors*

They must be a member of one of the professional bodies listed in XXX below.

### *Data Protection*

The Data Protection Act 1998 requires all organisations which handle personal information to comply with the "data protection principles" regarding privacy and disclosure. The Act also allows people to find out what personal information is held about them by making a subject access request. This covers information held electronically and in some paper records, and includes credit reference details.

If members of the public think they're being prevented from seeing information they're entitled to, they can ask the Information Commissioner's Office for help. It is responsible for looking after their rights and making sure personal information isn't misused. Complaints are usually dealt with informally, but if this isn't possible, enforcement action can be taken.

Every organisation that processes personal information must notify the Information Commissioner's Office (ICO), unless they are exempt. Failure to notify is a criminal offence. "Notification" is the process by which a data controller informs the Information Commissioner of certain details about their processing of personal information. These details are used by the Information Commissioner to make an entry describing the processing in the register of data controllers that is available to the public for inspection. The principal purpose of having notification and the public register is transparency and openness. It is a basic principle of data protection that the public should know (or should be able to find out) who is carrying out the processing of personal information as well as other details about the processing (such as for what reason it is being carried out).

More details are available at:

[http://www.ico.gov.uk/what\\_we\\_cover/data\\_protection/notification.aspx](http://www.ico.gov.uk/what_we_cover/data_protection/notification.aspx)

There are also Information Commissioners for Scotland and for Wales. The provisions governing data are the same for all three countries.

### *Financial Services*

Under Section 19 of Financial Services and Markets Act 2000, any person who carries on a regulated activity in the UK must be authorised by the Financial Services Authority (FSA). Breach of Section 19 may be a criminal offence and punishable on indictment by a maximum term of two years imprisonment and/or a fine.

There is a long list of "regulated activities" and these include advising on stocks and shares, investments, securities, pensions etc. More details are available at:

<http://www.fsa.gov.uk/Pages/Doing/Do/index.shtml>

### *Tour Operators*

An Air Travel Organiser's Licence (ATOL) is required by law when a firm sells:

- flight-based packages;
- charter flights;
- scheduled flights where an airline ticket is not issued straight away:

Travel agents selling flight-based packages and flights as an agent for ATOL holders do not require their own ATOL, providing that these sales are documented correctly.

*See XXX below.*

## **5. Employing Staff**

When taking on a first employee it may be necessary to register as an employer with HM Revenue & Customs (HMRC). It provides information to help you decide whether you need to register in the HMRC information pack for prospective employers, "Thinking of employing someone?". See:

<http://www.businesslink.gov.uk/bdotg/action/detail?r.l1=1073858787&r.l3=1074219831&r.lc=en&type=RESOURCES&itemId=1073793877&r.l2=1073858914&r.s=sc>. Alternatively, you can call the HMRC New Employer Helpline on Tel 0845 60 70 143.

The employer has, amongst others, the following obligations towards employees:

- Provide them a with a written statement of the main terms and conditions of their contract of employment.
- Provide an itemised pay statement at or before the time of payment.
- Make sure the working environment is safe and secure.
- Have insurance to protect against claims for any illnesses, injuries or diseases their employees may pick up as a result of working for the employer.
- Register as an employer with HM Revenue & Customs (HMRC) to set up a payroll, deducting tax and National Insurance contributions from employees' pay and forwarding the money to HMRC.



- Provide employees with a minimum level of paid holiday, a maximum length of a working week and minimum levels of rest breaks.
- Pay at least the National Minimum Wage.
- Pay statutory sick pay to employees who are off sick for more than three days.
- If the employee is pregnant, or is about to or has recently become a parent, they'll be entitled to maternity, paternity or adoption leave and parental leave during the first five years of their child's life (longer for a disabled child). The employer must also seriously consider any requests from parents with children under six to work more flexibly.
- Treat employees fairly and avoid discrimination on grounds of sex, race, colour, ethnicity, nationality, national origin, religious belief or non-belief, sexual orientation, transgender or age.

## **6. Visas, Work Permits etc**

Citizens of the following countries need a visa to enter the UK:

- Haiti
- Jamaica
- Suriname

A person that wants to visit the UK on business purposes, must apply for one of the new business visas. Business visas are only available to those who can prove that they are:

- attending meetings or conferences
- negotiating, arranging or signing trade agreements or contracts
- carrying out fact-finding missions or promotional activities
- conducting site visits or checking goods or details

A business visa will allow you to come to the UK on business purposes for up to six months.

Since 3 March 2009 onwards, Jamaican nationals in transit through the UK are required to obtain a transit visa before they travel to the United Kingdom. Travellers will need to apply for one of two visas:

- a Visit-in-Transit Visa if seeking to enter the United Kingdom in transit with a connecting flight within 48 hours;
- or a Direct Airside Transit Visa (DATV) for anyone remaining airside to take a same-day, same-airport connecting flight to another destination.

Applications for Transit visas and DATVs are made in the same way as every other type of visa. Applications in Jamaica must be made at the

WorldBridge Visa Application Centre located at 34 Trafalgar Road, Kingston and should be submitted a minimum of five days before travel. All travellers affected by this decision will need to apply for a visa to travel to the United Kingdom, and provide fingerprints, before they are given the clearance to travel to the UK.

Migrants from outside the EEA and Switzerland can apply to work or study in the UK through the new points-based system (PBS). Under the PBS all applicants from outside the EEA need clearance to enter or remain in the UK. Under the PBS, applicants will need to obtain a specified number of points to qualify for entry. Points will be awarded for a combination of skills and attributes. The new PBS is being phased in gradually and replaces all previous routes to work, train or study in the UK. The following tiers are now in force and applicants from these groups can apply for permission to enter or remain in the UK:

- Tier 1 – highly skilled workers, investors and entrepreneurs and post-study workers.
- Tier 2 – sponsored workers including elite sports people and coaches, airport ground crew and certain seafarers, representatives of overseas media organisations (such as newspapers, news agencies and broadcasters), ministers of religion and missionaries and members of religious orders in non-pastoral and non-preaching roles.
- Tier 5 – sponsored temporary workers including sports people and entertainers working for less than 12 months, voluntary workers, overseas government employees and workers entering the UK under a government approved exchange programme.

Further tiers - to be introduced later - will allow other categories of individual to apply for clearance to enter or remain in the UK to work, train or study.

More details on the PBS is available at:

<http://www.ukba.homeoffice.gov.uk/managingborders/managingmigration/apointsbasedsystem/>

New measures are being phased in to prevent illegal working and illegal immigration. All those applying to travel to the UK for more than six months and those applying to extend an existing stay will be issued with an ID card. They will also have their finger prints and photographs taken as part of their application

Anyone entering from or travelling to a non-European Union (EU) country carrying €10,000 or more (or equivalent in other currencies) in notes, coins, cheques (including travellers' cheques) and bankers drafts will be required to declare the cash to HM Revenue & Customs (HMRC). There is no requirement to declare cash for people travelling between the UK and other EU countries. Declaration forms are available from UK ports and airports.

A work-permit application has to be for a named person and for a specific job, normally on a full-time basis. The permit holder cannot transfer a work permit to a different job or to work for a different employer. If a work-permit holder wishes to change employer, the new employer must apply for a fresh work permit. The worker cannot take up the new post until both the work permit and the leave to enter or remain have been granted.

An applicant who qualifies for a work permit is not guaranteed a visa or entry to the UK. Visa applications may be sent to the nearest British embassy, high commission or consulate in the country where the overseas national is normally resident.

The charge for work permit applications is a flat rate fee of £190 per application. The fee applies to all applications including extensions and change of employment. This does not include either the fee for the application for leave to remain or the fee for the application for a visa for leave to enter.

### *Residency*

All British citizens have the right of abode in the United Kingdom. Some Commonwealth citizens<sup>11</sup> also have the right of abode. A person wishing to claim the right of abode, must prove it by producing:

- a United Kingdom passport describing them as a British citizen or a British subject with the right of abode; or
- a United Kingdom identity card describing them as a British citizen or a British subject with the right of abode; or
- a certificate of entitlement to the right of abode in the United Kingdom that has been issued by the Government of the United Kingdom or on its behalf.

If the applicant is not a British citizen, they may still have the right of abode if, on 31 December 1982, they were:

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<sup>11</sup> Antigua and Barbuda, Bahamas, Barbados, Belize, Dominica, Granada, Guyana, Jamaica, St Kitts and Nevis, St Lucia, St Vincent and the Grenadines, Trinidad and Tobago.

- a Commonwealth citizen with a parent who, at the time of their birth or legal adoption, was a citizen of the United Kingdom and Colonies because he/she was born in the United Kingdom; or
- a female Commonwealth citizen who was, or had been, married to a man who had the right of abode. She must have been married to him before 1 January 1983

More details are available at:

<http://www.ukba.homeoffice.gov.uk/britishcitizenship/applying/>

## **7. Bank Accounts**

In order to open a bank account the person will need:

- A driving licence or passport, and a recent utility bill for the applicant and for any other person involved in the management of the business. In the case of a limited company this information will have to be provided for directors and company secretaries. Banks need this information to check identity, which they are obliged to do under money laundering laws.
- An account opening mandate. The bank will provide this.
- A list of the persons who can sign on the bank account and a sample of their signature. The bank will ask the account holder to specify in what combination people will sign on the account. For example, cheques may require two signatures.

## **VI. REGULATORY FRAMEWORK FOR TRADE IN SPECIFIC SERVICES**

### **A. Accountancy Services and Auditing**

#### **A.1 Estonia.**

In Estonia, accounting services as such are not regulated by the law. Anyone can provide general accountancy and book-keeping services. Of course, reputation and experience will be valued in the market for these services. Thus, the following provisions concerns only auditing services.

##### **d) 1.1 Designation/ Title**

The title of "auditor" is protected in law. Only certified members of the Estonian Board of Auditors have the right to practice as auditors in Estonia. The Board is a self-governing professional association which organizes the professional activities of auditors and protects their rights as auditors.

The Board specifies the professional activities of an auditor as auditing, business consultancy and the performance of other functions assigned to auditors by legislation. The provision of those services is regulated by various laws and the Auditing Rules (*Auditeerimiseeskiri*). These include requirements for auditing and professional ethics based on the standards of the International Federation of Accountants adapted to local needs. The Board is responsible for supervising the professional activities of auditors and ensuring compliance with the Auditing Rules.

##### **e) 1.2 Qualifications:**

To qualify as an auditor one must be a natural person who has:

- Active legal capacity;
- A level of education equivalent at least to a bachelor's degree recognised by the state;
- An impeccable reputation;
- Received theoretical training necessary to engage in the professional activities of auditors and has three years of practical work experience under the supervision of an auditor;
- Passed the examination

A citizen of a foreign state who has obtained the qualification of an auditor in a foreign state may practise as an auditor in Estonia if he or she has passed an examination on the relevant legislation currently in force in Estonia and which is necessary for the work of an auditor. He/she may take that examination in English.

The following may not practise as auditors:

- persons whose professional activities as an auditor have been terminated under the provisions of the Estonian legislation;
- persons who have been convicted of a criminal offence;
- persons who are bankrupt;
- persons who are active in an area which is incompatible with good auditing practice;
- persons who are not of good repute.

In order to obtain the qualification of an auditor, an applicant must pass an examination. This is conducted under the auspices of the Professional Qualifications Committee. Those that pass the examination are issued with a professional auditor's licence after he/she has taken the auditor's oath of office and has been entered on the list of auditors.

#### f) **1.3 Examination Process**

In order to take the auditors' examination, the following must be submitted to the professional qualifications committee:

- an application form;
- a copy of an identity document (ID card or passport);
- a curriculum vitae;
- a description of professional activities;
- a copy of a document certifying education;
- a confirmation from the auditor or auditors under the supervision of whom the person who applies for the qualification of an auditor underwent practical training.

The entrant to the examination must pay the state fee (€260). The examination is conducted in Estonian and consists of a theoretical part and a practical part. Foreigners may take the examination in English.

The programme for the examination must be approved by the Minister of Finance on the proposals from the Management Board of the Board of Auditors. Examinations are conducted as needed but not less frequently than once a year. The Professional Qualifications Committee specifies the time and place of the examination and the term for the submission of documents.

#### g) **1.4 Firms of Auditors**

A firm of auditors may operate as a general partnership, limited partnership, private limited company or public limited company. The general provisions of the law concerning each of these types of business apply to firms of auditors unless otherwise prescribed by law.

In the case where auditors form a partnership, whether limited or general, the partnership agreement must be in writing. An auditing business operating as a public limited company may only issue registered shares. At least three-fourths of the votes represented by the shares of a company of auditors must belong to auditors or firms of auditors and the majority of the members of the Management Board must be auditors.

The area of activity of a firm of auditors may only include the professional activities of auditors, other activities related thereto and the performance of other functions assigned to auditors by legislation. Such a business cannot be entered in the list of auditors until it has submitted an application to the Management Board of the Board of Auditors for confirmation that the business is solely engaged in the activities permitted to auditors.

#### **h) 1.5 Ethical Matters**

An auditor must be independent and impartial in engaging in the professional activities of an auditor and must act in accordance with the provisions of the law, the auditing rules, the requirements of professional ethics, and the resolutions and recommendations of the bodies of the Board of Auditors.

Auditors must maintain the confidentiality of information to which they have access in the course of their professional activities. This obligation remains in force after the termination of the professional activities of the auditor. It is also applicable to the Professional Qualifications Committee, the Management Board of the Board of Auditors, assistants of auditors, employees of firms of auditors and the Board of Auditors and to other persons to whom a professional secret of an auditor has become known in the performance of their duties.

#### **i) 1.6 Professional Reporting**

Auditors must provide the Management Board of the Estonian Auditing Board with a report on their activities once in every three years and at any other time that the Board requires. The report should be in accordance with good auditing practice and contain a thorough overview of the professional activities of the auditor. Should it become evident from the acts or omissions of an auditor that he or she has lost the professional competence required in the work of an auditor, the Management Board may require the auditor to undertake an additional examination under the terms specified by the Board.

#### **j) 1.7 Regulatory Authority**

The Ministry of Finance has overall responsibility for auditing matters. The system of qualifications, however, are determined by the Professional Qualifications Committee established by the Estonian Government. Each member is appointed for a term of three years. The committee comprises nine members who are experts on auditing, including:

- a representative of the State Audit Office;
- a representative of the Bank of Estonia;
- three representatives appointed by the Minister of Finance;
- four representatives elected by the Board of Auditors.

The rules of procedure of the Professional Qualifications Committee are set down by the Minister of Finance. The Committee is responsible for:

- administering the auditing examinations;
- administering the oath of office of auditors and the issue professional licences to auditors;
- determining whether an auditor referred for an additional examination has passed the examination;
- granting consent to the resolutions of the Management Board of the Board of Auditors concerning the suspension, resumption or termination of the professional activities of an auditor.

## 2.

### k) 1.8 Contact Information

The Estonian Board of Auditors

<http://www.auditorkogu.ee/eng/?sd=5e931610b551061fcd3eae6b4de94e57>

## A.2 France

### 2.1 Designation/ Title:

In France accountancy services are provided by accountants or by certified public accountants. Technically speaking, there is no legal regulation for becoming an accountant but in practice a person needs to have the relevant diplomas. The work of general accountants is supervised and controlled by certified public accountants (CPA). To be a certified public accountant a person must be registered and the profession is regulated.

It is not compulsory for companies to use the services of a CPA but there are fiscal advantages for industrial and commercial firms which choose to do so. Companies may be required to submit professionally audited accounts because of their legal status and/or their size. This applies to Joint-stock companies (SA, SCA, SAS) and to other trading companies (SNC, SARL, SCS EURL) exceeding certain thresholds.

The professions of CPA and auditor are regulated by law and are protected titles. Certain accounting functions are reserved to CPAs and they supervise and approve the work of general accountants. Likewise, as elsewhere in Europe, the qualification and role of the auditor is strictly regulated by statute. A person making use of the title "chartered accountant" or "auditor" without the right to do so may be punished by one year of detention and a €15000 fine.

Though there are those who specialise in these professions there is no legally protected sub-designations such as Management Accountant or Charities Accountant. There is no associate membership of these two professions.

### 2.2 Qualifications:



To become a CPA, the candidate must have:

- a French national accountancy diploma.
- French citizenship or be an EU or EEA citizen.
- full legal capacity.
- no previous criminal convictions.

To become an auditor, the candidate must have :

- a French national accountancy diploma.
- French citizenship or be an EU or EEA citizen.
- full legal capacity.
- no previous criminal convictions.
- completed an internship in a firm or with a person who is authorized to act as an auditor in France or EU/EEA Member State.
- an aptitude certificate or a CPA diploma.

To become a member of the profession the candidate must submit their registration application to be appointed “certified public accountants” and/or “auditor” with all the relevant documentation establishing that they have satisfied the requirements of membership.

There is no system of accreditation of institutions or courses nor are there rules governing the length of time to acquire the qualifications and expiry of qualifications.

### **2.3 Training/ Experience**

To qualify for membership of the profession the candidate, on completion of their diploma courses, must do a 3 years internship as an employee in an accounting firm or an internship in another type of business or entity judged satisfactory by an authorised auditor’s office. There is no geographical requirement as to where the experience took place. The contents of the traineeship is regulated by decree and reflects the requirements of the profession elsewhere in Europe (see UK below).

If a person had acquired previous professional experience it will be considered on its merit and the council will determine whether the qualifications and the professional experience of the candidate meet their standards. They may require him/her to take a capability test.

Every person registered as an auditor who has not exercised the statutory functions of an auditor for a continuous period of three years must undertake a CPD training course before undertaking any new auditing work that requires certification.

### **2.4 Regulatory Authority**

The ministry with overall responsibility for regulating the profession is the Ministry of Economy, Industry and Employment. The Ministry of Finance obviously is responsible for setting many of the accounting and auditing rules and standards.

The name of the professional association of CPAs is the Ordre des Experts Comptables (OEC). It is a civil association placed under the control of several ministries. The auditing body is the Compagnie Nationale des Commissaires aux Comptes ("CNCC"). It is responsible for supervision and control of the profession together with the High Council of Auditors appointed by the Lord Chief Justice. The Council's first mission, which it shares with the CNCC, concerns the surveillance of the profession. It is in charge of ensuring compliance with ethical practices and maintaining the independence of auditors. It is also the appellate body in disciplinary matters.

No licence, just the registration on your regional order. Maintain your registration you must pay your membership fees and your professional insurance.

## **2.5 Firms of CPAs and/or Auditors**

CPAs or auditors may establish any type of business undertaking through which they provide their services (e.g. sole proprietor, partnership, company etc.). If they do so through formation of a company:

- The CPA(s) must hold directly, or indirectly through a firm, 75% of the capital or voting rights in a limited liability company, and two-thirds of the capital or voting rights in the case of a public limited company or in a simplified limited company (SAS).
- Persons or firms which are not registered as CPAs must not hold shares or voting rights in which they could to compromise the independence of the chartered accountants.

A firm may be multidisciplinary but its employees can only undertake CPA work if they themselves are CPAs. The firm must not contain any disciplines or members that might compromise the independence and professional work of the CPAs.

A CPA cannot be an employee except where employed by an auditor that is a member of the CNCC, by a CPA that is a member of the OECs or by "association of management and accounting" (*centre de gestion agréé*) for CPAs.

## **2.6 Contacts**

<http://www.experts-comptables.fr/>

<http://www.cncc.fr/>

### **A.3 Germany.**

There are approximately 75.000 accountants and more than 7.500,00 accounting companies offer accountancy services on the German market with an increase of about 2 % each year. About  $\frac{3}{4}$  of the service providers practice in self-employment, either as the owner of a sole office or as a partner of an Accounting Company. 18 % of the Accountants are Auditors (*Wirtschaftsprüfer bzw. Vereidigter Buchprüfer*) at the same time, 7 % are also lawyers or hold another additional professional qualification.

#### **3.1 Regulatory Authority**

The highest state fiscal authority of each single state (State Ministry of Finance) supervises the activities of its state professional association, § 88 (1) StBerG. The profession is then regulated by the state professional associations. The professional association for tax adviser and tax authorized persons is the competent Chamber of Accountants (*Steuerberaterkammer*) of the state, in which the tax adviser is domiciled or wants to open up her/his office. There is one Federal Chamber of Accountants, located in Berlin and 16 State Chambers of Accountants of each single state of Germany.

The Federal Ministry of Finances supervises the Federal Chamber of Accountants (§ 88 (2) StBerG) insofar, as the ministry observes that the Chamber fulfils its duties and observes the law. The Federal Ministry of Economy and Technology supervises the Federal Chamber of Auditors insofar, as the ministry observes that the Chamber fulfils its duties and observes the law, § 66 WPO.

The Professional Association for tax adviser/accountants is the Chamber of Accountants, a self-governing professional association. It is organized as corporation of public law and thus a quasi public body.

The Professional Association for (chartered) auditors is the Federal Chamber of Auditors, a self-governing professional association. It is organized as corporation of public law and thus a quasi public body.

Membership of the professional associations is compulsory for these professions.

For activities in tax matters as tax adviser and authorized tax person the State Chamber of Accountants issues the certificate of membership. It is only given by the professional association after proof of a valid insurance guarantee over an amount of €25,000,000.

For activities as auditor the Chamber of Auditors issues the certificate of membership and a seal.

#### **3.2 Designation/ Title:**

The following titles are protected in law:

- "Steuerberater /-in" (accountant / tax adviser).
- "Steuerbevollmächtigte /-r" (tax authorized person).
- "Steuerberatungsgesellschaft" (tax consulting company).
- "Wirtschaftsprüfer/-in" (auditor).
- "Vereidigte (r) Buchprüfer/-in" (chartered auditor).

The titles "Wirtschaftsprüfungsgesellschaft" and "Buchprüfungsgesellschaft" (auditing company) are protected under § 133 Wirtschaftsprüferordnung (WPO) (the Auditor Order). It is also prohibited from using similar titles which may be mistaken for these titles, §§ 132 WPO.

The titles are protected by federal law. According to §§ 2, 3 *Steuerberatungsgesetz* (StBerG) (the Tax Advisory Act) only the following persons and bodies are entitled to offer unlimited professional help in tax matters:

- Nr. 1 - tax adviser, tax authorized persons, lawyers, in Germany set-up European lawyers, chartered auditors.
- Nr. 2 - partnership companies with partners exclusively mentioned in Nr. 1 above.
- Nr. 3 - accounting companies, lawyer companies and auditing companies.

Temporarily and occasionally, persons who have a branch office in a member state of the European Union or in another contract state of EEA or in Switzerland may offer professional help in tax matters in Germany, if authorized to give professional help in tax matters according to the rules of their state of establishment, § 3 a StBerG. The range of professional authorisation in Germany is dependent on the range of authorization in the state of establishment.

Under certain circumstances other persons and corporate bodies occasionally may offer help in tax matters. For example:

- banks may inform their customers during an investment process about consequences of bonus payments regarding income taxes; or
- Chambers of Handicrafts may answer questions of their members in tax matters regarding their business etc.

In tax matters relating to employees there exists income tax associations (*Lohnsteuerhilfvereine*), §§ 13 ff. StBerG. These associations may offer professional help in income tax matters of employees. They are self-help institutions for employees and may help their members only. For their activities they need the official approval by the relevant tax authority (§ 15 StBerG) and have to use the designation "*Lohnsteuerhilfverein*" in their firm name (§18 StBerG). The fee to get the diploma of approval costs € 300 (§16 StBerG).

According to § 1 WPO auditors "*Wirtschaftsprüfer*" are only persons who are publicly appointed after they proved their personal and special aptitude in a federal state exam and in an appointment process. Auditing companies need official approval, only given after proven, that the management board of the company is controlled by auditors.

The system relating to enforcement on the restrictions as to who might provide these services is supervised by tax authorities and Chambers of Accountants, § 5 (2), (3) StBerG. Activities in tax matters without official designation lead to prohibition of activities in tax matters (§ 7 StBerG) and a severe fine, §§ 160, 161 StBerG. Same rules apply for activities against professional rules in auditing, §§ 67, 68 WPO.

Additionally: using the above mentioned titles and designations against those rules constitutes the statutory offence of misuse of titles and designations, § 132 a penal code (StGB).

The professional association for tax adviser and tax authorized persons is the competent Chamber of Accountants (*Steuerberaterkammer*) of the state, in which the tax adviser is domiciled or wants to open up her/his office. There is one Federal Chamber of Accountants, located in Berlin and 16 State Chambers of Accountants of each single state of Germany.

The professional association for (chartered) auditors is the Chamber of Auditors (*Wirtschaftsprüferkammer*). There is only one (federal) Chamber of Auditors, located in Berlin.

A corporate body can be a member of the profession and the professional association under the condition of official approval by that body. The most common legal form of tax consulting companies is the limited liability company, followed by partnership firms. Most commonly corporate bodies are founded together with other tax advisers, lawyers and auditors. Official approval by the professional association will be given after proven, that the management board of the company is controlled by tax advisers or auditors. Tax advisers, auditors, members of the management board of companies who are not tax advisers or auditors and approved corporate bodies are members of the professional association, § 74 StBerG and § 58 WPO.

### **3.3 Tax Services**

To become a tax adviser a person has to pass a state examination (written and oral tests) for tax accountants, § 35 (1) StBerG and needs to be officially approved by and registered at the competent professional association, 40 (1) StBerG. To take part in the exam the applicant must be qualified, § 35 (2) StBerG. There are two different ways of qualification for admittance to the state exam:

- Admittance for graduates, § 36 (1) StBerG:
  - Candidate successfully graduated from university in economics or law studies or another economical field of study and after these studies did practical professional work – at least 16 hours a week – in tax matters, which are administered by federal or state fiscal authorities. The practical work period has to last at least 3 years, if the average period of university study has been less than 4 years, in all other cases at least 2 years.
  - If the candidate acquired in an university study a first professional qualification degree (e.g. bachelor) and in further university studies another professional qualifying degree (e.g. master), both average periods of study are taken into account and periods of practical works absolved after the first professional qualifying degree are considered as well.
- Admittance for business trainees, § 36 (2) StBerG:
  - Candidate passed a final exam of business training or another equivalent training and worked afterwards for 10 years professionally or successfully passed the exam as a chartered balance accountant (geprüften Bilanzbuchhalter) or special tax skilled worker (Steuerfachwirt).
  - Candidate professionally worked for 7 years as a higher official for the tax authorities or an equivalent employee.

### **3.4 Auditing Services**

To become an auditor a person has to pass a state examination (written and oral tests) for auditors, § 35 (1) WPO and needs to be officially approved by and registered at the competent professional association, 40 (1) WPO. To qualify for admittance to the exam by the Chamber of Auditors the candidate has to prove that he/she successfully graduated from university in economics or law studies, §§ 7 (1), 8 WPO. If it is not a German university diploma it has to be equivalent to a German degree, § 7 (3) WPO.

The candidate does not need to prove possession of a university degree to get admitted to the examination, if the person either:

- professionally worked for at least 10 years as an employee for (chartered) auditors or auditing companies etc, § 8 (2) Nr. 1 WPO; or
- professionally worked for at least 5 years as a chartered auditor or as tax adviser, § 8 (2) Nr. 2 WPO.

### **3.5 Fees**

The fee for the application of admittance to the exam is €200, to be paid to the competent state professional association, § 39 (1) StBerG. For taking part in the exam, candidate has to pay €1.000 to the competent state professional association, § 39 (2) StBerG.

After passing the exams (tax advisory exam or auditor exam) the candidate applies to get officially approved by and registered at the competent State Chamber of Accountants or the Chamber of Auditors, §§ 40 StBerG, 15 WPO. The fee for the application of official approval is €50 EUR § 39 (5) StBerG.

### **3.6 Mutual Recognition**

So far mutual recognition of foreign qualification within the EU is covered by the "General System for the Recognition of Professional Qualifications". If somebody acquired a diploma in a non-EU country and if this diploma has already been recognized in a Member State of the EU and if, in that Member-State the person has pursued the occupation in question for either two or three years, depending on the circumstances, this diploma may be recognized in Germany. If the diploma is recognized as equivalent to the qualifications as stated above, admittance to the exam is granted.

If the foreigner is not German and not a citizen of an EU-Member-State, the permit and admittance to the exam may be denied, if mutual recognition is not granted.

### **3.7 Type of Business Entity**

The rules governing the legal form of the business are laid down in §§ 49 StBerG and §§ 3, 27 WPO. The accountancy or auditor service provider may set up in business as a sole trader, as a partner in a firm, a limited partnership, public limited company, companies with limited liability etc.

The accountant or auditor may have more than one profession, for instance being a lawyer and a tax adviser and an auditor at the same time. Companies may combine more than one profession as well, but only partnerships between lawyers, accountants and auditors are allowed, §§ 56 StBerG, 44 b WPO.

According to §§ 57 (2) and (4) StBerG, 43 (2) WPO tax advisers, tax authorized persons and auditors are not allowed to engage in any activities which are not compatible with the profession or the professional ethics like independence, loyalty, self-responsibility, discretion and conscientiousness of tax advisers, tax authorized person or auditors.

Professional activities which are compatible with the profession are listed in §§ 57 (3) StBerG, 43 a (2) and (4) WPO e.g. lecturing and

teaching at universities and colleges or equivalent institutions, work in research, work as lawyer, auditor, business consultant etc.

The minimum and maximum fees for accountancy services are regulated in the "Official Scale of fees for services by tax advisers". (*Steuerberatergebührenverordnung*)

### **3.8 Bonding/Insurance/Financial guarantees.**

A licence is only given by the professional association after proof of a valid third party insurance guarantee over an amount of minimum €250.000,00 for each insurance case, §§ 67 StBerG, 51, 52 decree to enforce the tax advisory act (DVStB).

Auditors have to have an third party insurance guarantee of a minimum amount of €1 million or €4 million (depending on auditing case) for each insurance case, §§ 54 WPO, 323 (2) Commercial law.

### **3.9 Business Premises Law.**

According to §§ 34 StBerG, 3 WPO tax advisers and auditors have to open up and keep an office or a branch immediately after the official approval.

### **3.10 Federal Tax Law**

Tax adviser and auditors may practice as employed or self employed persons. The professions of a tax adviser and an auditor are independent professions.

### **3.11 Contacts**



<b>Accountancy services &amp; auditing</b>	<b>Name:</b>	Bundessteuerberaterkammer (BStBK)  Körperschaft des öffentlichen Rechts  <i>Federal Chamber of Accountants of Germany (BStBK)</i>	Wirtschaftsprüferkammer (WPK)  Körperschaft des öffentlichen Rechts  <i>Chamber of Auditors of Germany (WPK)</i>
	<b>Website:</b>	<a href="http://www.bstbk.de">http://www.bstbk.de</a>	<a href="http://www.wpk.de">http://www.wpk.de</a>
	<b>Address:</b>	Neue Promenade 4  D – 10178 Berlin	Rauchstraße 26  D – 10787 Berlin
	<b>Contact:</b>	Mrs. Nora Schmidt – Keßeler (Head)	Mr. Peter Maxl (Head)  Mr. Dr. Reiner J. Veidt
	<b>Phone:</b>	0049 (0) 30 - 240 087 - 0	0049 (0) 30 - 726161 - 0
	<b>Fax:</b>	0049 (0) 30 - 240 887 - 99	0049 (0) 30 - 72 6161 - 212
	<b>Email:</b>	<a href="mailto:zentrale@bstbk.de">zentrale@bstbk.de</a>  <a href="mailto:hgf@bstbk.de">hgf@bstbk.de</a>	<a href="mailto:kontakt@wpk.de">kontakt@wpk.de</a>

#### A.4 Italy.

#### **4.1 Designation/ Title:**

The title of "accountant" is protected under Italian Law. *D.Lgs.139/2005* defines the constitution of the Association of the Chartered Accountants and Book-keepers and under Article 2 of the Law No.34 of 24 February 2005 (*Costituzione dell'Ordine dei dottori commercialisti e degli esperti contabili, a norma dell'articolo 2 della legge 24 Febbraio 2005, n. 34*). To be a member of the profession one must register with the association. This protects and looks out for its members. A person providing those services without the official designation will be prosecuted.

There are subdivisions of the profession which depend on the level of the qualifying degree. For those having a Bachelor's degree, there is section B. For those having a Master's degree, there is section A. Those members of Section A are "Chartered accountants" (*Commercialisti*), while those members of Section B are "Bookkeepers" (*Esperti contabili*)

There is also the professional association of Auditors, which has a different register. Members of the professional association can be only natural persons.

#### **4.2 Qualifications:**

To become a member of this professional association there is a professional examination. After success in the professional examination there is the requirement to register with the professional association.

As far as Section A (Chartered accountants) are concerned the entrant must have completed 5 years of university studies before taking the professional examination. For Section B (Bookkeepers) 3 years of university study are needed before taking the professional examination.

In accordance with the EC Directive 2005/36/CE, adopted into Italian Law by *D.lgs. 9/11/2007 No..206* equivalent qualifications obtained in other EU or EEA States must be recognised. As far as the mutual recognition of non-EU/EEA qualifications is concerned, the request for the acknowledgment of the qualification must be sent to the Ministry of Justice.

The process of the application for acknowledgment is different depending on whether the application is submitted by a foreigner regularly resident in Italy or by a foreigner sending the application from abroad, and who intends to use the recognition of professional titles in order to obtain a visa to enter Italy for self-employment. In the latter case, the foreigner must apply to the Ministry of Justice for a statement that there are no reasons obstructing the issue of the license enabling the exercise of professional activity.

Among other things, it is expected that the educational and professional titles to be approved, should be submitted in one original copy and

legalized by the competent Italian diplomatic mission or consular post in the country in which the document was formed. The grant of approval is also dependent on the Government quota for the number of foreigners admitted each year into the national territory

### **4.3 Training/ Experience**

After the Bachelor/Master Degree 3 years of training are needed. The professional training must be done for an uninterrupted period and it must be done under the supervision of an independent accountant registered in the professional association who has at least 5 years of certified experience.

The rules governing the traineeship are as follows:

- The traineeship must be done with assiduousness, diligence and confidentiality.
  - assiduousness: at least 20 hours during normal working hours;
  - care: careful and scrupulous care in practice;
  - confidentiality: fair and proper conduct while maintaining absolute secrecy about news and information gained during the practice.

The trainee must perform the practical training exercise on key areas of the profession, following correct professional procedures and guidance from the trainer regarding ethics. The trainee must fully respect the trainer "...and should never assume, even after the end of the internship, attitudes or actions that may harm the firm in which he/she trained".

The practitioner is required to meet the requirements of secrecy and confidentiality of all professional and ethical rules of Chartered Accountant. The trainee is required to pay the initial registration fee and annual subscriptions for shares in the manner and amounts that will be shown from time to time by the Council of the Profession.

The trainee must not attempt to acquire future customers among the customers of the business where he/she did the internship. At the end of the period of training he/she may not take possession of procedures and forms of the business, nor, for a reasonable period of time following the termination of his/her apprenticeship, accept assignments from clients known to him/her during the internship itself, without the explicit agreement of the holder.

The application for registration in the Registry of Traineeship must be submitted to the Council in the area of the applicant's residence or the location where the traineeship is to take place. Any changes in the internship - including the change of trainer, change of residence or place of business and termination of the internship - must be communicated by the practitioner to the relevant area Council within 15 days. In cases of change of residence or place of business the

application for transfer must be given jointly to the councils of the associations of the two local stakeholders.

The training period runs from the date of the act of registration of the traineeship and should be undertaken continuously for a period of three years. The practitioner must keep a separate book of the internship, previously numbered and signed by the President of the Council of the Association, which is delivered at the beginning of the training period. The book will be compiled in an analytical style and covering each semester :

- the documentation which the trainee prepared under supervision and which are most relevant to the professional practice.
- professional matters of major interest dealt with during the semester.

The book of the internship, with the annotation of the trader at the office where the placement was made certifying the accuracy of the information contained therein, must be filed by the practitioner, at the Secretariat of by January 31 and 31 July each year, with the aim of recognizing the period of training conducted, and the completion of three years of training for the certificate of completed apprenticeship. The trainers must be registered with at least 5 years experience and must have fulfilled the obligation of continuing professional development. Those who have been in practice for less than 10 years can be responsible for no more than 1 trainee at any given time; those with more than 10 years experience may have a maximum of 2 trainees.

The trainer must provide the trainee with the most comprehensive experience possible, by providing for the rotation between the various business areas. It is for the trainer to monitor, on the basis of the professional practices and the Principles of Ethics adopted by the National Council, the morality and propriety of the trainee, and in cases of serious violations of the code of ethics, he/she should put an end to the traineeship and notify the Council.

#### **4.5 Continuing Professional Development.**

Practitioners are required to attend refresher courses. This is regulated with a system of credits. This means that a credit corresponds to a defined number of hours of courses to be attended. CPD is strictly controlled by the professional association.

#### **4.6 Regulatory Authority**

The Ministry responsible for regulating the profession is the Department of Justice. The professional association responsible for ensuring compliance and in granting the right to practice is the Chartered

Accountants and Auditors Professional Association (*Ordine dei Dottori Commercialisti e degli Esperti Contabili*). Membership is compulsory for those wishing to practice independently. *D.Lgs.139/2005* establishes that chartered accountants/bookkeepers must be a member of the professional association to practise his/her profession.

An accountant or auditor cannot be a member of more than one profession. It is forbidden by the rules of the professional association. The firm can be multidisciplinary. There is the professional code of conduct (*Norme di deontologia professionale*) (approved 31.1.2001, updated with *delibera* 317 of 6.10.2004

The rules governing disciplinary matters are contained *D.Lgs.139/2005* and other specific regulation emanated by the National Council of Chartered Accountants and Auditors (CNDCEC). *Capo V* of *D.Lgs.139/2005* sets out the disciplinary procedure.

#### **4.7 Restricted Services**

Company accounts must be audited by a certified public accountant. The institution of a board of statutory auditors is compulsory for SpA (joint stock company) and is optional for all the other types of company. Joint stock companies (Spa) that are quoted on the Stock Exchange (public companies) must have an auditors' board.

The institution of a board of statutory auditors is compulsory if the s.r.l. company if it satisfies two or more of the following in two consecutive years:

- Assets of €3.125.000.
- Annual Turnover € 6.250.000.
- More than 50 workers.

### **A.5 Malta.**

#### **5.1 Designation/ Title:**

The titles and designations applicable to these professions is protected by law. The first statutory recognition of the profession came with the enactment of the Commercial Partnerships Ordinance which required limited liability companies to appoint an auditor from a recognised professional body. The Accountancy Profession Act 1979 introduced the granting of warrants of "Certified Public Accountant" and "Certified Public Accountant Auditor" by the Ministry of Finance.

#### **5.2 Regulatory Bodies**

The Ministry of Finance has overall responsibility for regulating these professions. The professional association is the The Malta Institute of Accountants (MIA). It was founded in 1942. Prior to the introduction of

the Income Tax Act 1948 the financial affairs of businesses were handled by book-keepers. However, the growing industrialisation and the passing of the 1948 Act led to the need for a more developed profession. In 1954 another professional body was established: the Malta Corporation of Accountants (MCA).

As stated above, the first statutory recognition of the profession came with the enactment of the Commercial Partnerships Ordinance. Following concern that these services would be mainly provided by outside accountants and firms the MIA and MCA merged as a reconstituted MIA in 1966 in order to provide a strong national voice for the Maltese accountancy profession.

The first professional examinations of the MIA were established in 1967, based on those developed in the UK. The MIA became a founding member of the International Federation of Accountants and the International Accounting Standards Committee in 1977.

The Accountancy Profession Act 1979 introduced the granting of warrants of "Certified Public Accountant" and "Certified Public Accountant Auditor" by the Ministry of Finance. The MIA became a member of the Federation des Experts Comptables Europeans in 1989.

The Accountancy Board was established under the Accountancy Profession Act 1979. It is responsible for:

- The issue of accountants' warrants and auditors' practising certificates.
- The registration of partnerships of accountants and auditors.
- Dealing with cases leading to the suspension or withdrawal of warrants or practicing certificates.
- Advising or making recommendations and expressing its views to the Minister
- Other functions arising from any law or as may be delegated to it by the Minister under the Accountancy Profession Act.

The Board formulated a Code of Ethics for Accountants and Auditors, introduced the CPE requirements and set up the Quality Assurance system.

The warrant and practising certificates for accountants is issued by the Ministry of Finance on the recommendation of the Accountancy Board

### **5.3 Qualifications**

There are two ways to acquire the academic qualifications required by the Malta Institute of Accountants:

- Completion of the MIA professional examinations.

- By obtaining a BA (Hons) in Accountancy at the University of Malta<sup>12</sup>.

The syllabuses of the two are similar and cover:

- Financial and Cost Accounting
- Auditing and Investigations
- Taxation: Personal, Corporate and Inheritance
- Civil and Company Law
- Computing and Quantitative Analysis Techniques
- Economics and Business Management.

The MIA entered into a Joint Professional Examinations Scheme with the ACCA and an agreement with BPP International to operate a Joint Training Venture.

School leavers must have 2 A levels and 3 O Levels, with Mathematics and English at either level. Mature students do not need these qualifications but must pass the F1 and F2 papers within two years of registration before progressing onto the other professional examinations. The fees payable are €44.26 (Lm19.00) to the MIA and £64 to the ACCA.

The professional examinations are the same ones sat by ACCA students except for three variant papers in Law and Taxation i.e.

■ Fundamentals:

*Knowledge*

- F1. Accounting in Business.
- F2. Management Accounting.
- F3. Financial Accounting

*Skills*

- F4. Malta Business Law.
- F5. Performance Management.
- F6. Malta Business Taxation.
- F7. Financial Reporting.
- F8. Audit and Assurance.
- F9. Financial Management

■ Professional:

- P1. Professional Accountant.
- P2. Corporate Reporting.

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<sup>12</sup> Or equivalent under the Mutual Recognition Directive.

- P3. Business Analysis.

*Options (2 to be completed)*

- P4. Advanced Financial Management.
- P5. Advanced Performance Management.
- P6. Advanced Malta Taxation.
- P7. Advanced Audit and Assurance.

The administration of Maltese applications is the responsibility of the MIA but the ACCA is responsible for the examinations process. ACCA members who are not eligible to practice in Malta but wish to do so must take the three variant papers and become members of the MIA.

BA (Hons) in Accounting graduates from the University of Malta enjoy full exemptions from the MIA examinations and are eligible for MIA membership. However, they must sit the ACCA Part 3 examinations if they wish to become ACCA members.

#### **5.4 Work Experience:**

The applicant must demonstrate that they have on-the-job practical experience and have reached the required standard of competence. In 9 key areas:

- Financial Information.
- Business Analysis and Measurement.
- Taxation.
- Statutory Audit.
- Internal review and Consultancy.
- Asset Management.
- Business Growth and Development.
- Management Information Systems.
- Management Skills.

The practical experience must have been under the supervision with a person holding a qualification recognised by the MIA. To check, contact:

Secretariat, Accountancy House, Princess Elizabeth Street, Ta 'Xbiex, Malta.

Tel: 21 323991/2

info@miamalta.org

The performance criteria is set out in detail in the MIA's Practical Experience Requirements for Prospective Members and may be found at [www.miamalta.org/Practical\\_Experience\\_Requirements\\_for\\_Prospective\\_Members.pdf](http://www.miamalta.org/Practical_Experience_Requirements_for_Prospective_Members.pdf).

#### **5.5 Practising Certificates**



The system of issuing practising certificates is substantially based on that in the UK. On the question of mutual recognition and right of foreigners to practice in Malta, Section 4(3) of the Accountancy Profession Act 1979 provides:

*The Board shall issue a practicing certificate to practise in the field of auditing in Malta to an individual of good repute who is an approved auditor in any Member State provided that such individual has passed, to the satisfaction of the Board, an aptitude test, covering local laws and regulations relevant to auditing, set by the Board for this purpose.*

Section 4(6) provides

*Subject to reciprocity and subject to rules that may be prescribed by the Board, the Board may issue a practising certificate to practice in the field of auditing to a third-country auditor if it is satisfied that such individual is in possession of the qualifications set out in article 3(2), has passed an aptitude test set by the Board in accordance with subarticle (3) and satisfies any other conditions which may be prescribed.*

## **5.6 Professional Indemnity Insurance**

Holders of Practising Certificates must also have professional indemnity insurance with an approved insurance company in accordance with Section 11 of the Accountancy Profession Act 1979 and Section 5 of the Accountancy Profession Regulations 2009.

## **5.7 Quality Assurance**

The Quality Assurance Directive 2006<sup>13</sup> governs this. The Quality Assurance Unit was established in 2007. Accountants are required to make an annual quality assurance return in the format prescribed by the Quality Assurance Unit. There will also be introduced a system of random quality assurance visits. Firms or individuals may also receive a visit where concerns arise in respect of the annual return or complaints suggest that the member is falling short of the professional standards laid down. The Quality Assurance Oversight Committee may require that individual or firm to undergo an External Audit Compliance Review together with a cold file review of a number of completed audit files.

## **A.6 Netherlands.**

### **1. 6.1 Designation/ Title:**

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<sup>13</sup> Directive No. 4 issued under the Accountancy Profession Act and Accountancy Profession Regulations.

The title and designation is protected by law. Only registered accountants ("RA") and accountant administration consultants ("AA") are permitted by law to provide an accountants' declarations to a company's, or legal entity's annual accounts. The accounting profession is regulated at the national level by the following 2 laws:

- "De Wet op de AA" – law governing accountants and administrators
- "De Wet op de RA" – law governing registered accountants

Other relevant national regulations are the "Wwft" (*Wet ter voorkoming witwassen en financiering terroristische organisaties*) - Law governing money laundering and financing of terrorist organisations, formerly "WID" and the "Wet MOT", and the "Wet Toezicht Accountants" ("Wta" – see above).

At the European level the 8th EU Guideline governs the practice of accountants. This governs the laws and regulations member states need to regulate at the national level, for example qualitative norms governing the profession. The 4<sup>th</sup> and 7th EU Guidelines govern a company's annual accounts. The European Commission works with the European accountant branch. organisations toward regulating and guaranteeing the independence of the profession. In broad terms, accounting firms are also governed by international conventions regulating the profession through the IFAC (International Federation of Accountants).

## **2. 6.2 Qualifications**

Registered accountants must have an MSc qualification followed by 3 years professional experience working in an accounting firm, prior to registration in the register of accountants with the NIVRA. The title of registered accountant is acquired literally by being registered. In accordance with the Lisbon Convention all similar degrees from other EU and EEA countries are recognised.

Nuffic – a government body tasked with cooperation in international higher education can determine the accreditation and evaluation of foreign diplomas and degrees.

See: <http://www.nuffic.nl/international-organizations/services/diplomarecognition>

2006 saw the implementation of the "*wet voor onafhankelijk toezicht op accountantsorganisaties* (Wta)" or the Law governing independent oversight of the accounting profession. The law demands that accounting firms obtain a licence for practicing the accounting profession in accordance with legally required accounting mandates. This licence should be obtained from the "Autoriteit Financiële Markten (AFM)" – the financial markets supervisory authority.

In June 2007 the branch committee on Regulation presented a proposal to the board of the NOvAA and NIVRA with the aim of simplifying regulations governing the sector, specifically those governing accounting services for SMEs, on condition that a degree of qualitative distinction is maintained. The report proposes to simplify the regulatory framework according to product, service type and mandate

The AFM licence will function as a measure of quality control. It is expected that the implementation of the "Wta" will bring about economies of scale for accounting firms; more than 25% of accounting firms expect to merge or to co-operate with other firms in the coming years. Increased usage of digital reporting and invoicing; online tax submissions are now mandatory. Government departments are integrating their administrative functions with regard the registration of companies, tax filings and national statistics.

The "Wta" was implemented in June 2006 and the "AFM" is responsible for oversight. Accounting firms and other relevant service providers are still busy implementing the law and working to meet its provisions. Increased automation and e-filing especially by SMEs will reduce the demand for traditional or conventional accounting activities.

### **3. 6.3 Restricted Services**

The Declaration by an Accountant (audit of annual accounts) is mandatory for medium-sized and large enterprises. The accountant's declaration can only be given pursuant to the auditing of the accounts. The accountants declaration explicitly states that the presentation of the annual accounts is the responsibility of the Board of the company (Ltd or plc); the accountant need only to state if the accounts are a true and fair representation, and what work has been done to achieve this. It is a check and balance on the work done by the Board.

The Verification by Accountant (annual accounts) is a process less detailed than the audit. This is for companies that are not legally bound to produce audited accounts. The verification of accounts is nonetheless an impartial check of the company's financials.

The completion of annual accounts is done by the accountant in cases where a company does not have the in-house expertise to put together a set of accounts. This does not provide "an impartial opinion of the financial representation of the company".

NOvAA and NIVRA are Public Bodies and this status permits them to issue Codes from time to time including for example the level of contribution from "Wta": as mentioned above, this law was implemented in 2006 and regulates and oversees the accounting firms (-organisation). They need to obtain a licence from the AFM to perform legally required work such as audits. Firms that apply for a licence must adhere to a series of conditions. In general, these conditions have bearing on the quality of work; expertise and trustworthiness of

directors, organisational structure, implementation of rules, regulations and relevant codes, transparency.

Certified accountant - administration consultants and Registered Accountants (RAs) have exclusivity on the basis of their qualifications and expertise to perform audits and produce verification of accounts for those that legally require these services. Pursuant to the implementation of the Wta, accountancy firms need apply for a licence in this regard.

#### **4. 6.4 Regulatory Bodies**

The Netherlands Order of Accountants and Administrative Consultants (the 'NOvAA'), the professional body of accountants, acts as governing body and sets the standards that accountants must satisfy in practicing their profession. The AA's Professional Oversight Board acts as public prosecutor in situations in which, in the opinion of the Board, an accountant has infringed the standards of his or her profession. The disciplinary judge acts as the judicial body and, should the indictment prove to be justified, is authorised to take measures against the accountant concerned.

The Oversight Board was established by the NOvAA. It is an independent, statutory body that ensures that accountants observe the professional standards applying to them. To prevent any trace of partiality, the Oversight Board includes members of the judiciary. In addition to this, one of the members of the Oversight Board is appointed from the public administration. With regard to professional matters, these Board members can rely on the knowledge of accountants who also have seats on the Board. Two of the five members of the Oversight Board are accountants.

According to the provisions, the Oversight Board has been assigned two tasks:

- The systematic verification of whether accountants have carried out their work in accordance with the professional requirements applicable (the provisions mention 'the assessment of the internal system of quality management at AA offices');
- Investigating on the basis of complaints and incidents as to whether an accountant has acted in conflict with the professional requirements.

Both the AA and RA are bound by a set of professional regulations and codes of conduct. In short, these comprise the following: impartiality; confidentiality; competency based on expertise, impartiality and the work done.

#### **5. 6.5 Quality Assurance**

The quality management system at accountants' offices is supervised by means of so-called Periodical Preventative Supervision. During this

supervision, a supervisory team consisting of at least two AA Accountants visits the offices. In doing so, they not only examine whether there are good working procedures but also whether these are observed in practice and have the desired effect.

Following the results of this supervision, the Oversight Board pronounces judgment on the quality management system used. Should the Oversight Board have reason to believe that the quality management system is inadequate, the Oversight Board will finally submit its findings to the disciplinary judge in the form of a complaint. If the complaint is considered justified, the disciplinary judge can order disciplinary action which (in the worst case) can lead to a person being dismissed from the profession of accountant.

In addition to Periodical Preventative Supervision, the Oversight Board carries out investigations if there is a suspicion that the professional standards for AA Accountants are not being sufficiently observed. This may involve such aspects as the observing of professional regulations and rules of behaviour, or rules relating to permanent education. If the Oversight Board concludes that the accountant has acted in conflict with the professional standards, it will submit a complaint against the accountant concerned to the disciplinary judge.

## **A.7 Spain.**

### **6. 7.1 Designation/ Title.**

The designation and title of accountant and auditor are protected under Spanish Law. Throughout Spain, as elsewhere, auditorship is the highest level of the accountancy profession. The qualifications required are the most demanding and the Registro Oficial de Auditores de Cuentas (ROAC) exam is quite restrictive. The second level is the "*gestor administrativo*" ("administrative solicitor"). Some of their tasks cover the field which chartered accountants undertake in most of the CARIFORUM countries, but in addition they can represent individuals and companies in front of the public authorities. The third level is the "*titulado mercantil*". This level is much closer to that of chartered accountant. The fourth level is the "*teneduría de libros*" (bookkeeping). In practice most *gestores administrativos* and *titulados mercantiles* are also tax advisors and/or accountants and/or bookkeepers.

Auditors must be registered with autonomous body for auditing i.e. "Registro Oficial de Auditores de Cuentas" within the National Institute for Accounting and Auditing (Instituto de Contabilidad y Auditoría de Cuentas. <http://www.icac.meh.es/> ). In the case of accountants, they must also be a member of the Instituto de Contabilidad y Auditoría de Cuentas . Providing those services without the official designation is prosecuted by ordinary justice but in practice it is impossible to do so as a person cannot work without the permission, because he/she cannot get the official registration stamps on the accounting / taxes / auditing documents if they are not an official member.

A corporate body can become a member of the professional association. In order to do so the firm must meet the following specifications:

- All associates and/or shareholders must be individuals (it cannot have parent companies or associations as business partners).
- The majority (at least 51%) of the associates or shareholders must be officially registered auditors or commercial accountants and the must also have the majority (at least 51%) of the company capital and votes.
- The majority of managers and administrators must be official registered auditors or commercial accountants, on active service (currently practicing the profession).

## **7. 7.2 Professional Bodies**

The Council of Associations of Qualified Financial and Economic Experts (El Consejo Superior de Colegios Oficiales de Titulados Mercantiles y Empresariales) is the quasi-public body for the "*titulados mercantiles*". Although the Council have translated their activity as "Financial and Economic Experts", the name in Spanish is "*Titulado Mercantil*", and their task is more or less equivalent to a chartered accountant. There is no reference to the register of "administrative solicitors (*gestor administrativo*), as they have their own public-law corporation in direct competition with this council.

The Council is a public-law corporation established by royal decree on 15 December 1942 and groups together the 45 associations of qualified economists and auditors currently in existence. They represent over 28,000 qualified experts, and several of the associations have existed for over a century. Its purpose is to represent the profession and to coordinate its associations without detriment to the powers they were granted under the *Ley sobre Colegios Profesionales* (Law of Recognized Professional Bodies).

The Council describes its membership associations as comprising of those experts that work in the field of corporate finance, carrying out duties established for accountants and administrators in the Uniform International Classification of Occupations of the International Labour Office (ILO): tax and accounting consultancy, corporate organization and management, auditing of accounts and bankruptcy-related matters (temporary receivership and bankruptcy). These duties were specified in Royal Decree 871/1977, of April 26, which approved related legislation (*Estatuto Profesional de Economistas y de Profesores y Peritos Mercantiles*).

In Spain, there are nearly 175,000 such experts of this type, including accountants, teachers of business, administrators and actuaries, as well as graduates of business studies and of the recently established studies of business management. These are divided into two groups. The first is that of active professionals who are registered with domestic tax authorities (I.A.E.) and freely carry out their activities as specified in

the corresponding legislation. The second is that of inactive professionals, which consists of several subgroups, such as qualified experts carrying out their activities in privately held corporations, civil servants and teachers.

The Registry of Auditors (REGA), the Registry of Tax Advisers (REGAF) and the Registry of Accounting and Judicial Experts (RECJ) are the sections of the council representing all registered professionals working in the fields of auditing, tax consultancy and receivership, respectively.

The Registry of Auditors (*REGA*) comprises all registered auditors or auditing companies. At this time, 1,900 individuals and 180 companies are registered with the REGA. Its duties include the holding of examinations that permit access to the ROAC (official list of registered auditors) of the ICAC (accounting and auditing institute); the development of ongoing-training programmes; and quality-control checks, reports and fines in relation to the activities of its members, as well as subsequently advising the ICAC as to the procedures to be followed in said cases.

The Registry of Tax Advisers (*REGAF*) comprises all registered tax advisers and tax consultancy firms. It has around 3,000 members. The Registry of Accounting and Judicial Experts (*RECJ*) groups together qualified experts working in the field of receivership. It was created by the Council of Economists and Auditors in November 2000, and represents nearly one thousand qualified experts.

To qualify for REGA membership, the following requirements must be met. These requirements were set forth in the Ley de Auditoría de Cuentas 19/1988, of July 12 and in its December 1990 regulation:

- Passing of the entry exam.
- Demonstration of ROAC membership, after which an identification number will be assigned.

Once these requirements are met, all members are required to act in an objective manner, applying to all their professional activities the technical rules issued by the ICAC and the recommendations of the REGA.

There is a new initiative of this Council to register and find a name for those professionals who do not fit into these three categories but still works in related fields: it is suggested that they be called "*empresistas*" (it's a non existing word as "companycist" or "businesscist", or something like that), to designate all those people working as advisors in business economy including accountancy, taxing, cost control, planning, auditing, reporting and all necessary professional services to guarantee the right performance of the business administration procedures. To be an "*empresista*" you need, as for the three previous categories, to be registered in a special list, and not only to be a member of the official college.



### 8. 7.3 Qualifications

To become an auditor , the entrant must have a university degree based on 5 years of study and/or have specific formation in auditing or accounting. This "formation" or training must have been for at least 3 years (2 of them working as an assistant of a official auditor or public certified accountant, as the case may be). If the degree was of three years' duration, the training period is of 5 years.

In addition, the entrants must pass a specific official exam (2 parts, the first is theoretical and the second involves a practical case). Once all of this is completed the entrant must be registered in the official registry of certified public accountants or auditors and pay the initial and annual fees to be a member of the professional association.

To become a *gestores administrativos* or a *titulados mercantiles* the entrant must:

- Have an university degree in Law, Economics, Business Sciences or Political sciences.
- Pass a specific official exam.

EU qualifications are recognised through the Mutual Recognition of Qualifications mechanisms. For non-EU/EEA countries the accreditation of the university degree must be legalized according to the following terms:

- Documents issued in countries that have signed the Hague Convention of October 5, 1961: it is sufficient only to have the legalization or "apostille" issued by the competent authorities of the country. In addition to the European Economic Area countries, are, amongst others: Antigua and Barbuda, Bahamas, Barbados, Belize, Dominica, Grenada, Honduras, Saint Vincent and the Grenadines, Saint Kitts and Nevis, Santa Lucia, Suriname and Trinidad and Tobago. And by extensions: The Netherlands Antilles, Aruba, Anguilla, Bermuda, Cayman Islands, Montserrat, Turks and Caicos Islands, Virgin Islands.
- Documents issued in other countries must be legalized through diplomatic channels. These must be presented at:
  - Ministry of Education or the country of origin certificates of studies and the relevant ministry for birth certificates and nationality.
  - Ministry of Foreign Affairs of the country where such documents were issued.
  - Diplomatic or consular representation of Spain in that country.
- Documents issued by diplomatic or consular authorities of other countries must be legalized in Spain in the Spanish Ministry of Foreign Affairs.



For more information, see link below (in Spanish):  
[http://web.micinn.es/contenido.asp?menu1=4&menu2=6&menu3=&dir=04\\_Universidades/022EdUnSu/06@Titulaciones/031HoDeTi/061Titulos](http://web.micinn.es/contenido.asp?menu1=4&menu2=6&menu3=&dir=04_Universidades/022EdUnSu/06@Titulaciones/031HoDeTi/061Titulos)

The professional association do not provide courses that lead to the attainment of the qualification. There are some private institutions specialised in preparing candidates for those exams, but usually, their programmes require personal attendance.

#### **9. 7.4 Continuing Professional Development**

The statutes establish the Continuing Professional Development as a 'must', but the regulations for it are still undeveloped

#### **10. 7.5 Regulatory Authority**

The Ministry or State body responsible for regulating the profession nationwide is the Ministry of Economy and Finance. However, the professions are devolved matters and at that level it is the responsibility of the Autonomous body for Auditing: "Registro Oficial de Auditores de Cuentas" within the National Institute for Accounting and Auditing (Instituto de Contabilidad y Auditoría de Cuentas. <http://www.icac.meh.es/> ). In addition, there are the following official "colleges":

- Consejo General de los Colegios de Gestores Administrativos (official corporative body of solicitors) <http://consejo.gestores.net>.
- Consejo Superior de Colegios Oficiales de Titulados Mercantiles de España (official corporative body of bookkeepers and legal & tax advisors) <http://www.tituladosmercantiles.org/>
- Consejo General de la Abogacía Española (official corporative body of lawyers). <http://www.cgae.es/portalCGAE/home.do>.

There are also the following professional associations:

- Asociación Española de Contabilidad y Administración de Empresas (Spanish Association of Accounting and Business Administration) [www.aeca.es](http://www.aeca.es)
- Asociación Española de Auditores (Spanish Association of Auditors) <http://www.asociauditores.com>

Membership of the professional association is compulsory for the Auditors Registry and the Official Colleges (these are quasi-public bodies). Members must display their name and surname, college membership or official registry number and the logo of their professional body in all stationery.

The disciplinary body is the autonomous body for Auditing: "Registro Oficial de Auditores de Cuentas" within the National Institute for Accounting and Auditing (Instituto de Contabilidad y Auditoría de Cuentas. <http://www.icac.meh.es/> ), and it's also regulated by law, as stated in Act 19/1988, of 12 July on Auditing

(<http://www.icac.meh.es/Documentos/inglesley.pdf>)

## **A.8 United Kingdom.**

### **2. 8.1 Designation/Title**

Technically, there are no rules governing who may call themselves an accountant or provide accounting services in the UK. The term, "accountant" is not, of itself, protected and is used to describe persons who offer a whole range of accounting services from simple book-keeping to complex financial analysis and advice. In practice, individuals and businesses will expect accounting services, other than basic book-keeping and accounting work, to be provided by "qualified accountants".

There is, however, legislation governing certain aspects of accounting, audit and report preparation that must be conducted by members of professional bodies and with a certain level of experience and qualifications and these will be identified below. Three Specific areas that are regulated are; investment advice, insolvency work and company audit work. Individuals wishing to practise as an auditor in the UK are required by law to hold an audit qualification from a Recognised Qualifying Body (RQB. There are five RQB's: Association of International Accountants, Institute of Chartered Accountants in England and Wales; Institute of Chartered Accountants of Scotland, Institute of Chartered Accountant in Ireland; Association of Chartered Certified Accountants.

The Financial Reporting Council (FRC) is an independent regulator responsible for promoting confidence in corporate governance and reporting. It sets standards for corporate reporting and actuarial practice and monitors and enforces accounting and auditing standards. It also oversees the regulatory activities of the professional accountancy bodies.

The main professional bodies in the UK are widely recognised as:

- Institute of Chartered Accountants of England and Wales (ICAEW).
- Institute of Chartered Accountants of Scotland (ICAS).
- Institute of Chartered Accountants of Ireland (covers Northern Ireland and the Republic of Ireland) (ICAI).
- Chartered Institute of Management Accountants (CIMA).
- Chartered Institute of Public Finance and Accountancy (CIPFA).
- Association of Chartered Certified Accountants (ACCA).

These are members of the Consultative Committee of Accountancy Bodies. (CCAB).

## **8.2 Institute of Chartered Accountants of England and Wales (ICAEW).**

Established by Royal Charter in 1880 (supplemented in 1948), it is the largest professional accountancy body in Europe, with over 132000 members (15000 outside the UK). Members are entitled to the designation, "chartered accountant".

### **8.2.1 Qualifications**

The first qualification is the "ACA" i.e. Associate of the ICAEW. This is a globally recognised qualification in accountancy. It involves a training contract, work experience and examinations. As follows:

- Training Contract:
  - Must complete a training contract of 3-5 years duration.
  - This must involve a minimum of 450 days of technical work experience.
  - Training must be provided by an ICAEW authorised training employer.
  - Must involve Initial Professional Development (IPD) i.e. training in ethics and professionalism; personal effectiveness; technical and functional expertise; business awareness; and professional judgement.
  - Sets out details of the training, such as study leave and the number of exam attempts the employer will support and support from a mentor, provided by the employer.
  - Commitment to the employer for the duration of the contract.

The ICAEW provides a pro-forma training contract for employers. Non-UK residents need to be in the UK for interviews by potential employers. The latter will usually apply to Work Permits UK on behalf of the successful candidate. The ICAEW has over 100 approved training employers based outside of the UK and these may be found at:

[www.icaew.com/index.cfm/route/148839/icaew\\_ga/en/Qualifications/Training\\_Vacancies](http://www.icaew.com/index.cfm/route/148839/icaew_ga/en/Qualifications/Training_Vacancies).

Independent students can take the professional exams without a training contract but they must complete the training if they wish to progress to the advance stage.

- Work Experience:

The applicant must have on-the-job experience as part of the training contract with appropriate range and depth of technical work. This must be for a minimum of 450 days and does not include administrative work or study leave.

- Sustainable Training in Ethics (STE):

This is a web based programme and must be completed by the applicant. It covers the five principles of ethical behaviour: integrity; objectivity; professional competence and due care; confidentiality; and professional behaviour.

- Professional Stage Examinations: There are 6 Knowledge Modules - Business and Finance, Management Information, Accounting, Law, Assurance and Principles of Taxation. The assessments are computer-based and are 1.5 hours long. In addition there are 6 Application Modules: Business Strategy, Financial Management, Financial Accounting, Financial Reporting, Audit and Assurance and Taxation. These assessments are paper-based examinations and are 2.5 hours long.
- Advanced Stage Examinations: This comprises two technical papers, each of 3.5 hours duration, and a case study of 4 hours duration. . The former are Technical Integration – Business Reporting and Technical Integration – Business Change. The latter involves the application of the acquired skills to a practical business problem.

Credit for Prior Learning: Credits are awarded for those with business or accounting degrees or professional accountancy qualifications. For the former, the applicant must have achieved at least 50% in all relevant modules of the degree and must apply for credit within 3 years of being awarded the degree. Association of Accounting Technician members must have completed the intermediate and technician levels.

### **8.2.2 Practising as a Chartered Accountant**

#### *Practising Certificate*

In order to engage in public practise the chartered accountant must obtain a practising certificate. This is needed when the accountant becomes the principal in an accounting firm or as an individual providing accounting service to the public within the EU, EEA<sup>14</sup>, the Channel Islands or the Isle of Man<sup>15</sup>. In addition, if the member is providing accounting services to the public in the United Kingdom or

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<sup>14</sup> Norway, Iceland, Switzerland and Leichstenstein.

<sup>15</sup> The Channel Islands and Isle of Man are not part of the United Kingdom or the EU.

the Republic of Ireland he/she must also comply with the Professional Indemnity Insurance Regulations.

A chartered accountant does not need a practising certificate where he/she:

- Is employed by a public practitioner that holds a practising certificate;
- Is employed solely to provide accounting services to his/her employer;
- Gratuitously provides accounting or auditing services to a charity, community, religious or sporting body or similar bodies of a non-profit making nature and with an income not exceeding £100000<sup>16</sup>;
- Is a director, trustee, treasurer or officer of an entity<sup>17</sup>, whether or not he/she provides accounting services to that entity gratuitously or for reward (i.e. does not need a practising certificate for that purpose);
- Gratuitously provides accounting services to family or friends;
- Gratuitously provides accounting services to the public through an organisation such as a voluntary advice bureau.

Where the member is exempt he/she should make plain to the recipient of the services that he/she does not have Professional Indemnity Insurance. A person who is unsure as to whether a practising certificate is required should contact the ICAEW's Ethics Advisory Services on 0044 1908 248258. The ICAEW also provides examples of certified activity and exempt activity on its WebPages.

A person is only eligible for a practising certificate once he/she has been a member of the ICAEW for two years.

#### *Professional Indemnity Insurance (PII)*

This is compulsory for all chartered accountants that hold a practising certificate and are engaged in public practice. Though it applies to individuals, in reality it is usually the business that provides the PII. The cover must be provided by a "participatory insurer"<sup>18</sup>. The public practitioner must provide an annual certificate of compliance. Holders of a practitioner's certificate but who are not engaged in public practice must confirm this annually.

#### *Practice Assurance*

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<sup>16</sup> The accountant may receive up to a maximum of £500 per appointment to cover expenses etc. and still be exempt.

<sup>17</sup> An "entity" includes a sole trader, partnership, limited liability partnership, company or other corporate body.

<sup>18</sup> A list of these is contained in Appendix A of the ICAEW's *Professional Indemnity Insurance Regulations and Guidelines*, 1 January 2008.

This applies to all practitioner certificate holders in the EU, EEA, the Channel Islands and the Isle of Man. The aim is to maintain public confidence in the profession. Holders are required to submit an annual Practice Assurance annual return. A standard form is provided. They are subject to a practice assurance review at least once every six years. A review may also be undertaken more urgently where matters arise from the annual review or where complaints have been received and have caused concern.

### **8.3 Institute of Chartered Accountants of Scotland (ICAS)**

The ICAS is the world's oldest professional organisation of accountants. There are 17000 members worldwide. It was created by Royal Charter in 1854 and was the first to create the designation "chartered accountant". Only ICAS members can use the designatory letter "CA" after their name in the UK.

#### **8.3.1 Qualifications**

In order to commence training to become a chartered accountant the candidate must hold an undergraduate degree from a UK university or an equivalent degree from outside the UK and which is officially recognised as equivalent. This can be determined by checking on the website [www.naric.org.uk](http://www.naric.org.uk). The alternative route is through membership of the Association of Accounting Technicians (ACT).

##### ■ Training Contract:

This is of a minimum of three years duration and must involve a minimum of 450 days of technical work experience. Training must be provided by an ICAS authorised training organisation (ATO). The contract is a tripartite one between the student, the ATO and the ICAS, The ATO commits to providing the student with training in accordance with the ICAS' Standards of CA Training and covering the three competences set out below. The student commits to making a proper contribution to the work of the ATO. All of the work experience must be recorded in a Training Log.

##### ■ Professional Examinations:

In order to become a chartered accountant the candidate must have satisfied three stages:

- Test of Competence (TC): this is knowledge based.
- Test of Professional Skills (TPS): this is skills based.
- Test of Professional Expertise (TPE): judgement and application based.

These are all the subject of class-attendance and examinations. Candidates must also attend a Business Ethics course and complete a written assessment. The composition of these three stages is as follows:

- Test of Competence (TC): Business Law, Business Management, Finance, Financial Accounting, Principles of Auditing and Reporting. Each subject is assessed by a two hour examination.
  - Test of Professional Skills (TPS): Advanced Finance, Assurance and Business Systems, Financial Reporting and Taxation. Each subject is assessed by two two-hour examinations.
  - Test of Professional Expertise (TPE): This is a five and a half-hour multi-disciplinary case study (with a break for lunch) covering: business planning; business strategy and management; business improvement; personal financial planning; management of financial structures; and ethics.
- Credit for Prior Learning:

Exemptions are available for some or all of the TC subjects but not for the TPS or TPE. Neither are they generally available for the Business Ethics course. Credits are available to those who completed relevant courses as part of the degree but the candidate must apply for credit within 3 years of being awarded the degree. Association of Accounting Technician members are eligible for exemptions from two of the five TC courses.

### **8.3.2 Practising as a Chartered Accountant**

#### *Practising Certificate*

This is needed when the accountant becomes the principal in an accounting firm or as an individual providing accounting service to the public within the EU, EEA<sup>19</sup>, the Channel Islands or the Isle of Man<sup>20</sup>. In addition, if the member is providing accounting services to the public in the United Kingdom or the Republic of Ireland he/she must also comply with the Professional Indemnity Insurance Regulations.

#### *Professional Indemnity Insurance (PII)*

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<sup>19</sup> Norway, Iceland, Switzerland and Liechtenstein.

<sup>20</sup> The Channel Islands and Isle of Man are not part of the United Kingdom or the EU.

As with the ICAEW, this is compulsory for all chartered accountants that hold a practising certificate and are engaged in public practise. Though it applies to individuals, in reality it is usually the business that provides the PII. The public practitioner must provide an annual certificate of compliance. Holders of a practitioner's certificate but who are not engaged in public practice must confirm this annually.

#### *Practice Assurance*

This programme was introduced in January 2000 and revised in 2005. The Quality Review programme helps to provide assurance to the public that all members engaged in the practice of public accounting are maintaining the prescribed level of professional standards. The ICAS conducts quality review visits of its members. The selection criteria are based on:

- Random selection from the ICAS data base of practising units and/or practising members.
- Selection based on information supplied in the Firm's Annual Return.
- Risk based selection from referrals from committees of ICAS and other regulatory bodies.
- Joint selection in conjunction with forthcoming Audit Monitoring visit.

### **3.**

#### **8.4 Institute of Chartered Accountants of Ireland (covers Northern Ireland and the Republic of Ireland) (ICAI).**

The ICAI was created by Royal Charter in 1888. It has 17000 members of which 14000 are based in the Republic of Ireland or Northern Ireland. It has 6500 students. Members are governed by the laws of the Irish Republic or by Northern Irish Law, depending on where they or their clients are based.

##### **8.4.1 Qualifications**

There are three ways to become a chartered accountant in Ireland:

- Training in an accountancy practice;
  - Training in a business;
  - Pre-contract registration.
- Training Contract:

Training is provided in a firm that is designated by the ICAI as a "Recognised Training Organisation" (RTO). It covers a period of 3-3.5 years, unless the ICAE reduces that amount in recognition of prior experience. The training must cover:

- Financial Accounting and Reporting.
- Business Finance.
- Taxation and Tax Planning.



- Audit, Internal Control and Corporate Governance.
- Information Systems and Management.

Students may alternatively train in a business engaged in industry and commerce. This training should also cover the areas mentioned above and where the business does not cover one of those areas the student may be seconded to a private practice so that he or she can gain that experience.

The Pre-Contract registration route enables candidates to take the professional examinations outside of a training contract. They can embark on the training contract at anytime during or after the taking of the examinations but it must be completed before enrolling for the Final Admitting Exam.

The length of the training contract may be reduced where the student has relevant work-experience recognised by the ICAI.

- Professional Examinations: In order to become a chartered accountant the candidate must have satisfied three stages:
  - CA Proficiency 1.
  - CA Proficiency 2.
  - Final Admitting Examination.

The composition of these three stages is as follows:

- CA Proficiency 1 is knowledge based and covers the following: Finance, Financial Accounting, Law for Accountants, Management Accounting and Taxation 1. It is assessed by a mixture of continuous assessment and examinations.
- CA Proficiency 2 expands on the core functional competencies of CA Proficiency 1. Specifically, it deals with: Auditing and Assurance, Strategic Financial and Management Accounting, Financial Reporting and Taxation 2. The examinations are of 3.5 hours duration and include a case study.
- Final Admitting Examination. This has two elements:
  - Core: the core element is examined over 2 days and involves several case studies. The core subjects are: Auditing and Reporting; Financial Accounting and Reporting; Tax Planning; Management Accounting and Business Finance; and a case study dealing with Business Strategy, Information Management and Business Ethics.
  - Electives: There are 3 to choose from – Auditing and Assurance; Taxation; Advanced Financial and Management Accounting.

- Credit for Prior Learning:

The ICAI gives exemptions for a range of business and accountancy courses taken at third level educational institutions. Typically these courses will provide exemptions in respect of Financial Reporting,

#### **8.4.2 Practising as a Chartered Accountant**

The Chartered Accountants Regulatory Board was established by the ICAI to regulate the profession. It is responsible for developing professional standards and supervises and enforces compliance by members of the ICAI.

##### *Practising Certificate*

This is needed when the accountant becomes the principal in an accounting firm or as an individual providing accounting service to the public. A Practising Certificate is not required where the member is solely providing accounting services to his or her employer. The Practising Certificate is renewed annually.

##### *Professional Indemnity Insurance (PII)*

This is compulsory for all chartered accountants that hold a practising certificate and are engaged in public practise. Though it applies to individuals, in reality it is usually the business that provides the PII. The level of cover is set out in the regulations. The public practitioner must provide an annual certificate of compliance. Holders of a practitioner's certificate but who are not engaged in public practice must confirm this annually.

The Department of Business, Enterprise and Regulatory Reform in the UK (including Northern Ireland) and the Department of Industry and Commerce in the Republic of Ireland approve insurance companies to do business. These companies may apply to the ICAI to be designated as participating insurers to provide PII.

##### *Quality Review*

All Practising Certificate holders must make an annual quality assurance return (provided on a standard for this purpose) to the CARB. This is then reviewed by the CARB. Individuals and firms may also be the subject of a Quality Review Visit. These are not termly visits. These are based on:

- Random selection from the ICAI data base of practising individuals or firms.
- Selection based on information supplied in the quality assurance annual return.
- Selection based on complaints received in respect of that individual or firm.

The focus of the visit is based on Audit, Investment Business, Client Monies and Accounts Preparation in addition to the member's compliance with the Rules of Professional Conduct and Ethical Guide.

## **8.5 Chartered Institute of Management Accountants (CIMA).**

CIMA was established in 1919 as the Institute of Costs and Works Accountants. It received its Royal Charter in 1976. It changed its name to the Chartered Institute of Management Accountants (CIMA) in 1986. It established the Republic of Ireland Division in 1987. In 1995 CIMA members acquired the right to the title "Chartered Management Accountant" and to the letters "ACCA" after their name.

CIMA is one of the world's largest professional accounting bodies with over 164000 members in 161 countries. It trains students in management accounting for business. It focuses on operations; change management; relationships and project management; and marketing. It provides particular focus on Human Resources Management and on applied management accounting techniques. 99% of members work in business rather than in accounting firms.

### **8.5.1 Qualifications**

- First Level: CIMA Certificate in Business Accounting

**School leavers** are eligible to take the CIMA Certificate in Business Accounting. This is a qualification in its own right but it also provides holders with eligibility to start the CIMA Professional Qualification. The certificate has 5 subject areas: Fundamentals of Management Accounting, Fundamentals of Financial Accounting, Fundamentals of Business Mathematics, Fundamentals of Business Economics and Fundamentals of Ethics, Corporate Government and Business Law.

These subjects are assessed by computer-based assessments and can be taken at a time opportune to the student. The first three subjects each have a 90 minute assessment and the other two each have a 60 minute assessment.

Association of Accounting Technician (AAT) students that have successfully completed the Technician/Diploma level are exempt from the Certificate in Business Accounting and can go directly to the CIMA Professional Qualification course.

The Open University Certificate in Accountancy holders are exempt from some or all of the Certificate in Business Accounting depending on the subjects taken and their results.

Graduates from Accredited Programmes: graduates with a relevant degree are exempt from the Certificate and may also be exempt from some parts of the Professional Qualification. CIMA provides a list of accredited programmes and these include those of the Institute of Chartered Accountants of Jamaica and of the University of the West Indies (Trinidad and Tobago).

Graduates from Non-Accredited Programmes: these may be granted some exemptions from the Certificate but not from the Professional Qualification. The UK NARIC system is used for comparing qualifications of graduates from non-accredited programmes overseas. The qualification for graduates from non-accredited programmes must be at least at UK Diploma in Higher Education or equivalent.

Those with Relevant Qualifications: Those studying for, or holding, relevant qualifications of another professional body may be eligible for exemptions from some CIMA examinations. These are listed in the CIMA Accredited Programmes Database.

#### ■ CIMA Professional Qualification

There are three elements: Managerial Level; Strategic Level; and the Test of Professional Competence in Management Accountancy (TOPCIMA).

- Managerial Level: This is made up of 6 subjects: Management Accounting Performance Evaluation, Management Accounting Decision Management, Organisation Management and Information Systems, Integrated Management, Financial Accounting and Tax Principles and Financial Analysis. The aim is to develop management and decision-making skills as well as expertise in technical accounting matters. This level must be fully and successfully completed before progressing to the Strategic Level. On successful completion of the Managerial Level the student is entitled to the CIMA Advanced Diploma in Management Accounting.
- Strategic Level: This is made up of 3 subjects:
  - Management Accounting Risk and Control Strategy: This covers Management Control Systems; Risk and Internal Control; Review and Audit of Control Systems; Management of Financial Risk; Risk and Control in Information Systems. It is assessed by a 3 hour written examination.
  - Management Accounting and Business Strategy: there are 4 elements: Assessing the Competitive Environment; Interacting with the Competitive Environment; Evaluation of Options, Planning and Appraisal; and Implementation of Strategic Plans. It is also assessed by a 3 hour written examination.
  - Management Accounting Financial Strategy: This covers Formulation of Financial Strategy; Financial Management; Business Valuations and Acquisitions; Investment Decisions and Project Control. Again, it is assessed by a 3 hour written examination.
- Test of Professional Competence in Management Accounting. (TOPCIMA). This is based on a case study which is published on the CIMA website 6 weeks in advance of the examination.

There is no specific syllabus content but it is mainly based on the Strategic Level subjects whilst also drawing on the Managerial Level. It is assessed by a 3 hour written examination that requires the student to prepare a report and/or presentation to various stakeholders together with supporting documents.

### *Practical Experience*

In order to qualify as a Chartered Management Accountant the candidate must, in addition to successfully completing the CIMA Professional Qualification, have completed 3 years relevant practical experience. He/she must also have maintained and submit a record of work experience in a Career Profile. The practical experience is divided into three parts:

- **Basic Experience: This involves hands-on experience and should cover:**
  - The preparation and maintenance of accounting records.
  - Statutory and regulatory reporting.
  - IT desktop skills.
  - Systems and procedure development.
- **Core Experience:** this also should be hands-on and cover, for example:
  - Preparation of management accounts.
  - Planning, budgeting and forecasting.
  - Management reporting and decision-making.
  - Product and service costing.
  - Information management.
  - Project appraisal;
  - Project management.
  - Working capital control.
  - Risk management and business assurance.
- **Supplementary Experience:** This would ordinarily involve responsibility for research, analysis and evaluation of activities covering, for example:
  - Financial strategy.
  - Corporate finance.
  - Treasury management.
  - Taxation.
  - Business evaluation and appraisal.
  - Business strategy.
  - External relationships.

The practical experience should include a wide range of experience but at least 18 months must have been spent on the core areas. CIMA provides guidelines to the student on maintaining the Career Profile.

### *Professional Conduct*

CIMA's Professional Conduct Department is responsible for dealing with complaints and allegations of misconduct. These may come from employers, clients, the public or other authorities. The complaint must be against an individual and not a firm. There is a 3 tier approach: Investigation; Discipline; Appeal.

The Investigation Committee decides whether there is a prima facie case to answer. If so, they may conclude the investigation by following the Consent Order procedure whereby the member agrees to the imposition of a sanction. This is used for less serious matters. Alternatively, it may refer the matter to the Disciplinary Committee to determine whether the member or student is guilty of misconduct.

The Disciplinary Committee deals with complaints where the member has not accepted a Consent Order or where the matter is too serious to be dealt with in that manner. The Committee may impose a wide range of sanctions, including fines and requiring the member or student to pay CIMA's costs. In serious cases the member or student may be expelled.

The subject of a sanction imposed by the Disciplinary Committee may appeal in accordance with the provisions of CIMA's charter and bylaws. The Appeals Committee may also hear appeals from complainants against decisions of the Investigation Committee or the Disciplinary Committee.

The hearings of the Disciplinary Committee and the Appeals Committee are open to the press and public.

## **8.6 Chartered Institute of Public Finance and Accountancy (CIPFA).**

CIPFA, originally called the Corporate Treasurers and Accountants Institute, had its first meeting in Manchester in 1885. Its original focus was on local government finance. In 1901 it introduced examinations for this part of the accounting profession. It now has 15000 members and is the only accounting body in the UK that specialises in public sector accounting. Its members work in national and local government, public service bodies, national audit agencies, as consultants and in major accountancy firms. CIPFA sets standards for local government finance, accounting, financial management and audit.

There are CIPFA branches in Scotland and the Republic of Ireland.

### **8.5.1 Qualifications**

To become a Chartered Public Finance Accountant (CPFA) the candidate must pass the three level course (Certificate, Diploma, and Test of Professional Competence) and have completed the necessary training.

School leavers embarking on the course must have 3 GCSEs (levels A-C) and 2 A levels or the Scots, Northern Irish or Republic of Ireland equivalents. These must include English and Maths at either level. Alternatively, the candidate may enter with an NVQ/GNVQ at level 3 or the Scots equivalent. Mature students (21 or over) may embark on the course if they have relevant work experience and the support of their employer.

There is a fast track route for senior managers and executives in public services and this is described below. Accountants that have qualified from one of the other professional accounting bodies that are members of the Consultative Committee of Accountancy Bodies can follow a special fast track 9 month open-learning course. To qualify as a Chartered Public Finance Accountant they must sit two examinations: Financial and Performance Reporting and a Finance and Management Case Study. The former must be completed before the latter is undertaken.

#### *Exemptions*

These are granted on a paper by paper basis. CIPFA provide a list of universities and colleges' qualifications that gain exemptions. Exemptions are also granted to ACCA, CIMA and ICAEW students. Students must provide a verified copy of the qualification certificate and CIPFA will confirm which modules the candidate has been exempt from. The student then purchases the exemption from the Student Learning Centre. CIPFA provides an exemption grid for students whose courses as a whole are not accredited.

#### *The Certificate Course*

This comprises of 4 subjects: Financial Accounting, Management Accounting, Financial Reporting, Financial Management Systems and Techniques. Each is examined by a 3 hour written examination.

#### *The Diploma Course*

This comprises 7 subjects: Audit and Assurance, Leadership Management, Accounting for Decision-making, Governance and Public Policy, Public Finance, Taxation and Finance and Performance Reporting. Each is examined by a 3 hour examination, except for Public Finance and Taxation, which are 2 hours long.

### *The Final Stage Test of Professional Competence*

There are 2 elements: a 3 hour examination in Strategic and Business Management and a Finance and Management Case Study. The latter involves pre-seen material and a case file is provided. The exam is 6 hours long, divided into a morning and afternoon session, with a 1 hour break in between. One of the questions is a “quick response” question in which the candidates have 40 minutes to provide the answer.

#### **8.5.2 IPDS Professional Training Scheme**

Candidates are only eligible for membership of CIPFA and the title of Chartered Public Finance Accountant once they have completed the IPDS Portfolio of Learning and this has been approved by CIPFA. This is a log or record of the candidates 400 days of validated workplace experience as laid down in CIPFA’s Regulations. The record must show evidence of experience of, and reflection on, 3 selected areas from the following list:

- Leadership and Strategic Management.
- Strategic and Operational Financial Management.
- Financial and Performance Reporting.
- Governance, Ethics and Values.
- Audit and Accountability.
- Partnership and Stakeholder Relations.
- Change, Risk and Project Management.
- Procurement and Contract Management.

The portfolio requires “evidenced activities”. For each the candidate must write a short piece on how each activity was planned and how the candidate applied their knowledge and skills. They must produce evidence that they actually undertook the activity and must reflect on the effectiveness of the application of their knowledge and skills to it. It should also indicate the learning that arose from it. There should be a statement from the employer on the appropriateness of the activity to the organisation.

The candidate must also demonstrate an ability to plan, prepare and deliver an oral presentation to an audience of at least 3 persons. The topic should have been agreed with the audience or the person requesting the presentation. The candidate must record how it was planned, the preparation involved, the delivery and what he/she learned from it. Audience feedback forms are encouraged.

The portfolio must also contain “evidence of an iterative process” i.e. the candidate is required to revisit a piece of work and undertake further work on it in accordance with the employer’s needs or that of the client. The log must contain a description of the situation and why further work was required.

The candidate must also submit evidence of having planned and managed a long-term process lasting at least 3 months. He/she



does not have to have worked exclusively on that over the 3 months. The candidate must provide a description of the situation/activity; evidence that he/she undertook it; and a reflective commentary on the experience. CIPFA provide detailed guidance on maintaining this log.<sup>21</sup>

Once completed an accredited portfolio assessor will review it and assess it in detail. The assessor will then interview the candidate to ascertain that it is the candidate's own work and to discuss the candidate's learning and application of skills and knowledge. The assessor will then write a report confirming that the candidate has satisfied the requirements for membership or requires further work to be done.

### **8.5.3 Practising Certificates and Practice Assurance**

Members who are self-employed or partners or directors of a firm or a company and provide audit or accounting services to the public must have a Practising Certificate. The Practising Certificate holder will also have to register for the Practice Assurance Scheme. Each year some members will have a quality assurance meeting with an assessor. All members will be expected to have such a meeting at least once every six years.

### **8.5.4 Professional Indemnity Insurance**

This has been arranged between CIPFA and Trafalgar Risk Management and IDI. This scheme provides professional indemnity insurance specifically for public finance accountants but does not cover audit. CIPFA members are free to obtain alternative insurance arrangements.

## **4. 8.6 Association of Chartered Certified Accountants (ACCA).**

Formed in 1904 as the London Association of Accountants, its aim was to provide a more open access to the accountancy profession than that offered at the time by the existing professional associations. It merged with a number of bodies over the years and was granted a Royal Charter in 1974. It became the Chartered Association of Certified Accountants in 1984 and changed its name in 1996 to the Association of Chartered Certified Accountants.

The ACCA is a worldwide professional accountancy association with 320000 members and students in 170 countries. It has a network of almost 80 staffed offices and centres around the world. Members are

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<sup>21</sup> CIPFA's Initial Professional Development Scheme: A Guide at [www.cipfa.org.uk/students/download/IPDS\\_guide\\_aug06.pdf](http://www.cipfa.org.uk/students/download/IPDS_guide_aug06.pdf)

known as “Chartered Certified Accountants”. They work in industry, financial services, the public sector or in private practice.

### **8.6.1 Qualifications**

#### **Certified Accounting Technician (CAT)**

This is a recognised qualification in its own right but also gives accelerated progression to the ACCA Professional Qualification. There are no formal qualifications needed to register for the CAT.

It comprises 9 subjects:

- **Introductory Level:**
  - F1. Recording Financial Transactions.
  - F2. Information for Management Control.
- **Intermediate Level:**
  - F3. Maintaining Financial Records.
  - F4. Accounting for Costs.
- **Advanced Level:**
  - F5. Managing People and Systems.
  - F6. Drafting Financial Statements
  - F7. Planning Control and Performance Management

Plus two Options from:

- F8. Implementing Advanced Procedures.
- F9. Preparing Taxation Computations.
- F10. Managing Finances.

The Introductory and Intermediate Levels can be sat as computer-based exams (CBEs) at anytime. These are held at ACCA Licensed CBE Centres. These can be found at [www.accaglobal.com/learningproviders/tuitionproviders](http://www.accaglobal.com/learningproviders/tuitionproviders).

ACCA operates Joint Examination Schemes for CAT in cooperation with a number of bodies including:

- Institute of Chartered Accountants of Belize (ICA Belize).
- Institute of Chartered Accountants of Guyana (ICAG).
- Institute of Chartered Accountants of Jamaica (ICAJ).
- Institute of Chartered Accountants of Trinidad and Tobago (ICATT).

Those going through the joint scheme must register with the national body and with ACCA. Exemptions are granted to students from accredited courses and these include:

- Bahamas:
  - College of the Bahamas: Assoc. Degree in Accounting:  
Papers F1, F2, F3 and F4.
  - College of the Bahamas: Assoc Degree in Business  
Administration Papers F1 and F2.
  - Bahamas Institute of Bankers Programme:  
Papers F1 and F2.
  
- Barbados:
  - Associate Degree in Business Studies:  
Papers F1, F2, F3 and F4.
  - Caribbean Examinations Council (School) CAPE Diploma<sup>22</sup>:  
Papers F1 and F2.
  - Caribbean Examinations Council (School) CAPE Certificate:  
Papers F1 and F2.
  - Caribbean Examinations Council (School) GCE A Level:  
Papers F1, F2, F3<sup>23</sup>.
  
- Belize:
  - Caribbean Examinations Council (School) GCE A Level:  
Papers F1, F2, F3<sup>24</sup>.
  
- Dominica:
  - Caribbean Examinations Council (School) GCE A Level:  
Papers F1, F2, F3<sup>25</sup>.
  
- Dominican Republic:
  - Universidad AIEC: Degree
 

Accountancy Major	All CAT
Accountancy Joint/Minor	Papers F1 – F7.
Finance	Papers F1 – F7
Gen. Business Mgt.	F5.
MBA	Papers 1-7.

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<sup>22</sup> Must have obtained 6 CAPE units including 2 single course units.

<sup>23</sup> On the basis of Financial Accounting (Unit 1) and Cost and Management Accounting (Unit 2).

<sup>24</sup> On the basis of Financial Accounting (Unit 1) and Cost and Management Accounting (Unit 2).

<sup>25</sup> On the basis of Financial Accounting (Unit 1) and Cost and Management Accounting (Unit 2).

- Universidad AIEC: Licenciado

Accountancy Major	All CAT
Accountancy Joint/Minor	Papers F1 – F7.
Finance	Papers F1 – F7
Gen. Business Mgt.	F5.

- Universidad AIEC: 2 years P/ Complete Licenciado

Accountancy Major	Papers F1-F7.
Accountancy Joint/Minor	Papers F1 – F5.
Finance	Papers F1 – F5.
Gen. Business Mgt.	F5.

- Universidad AIEC: 1 year P/ Complete Licenciado

Accountancy Major	Papers F1 and F2.
Accountancy Joint/Minor	Papers F1 and F2.
Finance	Papers F1 and F2.

- Universidad AIEC: Technico

Accountancy Major	Papers F1 and F2.
Accountancy Joint/Minor	Papers F1 and F2.
Finance	Papers F1 and F2.

- Grenada:

- Caribbean Examinations Council (School) GCE A Level:  
Papers F1, F2, F3<sup>26</sup>.

- Guyana:

- University of Guyana: Bachelor's Degree:

Business Admin. & Economics
All CAT

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<sup>26</sup> On the basis of Financial Accounting (Unit 1) and Cost and Management Accounting (Unit 2).

- Jamaica:
  - Caribbean Examinations Council (School) GCE A Level:  
Papers F1, F2, F3<sup>27</sup>.
- Saint Kitts and Nevis:
  - Caribbean Examinations Council (School) GCE A Level:  
Papers F1, F2, F3<sup>28</sup>.
- Saint Lucia:
  - Caribbean Examinations Council (School) GCE A Level:  
Papers F1, F2, F3<sup>29</sup>.
- Trinidad and Tobago:
  - Caribbean Examinations Council (School) GCE A Level:  
Papers F1, F2, F3<sup>30</sup>.
  - John Donaldson's Technical Institute:
 

Accountancy Technical Diploma

Papers F1, F2, F3 and F4.
  - San Fernando Technical Institute:
 

Accountancy Technical Diploma

Papers F1, F2, F3 and F4.

In addition to studying at an approved centre, students can obtain study manuals, CD+ROMS and a full Internet tuition service from ACCA in partnership with international tutors BPP and Kaplan Publishing Foulkes Lynch. There is also an ACCA approved list of global tuition providers.

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<sup>27</sup> On the basis of Financial Accounting (Unit 1) and Cost and Management Accounting (Unit 2).

<sup>28</sup> On the basis of Financial Accounting (Unit 1) and Cost and Management Accounting (Unit 2).

<sup>29</sup> On the basis of Financial Accounting (Unit 1) and Cost and Management Accounting (Unit 2).

<sup>30</sup> On the basis of Financial Accounting (Unit 1) and Cost and Management Accounting (Unit 2).

Once the candidate has passed the examinations and completed one year's practical training they can use the initials "CAT" after their name. The training may be completed at any size or type of business and in any sector or sectors. It may be completed before, during or after taking the examinations. The candidate is exempt from the practical training requirement if they have completed an NVQ Level 4 in accountancy or equivalent.

### *ACCA Qualification*

*Entry:* The school leaver requires 2 A Levels and 3 GCSEs or equivalent in 5 subjects including Maths and English at either level. Mature students (21 or over) do not require these formal qualifications but must pass the Management Accounting and Financial Accounting papers within 2 years of registration before progressing further with the ACCA Qualification.

Graduates with a relevant degree may progress directly to the professional examinations. Those with degrees which have some relevance may gain exemptions from some of the CAT Fundamentals examinations.

CAT holders can transfer directly to the Skills modules of the ACCA Qualification once they have claimed exemption from the three Knowledge modules.

There are 14 papers of which the 9 Fundamentals Papers are available for exemptions:

#### ■ Fundamentals:

##### *Knowledge*

- F1. Accounting in Business.
- F2. Management Accounting.
- F3. Financial Accounting

##### *Skills*

- F4. Corporate and Business Law.
- F5. Performance Management.
- F6. Taxation.
- F7. Financial Reporting.
- F8. Audit and Assurance.
- F9. Financial Management

#### ■ Professional:

- P1. Professional Accountant.
- P2. Corporate Reporting.
- P3. Business Analysis.

*Options (2 to be completed)*

- P4. Advanced Financial Management.
- P5. Advanced Performance Management.
- P6. Advanced Taxation.
- P7. Advanced Audit and Assurance.

ACCA provides an exemption enquiry database at:

[www.accaglobal.com/accaweb/faces/page/accreditations](http://www.accaglobal.com/accaweb/faces/page/accreditations).

The following are eligible for registration for entry to the ACCA Qualification and for any exemptions indicated:

■ Bahamas:

- College of Bahamas Associate Degree in Accountancy and Associate Degree in Business Administration.

■ Barbados:

- Barbados Community College Associate Degree in Business Studies.
- Caribbean Examinations Council (School) GCE A Levels:
- Caribbean Examinations Council (School) CAPE Diploma<sup>31</sup>:

■ Belize:

- Corazol Junior College Bachelor's Degree:

Accountancy Major	Papers F1-F4.
Accountancy Joint/Minor	Papers F1-F3
Finance	Papers F1-F3
General Business and Management	Paper F1.
Law	Paper F4.
Non Relevant	N/A

- St. John's College/Belize Technical College associate Degree.
- University of Belize BSc. In Business Administration.

■ Dominica:

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<sup>31</sup> Must have obtained 6 CAPE units including 2 single course units.

- Caribbean Examinations Council (School) GCE A Levels.
- Dominican Republic:
  - Universidad AIEC: Degree
    - Accountancy Major
    - Accountancy Joint/Minor
    - Finance
    - Gen. Business Mgt.
    - Law
    - Non-relevant
    - MBA
  - Universidad AIEC: Licenciado
    - Accountancy Major
    - Accountancy Joint/Minor
    - Finance
    - Gen. Business Mgt.
    - Law
    - Non-relevant
  - Universidad AIEC: 2 years P/ Complete Licenciado
    - Accountancy Major
    - Accountancy Joint/Minor
    - Finance
    - Gen. Business Mgt.
    - Law
    - Non-relevant
  - Universidad AIEC: 1 year P/ Complete Licenciado
    - Accountancy Major
    - Accountancy Joint/Minor



Finance  
Gen. Business Mgt.  
Law  
Non-relevant

■ Universidad AIEC: Technico

Accountancy Major  
Accountancy Joint/Minor  
Finance  
Gen. Business Mgt.  
Law  
Non-relevant

■ Guyana:

■ University of Guyana: Bachelor's Degree:

Business Admin. & Economics    Papers F1-F4

■ Jamaica:

- Caribbean Graduate School of Theology Bachelor Degrees and Associate Degrees.
- Excelsior Community College Associate Degrees.
- Jamaica Theological Seminary Bachelor and Associate Degrees.

■ Trinidad and Tobago:

■ University of the West Indies St. Augustine

BSc. In Accountancy 1.1.02 – 31.12.05    Papers F1-F4,  
F5<sup>32</sup>, F8<sup>33</sup> and F9.<sup>34</sup>

BSc. In Accountancy 1.1.96 – 31.12.02    Papers F1-F4,  
F5, F8<sup>35</sup> and F9.

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<sup>32</sup> On the basis of Advanced Management Accounting.

<sup>33</sup> On the basis of Auditing I and II.

<sup>34</sup> On the basis of Financial Management II.

ACCA provides a list of global tuition providers at:

[www.accaglobal.com/accaweb/faces/page/apublic/tuitionproviders/](http://www.accaglobal.com/accaweb/faces/page/apublic/tuitionproviders/)

These include:

- Bahamas:
  - Professional Qualifications Bahamas, Wong's Plaza, Madeira Street, Palmdale, Nassau. Contact Mr Terence Bethel at info@pcbcentre.com. Tel: 1242 3804722. www.pcbcentre.com
- Barbados:
  - Prestige Accountancy Bookshop and Accountancy College, ACR Business Centre, Unit 1C, 3rd Floor Building 6, Harbour Industrial Park, Bridgetown, BB 11145 Barbados. Contact admin@prestigeaccounting.bb Tel: 1 246 4298860. www.prestigeaccounting.bb
- Guyana:
  - ATC Accountancy Training Centre, 267 New Market Street, North Cummingsburg, Georgetown, Guyana. Contact jerrygyersaud@yahoo.uk. Tel: 592 22 37673. www.atcguyana.com.
  - The Business School, 43 Brickdam, Stabrock, Georgetown, Guyana. Contact info@businessschool.com. www.businessschool.com.
- Jamaica:
  - University of the Caribbean, 14 Worthington Avenue, Kingston 5, Jamaica. Contact debanks@uccjm.com. Tel: 1 876 5113989. www.uccjm.com.
  - International Business College, 17 Parkington Plaza, Kingston 10, Jamaica. Contact ibc@nhjm.com. Tel: 1 906 4494. www.nhjm.com.
  - Academy of Business and Continuing Studies, 3-3A Richmond Place, Kingston 10, Jamaica. Contact academy\_56@hotmail.com. Tel: 1 876 9065535.
  - Caribbean Institute of Business, 7 Oxford Road, Kingston 5, Jamaica. Contact cibja@annel.com. Tel: 1 797 6172. www.cibja.edu.com.
  - David Powell Training Centre, c/o 15-17 Duke Street, Kingston, Jamaica. Contact dpowell@portjam.com. Tel: 1 876 9227951.

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<sup>35</sup> On the basis of Auditing I and II.

- Saint Kitts and Nevis:
  - North East Caribbean Accounting School, Greenlands, Basseterre, Saint Kitts and Nevis. Contact rachad@sisterisles.kn. Tel: 1 869 4668117. www.ne-cas.com.
- Saint Lucia:
  - National Research and Development Foundation (Institute of Business Studies), PO Box 3067, La-Clery, Castries, Saint Lucia. Contact nraf@candw.lc. Tel: 1 758 4524253.
- Suriname:
  - Suriname College of Accountancy, Flustraart 35, Paramaribo, Suriname. Contact sca.accountancy@gmail.com. Tel: 567 531330.
- Trinidad and Tobago:
  - Sital College of Tertiary Education Ltd, 106 Eastern Main Road, Tacarigua, Trinidad, Trinidad and Tobago. Contact alana@sitalcollege.com. Tel: 1 868 6402758. www.sitalcollege.com.
  - Omardeen School of Accountancy Ltd (Chaguanas), 12-13 Endeavour Road, Chaguanas, Trinidad and Tobago. Contact osachag@tstt.net.tt. Tel: 1 868 6727633. www.omardeen.com.
  - School of Business and Computer Science, 53-55 Sagen Drive, Champ Fleur, Trinidad and Tobago. Contact desmond1@sbcstnt.com. Tel: 1 868 6637227. www.sbcstnt.com.
  - Professional School of Accountancy Ltd., 54 Riverside Drive, San Fernando, Trinidad and Tobago. Contact psal@tstt.net.tt. Tel: 1 868 6576528. www.psaltt.com.
  - Omardeen School of Accountancy Ltd (San Fernando), 59-61 Gooding Village (Cipero Street), San Fernando, Trinidad and Tobago. Contact omardeen@tstt.net.tt. Tel: 1 868 6579919. www.omerdeen.com.
  - Omardeen School of Accountancy Ltd (Port of Spain), 66 Independence Square, Port-of-Spain, Trinidad and Tobago. Contact osapos@tstt.net.tt. Tel: 1 868 6275235. www.omerdeen.com.
  - Student Accountancy Centre, KPMG, c/o Students Accountancy Centre, 89 Montrose Main Road Chaguanas, Trinidad and Tobago. Contact sac@opus.co.tt. Tel: 1 868 6728224.

Students must also complete a Professional Ethics module before applying for ACCA membership.

### **8.6.2 Practical Experience**

The candidate must have three years relevant practical experience in order to 13 of the 20 listed performance criteria (see <http://www.accaglobal.com/join/acca/experience>). This may be done before, during or after the period of study and examinations.

### **8.6.3 Costs**

Initial registration	£66
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Annual Student Subscription	£66
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Re-Registration	£66 <sup>36</sup>
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#### *Exams/Exemptions*

Knowledge	£50
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Skills	£60
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Professional	£70
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See [www.accaglobal.com/join/acca/fees](http://www.accaglobal.com/join/acca/fees).

## **B. Architecture:**

### **B.1 Estonia.**

#### **1.1 Designation/ Title**

There is no legal protection or special designation for architects. The work undertaken in the field of construction is regulated by law but the profession itself is not. Therefore, we have set out the regulatory obligations in respect of the work which an architect and related professions and trades might undertake.

#### **1.2 Operation of Contractors in Field of Construction.**

Any person is permitted to build, design, conduct site investigations, exercise owner supervision, perform expert assessments of building

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<sup>36</sup> Applies if the student was previously registered and wishes to re-register. An additional penalty fee may be levied together with any fees outstanding if the student was removed from the register by ACCA for non-payment of fees.

design documentation, evaluate construction works and engage in project management if that person is an undertaking within the meaning of the Commercial Code and has:

- a registration in the Register of Economic Activities (hereinafter "register"), and
- a corresponding legal relationship with a competent person ("specialist in charge") or, where that person is a sole proprietor, he or she must have the competence to act as a specialist in charge.

■ Registration Application : this must contain:

- the name and registry code of the undertaking, the name of the corresponding register, and the address and other contact details of the undertaking;
- the area of activity in which the applicant wishes to operate;
- information concerning the specialist in charge in the undertaking who must meet the requirements prescribed for the desired area of activity if it is mandatory to have a specialist in charge;
- information concerning the qualifications of the building contractor and the document certifying such qualifications, if they exist;
- the name, official title and contact details of the authorised person of the undertaking who signs the registration application.

Information concerning the specialist in charge is comprised of the following:

- name, and personal identification code or, in the absence thereof, date of birth;
- contact details;
- the profession and other essential information entered in his or her professional certificate if he or she has a professional certificate;
- in the absence of a professional certificate, the date of issue and the name of the issuer of the document certifying the professional education of the person;
- professional experience.

■ Specialist in charge : A specialist in charge is a person who:

- is competent to manage and inspect building, design, site investigations, owner supervision, expert assessments of

- building design documentation, evaluation of construction works or project management activities, and
- advises an undertaking in order to guarantee compliance with the requirements for services.

In order to build, design, conduct site investigations, exercise owner supervision, perform expert assessments of building design documentation, evaluate construction works or engage in project management activities, a specialist in charge must:

- hold professional qualifications within the meaning of the Professions Act which grants the person the right to organise the distribution of funds or the work of other persons and imposes on him or her the obligation to be responsible for such work, or
- have completed higher education in an appropriate field and have three years' experience in work related to his or her profession.

### **1.3 Duties of a Building Contractor**

A building contractor is required to:

- ensure that building is performed in compliance with the building design documentation;
- ensure that the work performed in the course of building is documented;
- preserve in its entirety the technical construction documentation prepared by the building contractor or copies thereof for at least seven years or until the documents are transferred to the archives in accordance with the procedure provided by the Archives Act;
- install construction products which conform to the requirements in the construction works;
- ensure the requisite quality of building;
- guarantee building safety and the maintenance of the construction works and the building site;
- avoid polluting the environment;
- inform the owner of the construction works and the person exercising ownership supervision of any actual or possible cases of the construction works not conforming to the requirements which become evident in the course of building;
- perform the obligations related to the guarantee of the construction works.

### **1.4 Duties of a Design Contractor**

A design contractor is required to:

- prepare building design documentation which conforms to the requirements;
- ensure that the building design documentation corresponds to the primary data;

- prepare as-built drawings of the construction works which conform to the requirements;
- preserve in its entirety the building design documentation and as-built drawings prepared by the design contractor and the primary data used for preparation thereof for at least seven years or until the documents are transferred to the archives in accordance with the procedure provided by the Archives Act.

### **1.5 Duties in Respect of Site Inspections**

An undertaking conducting site investigations is required to:

- conduct the site investigations pursuant to the established procedure;
- ensure that the site investigations are conducted in conformity with the requirements;
- preserve the information concerning the site investigations conducted by the undertaking for at least seven years or until the information is transferred to the archives pursuant to the procedure provided by the Archives Act;
- submit the results of site investigations to the local government.

### **1.6 Duties in Respect of Undertaking Expert Assessment of Building Design Documentation**

An undertaking performing expert assessment of building design documentation is required to:

- inspect the conformity of the building design documentation to the requirements;
- verify that the building design documentation corresponds to the primary data
- ensure that the expert assessment of the building design documentation conforms to the requirements;
- inspect the conformity of the as-built drawings of the construction works to the requirements;
- preserve in its entirety all information on the expert assessments concerning building design documentation performed by the undertaking for at least seven years or until the information is transferred to the archives pursuant to the procedure provided by the Archives Act.

### **1.7 Duties in Respect of Undertaking the Evaluation of Construction Works**

An undertaking evaluating construction works is required to:

- inspect the conformity of the construction works or a part thereof to the requirements;
- inspect the conformity of the construction works or a part thereof with the building design documentation;

- ensure that the evaluation of the construction works conforms to the requirements;
- preserve in its entirety all the information on the evaluation of construction works performed by the undertaking for at least seven years or until the information is transferred to the archives pursuant to the procedure provided by the Archives Act.

### **1.8 Duties of a Project Management Undertaking**

A project management undertaking is required to ensure:

- that building is performed in compliance with building design documentation;
- that the technical construction documentation is prepared;
- that construction products which conform to the requirements are used in the event of building;
- the requisite quality of construction work;
- the maintenance and safety of the construction works and the building site in the event of building;
- that pollution of the environment is avoided.

In addition to the duties specified, a project management undertaking is required to inform the owner of the construction works of any actual or possible cases of the construction works not conforming to the requirements which become evident in the course of building.

### **1.9 Regulatory Authority**

The Ministry responsible for regulating the activities of architects and related professions and trades is the Ministry of Economic Affairs and Communications . Its website is at [www.mkm.ee](http://www.mkm.ee).

### **1.10 Professional and Trade Bodies**

Membership of these bodies is entirely voluntary.

#### *Estonian Association of Construction Entrepreneurs*

The EACE is a voluntary association of construction enterprises created in order to support and co-ordinate its members' actions in the matter of industry related economic issues and relations with employees and employee unions. The EACE was established in 1991 and reorganized in 1993. It has an open structure, enabling formation of both regional and sub-professional. Its' membership comprises approximately 100 companies active in Estonia whose overall turnover accounts for more than 45% of the construction turnover of the entire Republic.

#### *Estonian Association of Architectural and Consulting Engineering Companies*



The aims and fields of operation of the EAACEC are to:

- promote design and consulting businesses and support the activities of its members in the domestic as well as foreign market.
- form a reliable membership, building up a good reputation so as to build the confidence of the general public in their activities.
- represent and protect the common interests of the membership.
- use and promote open and fair principles of competition.
- represent the membership in cooperation with similar international organizations and associations of special fields.

#### *The Union of Estonian Architects*

The Union of Estonian Architects is a voluntary and independent association of architects, which operates as a non-profit association. The objectives of the UEA are to:

- contribute to the creation of a high-quality living environment, which is comprised of the sustainable use of the natural environment, and a wisely and a culturally-friendly developed building environment;
- support and develop the architectural environment;
- express and protect the common interests of its members.

### **1.11 Contact Information**

The Union of Estonian Architects: <http://www.arhliit.ee/en/kontakt>

## **B.2 France.**

### **2.1 Designation/ Title:**

The profession of architect is protected by the rules of the professional association, by law and by the educational establishments. To have the title of "architect" each candidate must be registered with the regional Board of the Architects Association in accordance with the provisions of Article 43 of Law No. 77-2 of 3 January 1977 concerning architecture and the implementing Decree No. 78-265 of 8 March 1978. Practising as an architect in contravention of these provisions may be punished by a prison term and by a fine. There are no protected specialist sub-professional designations such as Urban Architect or Industrial Architect.

The *Law No. 77-2 of 3 January 1977* provides that certain activities can only be done by architects e.g. "Whoever wishes to begin works subjected to an authorization to build has to appeal to an architect to establish the architectural project being the object of the demand of building permit"

### **2.2 Qualifications:**

In order to qualify as an architect the candidate must have a master's degree in architecture from a government recognised institution. In the case of qualifications acquired elsewhere in the EU or EEA, it will be recognised provided that the diploma was recognized by the government of that EU or EEA Member State and the candidate has been engaged in the profession of architect for minimum duration of 3 years. For candidates coming from other countries which don't have specific agreements with France or with the EU generally, they will require to submit their qualifications to the regional board of the association, which, on seeking advice from the Ministry of Culture, will determine whether or not to recognise it.

After their master degree in architecture, candidates must undertake one year of study to be authorized as an architect to act as prime contractor on their own behalf. The candidate must seek registration with the regional board of the association. The association has its own registration procedure, entry qualifications, fees, examinations and other assessments etc. These are not regulated by law.

### **2.3 Training**

The professional association does not provides any training courses. These are only provided by the academic schools of architecture. There are no special training requirements after obtaining the masters degree to qualify for membership of the profession.

The schools of architecture operate a VAE system (validation of prior experience) system in setting out the course of study that the candidate must undertake.

### **2.4 Regulatory Authority**

The ministry with overall responsibility for the architects' profession is the Ministry of Culture. The Conseil National de l'Ordre des Architectes (CNOA) is the professional association for architects. Though it is a private association it has special recognition and has delegated functions from the Ministry of Culture.

To practice as an architect and to use that title a person has to be registered with the regional board of the CNOA.

### **2.5 Firms of Architects**

Architects may establish any type of business undertaking through which they provide their services (e.g. sole proprietor, partnership, company etc. ). If they do so through formation of a company:

- The architect(s) must hold directly, or indirectly though a firm, a majority of the capital or voting rights in a limited liability company, and two-third's of the capital or voting rights in the case of a public limited company or in a simplified limited company (SAS). An individual architect must have at least a 5% shareholding in the company.

- Persons or firms which are not registered as architects must not hold more than 25% of the shares or voting rights.

A majority of the executive authority of the company must be architects. An architect's firm can be multi-disciplinary. Typically, an architect might also be a real estate agent but the two activities must be separated. If the firm is multidisciplinary but is still to be considered as an architects' firm, the conditions on shareholding and control set out above must be complied with.

Rule 9 of the CNOA Professional Ethics Code provides:

*"When an architect practises several activities of a different nature, these must be perfectly different, independent and common knowledge. Any confusion of activities, functions, responsibilities, the ambiguity of which could create error or deceit, or obtain for the architect material advantage without the knowledge of the customer or of the employer is forbidden".*

## 2.6 Contacts

- School of Architecture Paris Belleville, 78- 80 rue Rebeval 75019 Paris. Tel: (0033) 153 385 001. Email: eapb.belleville@paris-belleville.archi.fr. Website: <http://www.paris-belleville.archi.fr/>
- School of Architecture Paris Val de Seine, 14 rue Bonaparte 75006 Paris Tel: (0033) 144 505 621. Email: Christian.landeau@paris-valdeseine.archi.fr. Website: <http://www.paris-valdeseine.archi.fr/>.
- School of Architecture Paris Malaquais, 14 rue Bonaparte 75272 Paris Cedex 06, Tel: (0033) 147 035 000. Email: denis.kindeur@paris-malaquais.archi.fr. Website: <http://www.paris-malaquais.archi.fr/>
- School of Architecture of Clermont Ferrand, 71 boulevard Côte Blati 63000 Clermont Ferrand. Tel: (0033) 473 347 150. Email: eacf@clermont-fd.archi.fr. Website: <http://www.clermont-fd.archi.fr/>
- School of Architecture Languedoc Roussillon, 179 rue de l'Espérou 34093 Montpellier, Cedex 05. Tel: (0033) 467 918 989. Email: ealr@montpellier.archi.fr. Website: <http://www.Montpellier.archi.fr/>
- School of Architecture of Lyon, 3, rue Maurice Audin 69120 Vaulx en Velin. Tel: (0033) 478 795 050. Email: accueil@lyon.archi.fr. Website: <http://www.lyon.archi.fr>
- School of Architecture of Marseille Luminy, 184 avenue de Luminy –Case 92413288 Marseille, Cedex 09. Tel: (0033) 491 827 100. Email: contact@marseille.archi.fr. Website: <http://www.marseille.archi.fr/>
- <http://www.architectes.org/accueils/cnoa>
- <http://www.syndarch.com/accueil/>
- <http://www.sfarchi.org/association.php>

### **B.3 Germany.**

The law on architects is – as with the law on engineers – a German federal state law enacted by the legislators of each German federal state. Additionally, the statutory provisions are specified by manifold rules and regulations. The statutes, rules and regulations vary from state to state. Further, European Law may apply and influence the provisions. Within this study only a general outline can be given and some examples provided.

#### **3.1 Designation/ Title:**

The following designations are protected in law:

- "architect" (houses) (*Architekt*)
- "interior architect" (*Innenarchitekt*)
- "landscape architect" (*Landschaftsarchitekt*) or (former designation: "garden and landscape architect" (*Garten- und Landschaftsarchitekt*) or
- "urban planner" (*Städtebau-Architekt/Stadtplaner*)

The professional titles are protected by the architects statutes of each federal state and rules and regulations of the architects chambers. (see below). Only persons who are registered in the relevant architect's chamber are entitled to use the designation. The title is authorised after registration in the architects list. The scope of protection covers further word combinations which include the professional designation or similar words e.g., "Architectural Office" (*Architekturbüro*) or "Office of urban planning" (*Büro für Stadtplanung*).

If a person uses the designation without being registered at the architects list, the chambers of architects are authorised to prohibit bearing the title and to sanction it with a penalty.

Usually, architects chambers keep lists for corporate bodies as well (e.g., partnership, limited liability company). A corporate body can apply for registration into that list. The requirements are specified in the state statutes and vary from state to state. Depending on the relevant statutes, corporate bodies registered may become members of the professional association. However, usually the statutes exclude them explicitly from membership.

#### **3.2 Qualifications:**

Performing services under the legally protected professional designation of "architect" requires registration at the architects list of the German chambers of architects (i.e., the professional associations) of the relevant German federal state. For registration as an "architect" the applicant has (among other things) to prove training and experience and to provide documents certifying the qualification. The requirements are stipulated in the architectural acts of the federal states.

Generally, the statutes require:

- Study in the field of architecture, interior architecture, landscape architecture or urban planning at a higher education institution (University).
- The course must last at least 4 years or 8 semesters full time.
- It must have been successfully completed.
- It must be a degree recognized in Germany or within the EU (e.g., proof of a diploma, an examination certificate or other appropriate evidence in the field of architecture) (see e.g., § 4 (1) *BauKaG NRW*, § 4 (1) *HessASG*<sup>37</sup>).
- 2 years, full time, practical training in that specialization (or adequate longer period of training where it was part time) (§ 4 (6) *BauKaG NRW*; § 4 (1) *HessASG*)

Also recognised is a study of at least three years or 6 semesters - full time - if the period of professional experience lasted at least four years.

Depending on the statute, exemptions may apply. For instance, some statutes include an exemption for persons without a university degree but with many years of relevant professional experience (autodidact regulation) or for persons who evidence special achievements in the field of architecture (genius regulation).

To some extent, the requirements for registration as “interior architect”, “landscape architect” or “urban planner” differ. Professional training and qualifications covered by Directive 2005/36/EC and Directive 2006/100 is equally recognised.

Whether a foreign degree is equal to a degree required under German law or European provisions will be examined separately by the competent Committee for Registration (e.g., § 4 (1), § 7 (5) *HessASG*, (see below). Under certain requirements, foreign architects (i.e., architects without a domicile or place of business in the relevant federal state) are entitled to bear the designations “architect” without being registered in the architects list of the relevant chamber as well. Generally, persons from non-European countries are entitled if they can evidence to bear an equal professional designation according the rules and regulations of their country-of-origin (§ 7 (5), (3) *HessASG*, § 7 (1) *BauKaG NRW*, § 4 (5) *ArchG MV*).

A foreign architect (i.e., architects without a domicile or place of business in the relevant federal state), who performs professional architectural services in a German federal state without being registered in the relevant chambers architects list has to notify the

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<sup>37</sup> *HessASG* = Architects and Urban Planner Act of Hesse.

<sup>38</sup> *BauKaG NRW* - Construction Chamber Act North Rhine-Westphalia.

chamber (e.g., § 7 (2) HessASG, § 7 (1) BauKaG NRW, § 4 (4) ArchG MV). Usually, chambers keep a separate list to register foreign architects.

To bear the professional title “architect”, “interior architect”, “landscape architect” or “urban planner” requires registration in the list of the relevant architects chamber. The special procedures are stipulated by the federal state architect’s statutes and regulations of the relevant architects chamber. The requirements vary from state to state. Therefore, only a general outline can be given:

- To become registered in an architects list the person has to apply at the competent architect’s chamber.
- The list an architect has to register depends usually on the place of the architects domicile, place of business or place of main professional activities (e.g., § 5 BauKAG NRW).
- At the architect’s chamber usually exists an independent Committee for Registration competent for decisions regarding the chamber’s architects list and companies list as well (*Eintragungsausschuss*, e.g., §§ 25 seq. BauKAG NRW).
- This committee examines the application of the architect and decides about the registration. Usually, the procedure is specified in an extra regulation for registration (*Eintragungsverordnung*)
- To become registered the applicant has to proof his qualifications (education and practical experiences). Besides evidencing the qualification some states require further evidences e.g., proof of the intention to fulfil the architects professional activities.
- Even if the applicant fulfils the required qualification, he will not automatically be registered. The Committee for Registration examines also, whether there are facts which give rise to refuse the registration of the applicant (*Untersagungsgründe*) for instance, unreliability of the person, financial instability or insolvency, criminal penalties (e.g., § 5 BauKAG NRW).

Generally, the deadline for decision is 3 month. Fees for registration are usually regulated by the chambers in a special scale of fees and vary from state to state. The specific amount depends further on the kind of registration. Generally, to register as “architect” the fee is about €250 - 350 Euro. However, further fees may be charged.

In addition to the lists for architects of different specialisations, the state chambers of architects usually keep a list or lists to register corporate bodies as well (see above).

### **3.3 Training/ Experience**

The requirements for practical training are determined in the single state statutes and regulations. Most, if not all, will require practical training within the professional working field of an architect. Within this

framework e.g., Hesse requires practical experience – lasting 6 month - on a building site (§ 4(3) *HessASG*).

### **3.4 Continuing Professional Development**

Continuing Professional Development is considered an important part of professional practice of architects in Germany. The architect's statutes of the German federal states usually determine vocational continuing education and training explicitly as one of the professional duties of an architect (e.g., § 22 (2) *BAuKAG NRW*). A failure to fulfil the CPD requirements is a violation of professional obligations and subject to sanctions under the relevant architectural statutes.

One of the strictest provisions are determined by the Chamber of Architects and Urban Planners of Hesse. The chamber requires their members to prove that they have undergone their continuing professional education. The chamber developed a "continuing education and training credit point system and keeps a "continuing education and training account" for each member. The account contains data on the number of continuing education and training credits earned, dates, duration and subjects of the courses attended and the number of credits for certain courses. The chamber enforces the provision against members who do not reach the required "credit points".

The strict compulsory programme was unsuccessfully contested in a recent court decision (Administrative Court Frankfurt a.M., 12 K 1239/08.F(1)). In this case the Chamber sanctioned a member and sentences him to a fine of €2000 because of his failure to fulfil his CPD-obligation.

The chambers of architects of each federal state and private (professional) organisations also offer and organise e.g., seminars, workshops, courses, and congresses.

Professional obligations, defined by the statutes of the German federal states, are generally applicable for foreign architects as well (e.g., § 7 § 22(4) *BauKaG NRW*, § 7 (5) *HessASG*))

### **3.5 Regulatory Authority**

As stated above, the law governing the architects' profession is federal state law. The federal states determine the competent institution, i.e. usually the Ministry responsible for business and business environment. The chambers of architects of each federal state are responsible for regulating the profession.

On a federal level, overall responsibility lies with the Federal Ministry of Economics and Technology and the Federal Ministry of Transport, Building and Urban Affairs.

For the Architects Chambers of each federal state see [www.bak.de](http://www.bak.de). The German Federal Chamber of Architects (*Bundesarchitektenkammer* (*BAK*)) is the umbrella organisation of the Architects Chambers of the



federal states. In 2002 it initiated the Architecture Export Network (*Netzwerk Architektorexport NAX*) which supports the architecture exchange international activities of architects, engineers and urban planners at a European and international level. See [www.architektorexport.de](http://www.architektorexport.de)

### **3.6 Fees.**

Fees for architects are regulated in the "Official Scale of Fees for Services by Architects and Engineers" (Architects and Engineering fee order, *Honorarordnung für Architekten und Ingenieure, HOAI*). It is based on the "Act for Improving Rent Legislation, Limiting Rent Increases and Regulating Services provided by Engineers and Architects", which authorised the federal Government – in agreement with the Federal Council – to pass a fee system for services offered by engineers (§ 1) and architects (§ 2).

The HOAI stipulates minimum and maximum fees for specific architectural services. It applies to all providers of architectural services covered by this regulation. The fee specifies in the HOAI are mandatory. Derogations are allowed only in limited cases. Fees agreed otherwise - by violating the fee system of the HOAI - are invalid.

A violation of the fee system may also regarded as an unfair commercial practice (§ 4 (11) UWG, Unfair Competition Act, see, e.g., LG Hamburg, 29.07.2008, 321 O 228/08). Fees for architectural services not included in the HOAI can be negotiated by the parties.

### **3.7 Bonding/Insurance/Financial Guarantees.**

Generally, to maintain a professional insurance is a professional obligation of architects statutorily defined by the German federal state architects laws (e.g., § 22 *BauArchKG NRW*). Further, architects' corporate bodies bearing the title "architect" are generally required to provide a professional insurance guarantee. For instance, Hesse requires a professional insurance guarantee for each insurance case of a minimum amount of €1 million (covering injuries of persons) and a minimum amount of €500.000,00 (covering material damages), (§ 6 (4) *HessASG*).

### **3.8 Federal Tax Law**

Architects may work as employed or self-employed architects. The profession is an independent profession in contrast to commercial business like building companies. Members of independent professions do not have to pay trade taxes.

### **3.9 Contacts**



<b>Architecture</b>	<b>Name:</b>	Bundesarchitektenkammer e.V. <i>Federal Chamber of German Architects (BAK)</i>	
	<b>Website:</b>	<a href="http://www.bak.de/">http://www.bak.de/</a>	
	<b>Address:</b>	Office Berlin Askanischer Platz 4 D – 10963 Berlin	Office Brussels Avenue des Nerviens 85 (bte 10) B – 040 Brussels
	<b>Contact:</b>	Mr. Dr. Thomas Welter <a href="http://www.bak.de/site/208/default.aspx">http://www.bak.de/site/208/default.aspx</a>	
	<b>Phone:</b>	0049 (0) 30 - 26 39 44 - 60	0032 - 2 - 219 77 30
	<b>Fax:</b>	0049 (0) 30 - 26 39 44 - 90	0032 - 2 - 219 24 94
	<b>Email:</b>	<a href="mailto:welter@bak.de">welter@bak.de</a> <a href="mailto:info@bak.de">info@bak.de</a>	<a href="mailto:info@arch-ing.org">info@arch-ing.org</a>

Bund Deutscher Architekten e.V. (BDA)

Alliance of *German Architects e.V.*

<http://www.bda-bund.de/der-bda.html>

Status: registered association

Vereinigung Freischaffender Architekten Deutschlands e.V. (VFA)

*Association of Freelance Architects in Germany e.V.*

<http://www.vfa-architekten.de/>

Status: registered association

Bund Deutscher Baumeister, Architekten und Ingenieure e.V. (BDB)

*Alliance of German Constructors, Architects and Engineers e.V.*

<http://www.baumeister-online.de/>

Status: registered association

## **B.4 Italy.**

### **4.1 Designation/ Title:**

The designation or title is protected under Italian Law by Law n.1395 of 21/06/1923 ("Protection of the title and of the professional practice of Engineers and Architects). Only those registered with the professional association can bear this title. A person providing those services without the official designation will be subject to prosecution.

There are two sections of the profession. For those having a Bachelor degree there is section B. For those having a Master degree there is section A. This is the same as for accounting and architecture.

### **4.2 Qualifications.**

To become a member of the professional association there is a professional examination. To do the professional examination it is necessary to have a university degree in the specific field, The name of the professional examination is "*Esame di stato di abilitazione all'esercizio della professione di Architetto*".

The academic title must have been issued by a State University or by a university recognized by the State. The professional examination can be taken at any site where it is available but the registration procedure can be forwarded only in the professional association of the province where the engineer lives or has his/her professional domicile.

In accordance with the EC Directive 2005/36/CE, adopted into Italian Law by *D.lgs. 9/11/2007 n.206* equivalent qualifications obtained in other EU or EEA States must be recognised. As far as the mutual recognition of non-EU/EEA qualifications is concerned, the request for the acknowledgment of the qualification must be sent to the Ministry of Justice.

The process of the application for acknowledgment is different depending on whether the application is submitted by a foreigner regularly resident in Italy or by a foreigner sending the application from abroad,

and who intends to use the recognition of professional titles in order to obtain a visa to enter Italy for self-employment. In the latter case, the foreigner must apply to the Ministry of Justice for a statement that there are no reasons obstructing the issue of the license enabling the exercise of professional activity.

Among other things, it is expected that the educational and professional titles to be approved, should be submitted in one original copy and legalized by the competent Italian diplomatic mission or consular post in the country in which the document was formed. The grant of approval is also dependent on the Government quota for the number of foreigners admitted each year into the national territory.

### **4.3 Training/ Experience**

There is no special training requirement to qualify for membership of the profession and Continuing Professional Development is not mandatory.

### **4.4 Regulatory Authority**

The Ministry responsible for regulating the profession is the Department of Justice. The professional body is the Architects, Planners and Landscape Architects Professional Association (*Ordine degli Architetti, Pianificatori, Paesaggisti e Conservatori*). Though membership is not technically compulsory it is a requirement to sign project. It is compulsory for those acting as an independent professional.

There are rules referring to the type of activity that a member of the professional association can provide depending on whether they are registered in section A or section B. D.P.R. 328/01 defines those skills.

There is a professional code of conduct (*Codice deontologico Architetti*). The disciplinary body for the profession is the National Council of Architects, Planners and Landscape Architects.

## **B.5 Malta.**

- **5.1 Designation/ Title:**

The title and designation of the profession of architect is protected in law. Architects and Civil Engineers are united under one professional title. The profession of a “*perit*” is regulated by the Periti Act Chapter 390 of the Laws of Malta where it is defined in Art 2 as that which involves the assumption of the responsibility for the design and, or, construction of building works, including works in architecture and civil and structural engineering. Art 3(1) of the same Act provides that no person can practice this profession unless he is the holder of a warrant under Art 5.

- **5.2 Qualifications**

This is set out in Art 3 (2) of the Periti Act which states that a person shall not qualify for the award of a warrant unless he/she:

- is a citizen of Malta or of a Member State otherwise permitted to work in Malta under any Law;
- is of good conduct;
- is of full legal capacity;
- satisfies the Board (Bord tal-Warrant tal-Periti) that:-
  - He/she is in possession of academic qualifications obtained after successful completion of a course of study of at least four years full time duration or the equivalent at the University of Malta or such other University or academic institution as may be recognised for the purpose by the Board after having consulted the Kamra, which contains those minimum core subjects in the fields of architecture and civil engineering , as the Minister may, after consulting the Kamra, prescribe;
  - For a period of not less than two years after the obtaining the academic qualifications referred to in (a) he has trained in Malta under the supervision of a practising warrant holder, in accordance with such guidelines as the Minister may, after consulting the Kamra , prescribe. Where the academic qualifications referred to in (a) are obtained after a course of five years full-time duration or more or its part-time equivalent, the period of training required is reduced to one year. With the approval of the Board, the training may, for period not exceeding one year out of the two years required, be undertaken in a State outside Malta with a professional in related disciplines, duly qualified to practice in such a state.
  - Has been duly examined and approved by the Board in an examination or examinations for the purpose, as the Minister may, after consulting the Kamra, prescribe.

The Board may exempt a person who obtained the academic qualifications from the University of Malta or from such other University or academic institution approved for the purpose by the Board after consulting the Kamra, from all or part of the examination or examinations

Art 4 lists special circumstances where the Board may consider applications for the granting of a warrant. A person who possesses the qualifications listed above may be granted a warrant, if the Board is satisfied that such person is in possession of an academic degree obtained after the successful completion of a course of studies in architecture, civil engineering or related disciplines as at university or equivalent academic institution, and such person has, where the course of studies in the opinion of the Board, was of a lesser duration than four years' studies, or equivalent part-time duration, or did not contain

those minimum subjects in the fields of architecture, civil engineering as prescribed by the Minister has undertaken practical training for a period of not less than six months and not more than three years as the Board may establish from case to case, under the certified supervision of a practising warrant holder, in accordance with such guidelines as the Minister, after consulting the Kamra, may prescribe. The Board may also require such a person to undergo such tests in such subjects which it may deem necessary.

The Act provides that two or more warrant holders can form a partnership of warrant holders having for its exclusive objective to practice the profession.

- **5.3 Continuing Professional Development.**

The Kamra tal-Periti does offer training programmes and other educative events to its members. In fact its strategic objective is to support members of the profession in achieving excellence in their practice of architecture and engineering in the interest of the community.

- **5.4 Regulatory Authority**

The Ministry for Resources and Rural Affairs has overall responsibility for regulating the profession. The professional association is Kamra tal-Periti. Membership is not compulsory. It provides membership through corporate partners, training programmes and events. The warrant is issued by the Bord tal-Warrant tal-Periti as established by law.

## **B.6 Netherlands.**

### **7. 6.1 Designation/ Title:**

The professional titles of architect, townplanner, landscape architect and interior architect are protected by the Architects Title Act of 1987. Only those who are registered in the Architects Register may use one of these titles. Abuse of the title is punishable by law and can lead to the person being disbarred. Yet registration with the Stichting Bureau Architectenregister or "SBA" (Registry of Architects) is not compulsory.

There are specialist sub-designations within the profession such as town planner and interior architect. The professional association is known as the '*Koninklijke Maatschappij tot Bevordering der Bouwkunst Bond van Nederlandse Architecten*' or the Royal Institute of Dutch Architects ("BNA"). Though not compulsory, the vast majority register with the BNA. Membership is for individual professionals not corporate bodies.

### **8. 6.2 Qualifications**

In order to be registered with the SBA, the entrant to the profession must be a holder of a diploma in architecture, townplanning, landscape

architecture or interior architecture in the Netherlands. Those who studied in another EU Member State or in Iceland, Liechtenstein, Norway or Switzerland, can also be registered if their diploma is in conformity with the EC Architects Directive or with the EC Directives on a General System for the recognition of professional qualifications.

Those from non-EU/EEA States who studied outside of the EU/EEA, Netherlands Antilles and Aruba may be registered if their diploma is recognized by the competent Dutch Minister. An application form for registration can be downloaded by clicking the button FORMULIER under INSCHRIJVING or is obtainable from the SBA at [info@architectenregister.nl](mailto:info@architectenregister.nl). An initial registration fee of € 59 has to be submitted. This fee covers the admission process only. For registration an annual fee of € 55 has to be paid.

### **9. 6.3 Training/ Experience**

Technically, there is no specified work experience requirement to be registered with the SBA but there are proposals to introduce a 2 year work experience requirement. To become a member of the BNA the applicant must show evidence of sufficient experience in practice.

### **10.6.4 Continuing Professional Development**

There is no statutory requirement for this and neither is it a requirement of the SBA or for members of the BNA. However, this is currently being considered.

### **11.6.5 Regulatory Bodies**

The Ministry responsible for regulating the profession is the Ministry of Housing, Planning & Environment. The SBA maintains the registry of architects and the BNA is the professional association. The BNA currently has At present the BNA has over 3000 members, representing some 1500 practices. Roughly 75% of Dutch practices are associated with the BNA through the membership of one or more of their architects.

Re foreign architects practising in the Netherlands the BNA advises:

*"Foreign architects first entering into practice in this country are strongly recommended either to work in a Dutch office for a while or to enter into partnership with a Dutch colleague. A local partner will be familiar with the national legislation and local regulations, can provide invaluable contacts and give guidance on unwritten rules. If you intend to enter into a contract for a single project, you may find it useful to ask the BNA for their framework contract which has been translated into English. The BNA will be glad to assist in finding a suitable partner for the job and give you further advice".*

## **B.7 Spain.**

### **12.7.1 Designation/ Title:**

Whilst the title itself is not protected in law there are certain services that can only be performed by persons who hold that title. As an independent professional one needs to be a registered member of the professional association, Consejo Superior de Colegios de Arquitectos de España (High Board of Official Colleges of Architects). See <http://www.cscae.com>

This is the integrated quasi-public body for all the Official Colleges of Architects in Spain. (There is a College in each Spanish Province; these are grouped into Regional Boards, and all of them are integrated in the national board). The national "college" provides unitary representation and defence of the architectural professional as well as the Architecture Colleges and their Regional Boards. They also seek to effect the Principle of Equal Treatment of Architects and their freedom to practice throughout Spain.

Although an individual architect can work within a company without being a registered member of the professional association, he/she cannot sign projects. Anyone providing services without the official designation is liable to be prosecuted by ordinary justice. In fact, you cannot work without the permission, because you cannot get the official registration stamps in the architecture projects (mandatory for any work) if you are not a registered member.

A corporate body can be designated a member of the professions or become a member of the professional association if the firm meets the following conditions:

- All associates and/or shareholders must be individuals (i.e. no parent companies or associations as business partners).
- The majority (at least 51%) of the associates or shareholders must be registered in a related College.
- The majority of managers and administrators must be registered in a related College.
- Must present the necessary forms at the Official College (or colleges) and pay the initial and annual fees to be a member.

### **7.2 Qualifications:**

In order to become a member of the profession, the entrant must have a university degree in architecture of 5 years duration and have completed a final practical project. The latter may take between 1 and 2 years. The architect must have professional indemnity insurance and pay a fee to the official College (Colegio Oficial de Arquitectos).

A person can become a technical expert (assistant to the architect or engineer), responsible of supervising practical works, budgets, etc. after having studied architecture for three years at a university. He/she is eligible for membership of the Colegio Oficial de Arquitectos técnicos.

### **7.3 Continuing Professional Development .**

Whilst the statutes establish Continuing Professional Development as a 'must', for the profession, the regulations for it are still undeveloped. However, the Official Colleges provide a lot of education programmes, especially regarding new technologies and methods.

### **7.4 Regulatory Authority**

Nationally, the profession comes within the responsibility of the Ministry of Public Works. In addition there is the quasi-public body, the Consejo Superior de Colegios de Arquitectos de España (High Board of Official Colleges of Architects). <http://www.cscae.com>.

Architects must display their name and surname, title and college membership number on all stationery.

### **7.5 Restricted Services**

Any building project, restoration, civil work, etc. must be signed by a registered professional. The project is then presented at the Official College for checking and thereafter presented to the local authorities to get the appropriate permission. The "visa" system in Architecture and Engineering projects is a requirement that guarantees the identity, qualifications and the capacity of professional to execute the job. It also credits the authentication, registration, correction of formal submission of documents and its concordance to current rules and legal requirements, as a matter of public protection.

### **7.6 Code of Ethics**

The Ethical Code of Practice for Architects (in Spanish) is set out at [http://www.cscae.com/normativas\\_colegiales/documentos/normas\\_deontologicas.pdf](http://www.cscae.com/normativas_colegiales/documentos/normas_deontologicas.pdf).

## **B.8 United Kingdom.**

### **2. 8.1 Designation/Title**

The designation and title are protected in the UK. It is illegal for a person to represent him/herself as an architect if he/she is not registered with the Architects Registration Board (ARB) under the Architects Act 1997 as amended. The exceptions are "naval architect", "landscape architect" and golf-course architect". A corporate body can also act as an architect provided that its business so far as it relates to architecture is under the control and management of a registered person who does not act at the same time in a similar capacity for any other body corporate, firm or partnership; and in all premises where its



business relating to architecture is carried on it is carried on by or under the supervision of a registered person.

### **3. 8.2 Qualifications**

Qualifying as an architect in the United Kingdom involves a combination of academic studies and professional experience within a practice. It usually takes a minimum of seven years to complete.

ARB publishes criteria, which set out the minimum levels of awareness, knowledge, understanding and ability that students of architecture must acquire at key stages in the process of qualifying as an architect. These criteria form the basis upon which ARB makes decisions as to whether or not qualifications can be prescribed. The underlying framework for the criteria are Articles 3 and 4 of European Union Council Directive 85/384/EEC, the Architects' Directive. That Directive sets minimum requirements for the length and core areas of study for architectural qualifications across the European Union. This is to facilitate mutual recognition of those qualifications and to facilitate the right of establishment and freedom to provide services across the European Union. ARB is the Competent Body for the Directive in the UK and as such has responsibility for ensuring that all UK qualifications for the practice of architecture comply with the requirements of the Directive.

The ARB sets out a list of prescribed courses that it has validated for entry onto the register. These may be found at;

<http://www.arb.org.uk/education/schools-of-architecture-offering-prescribed-qualifications.shtml>

The ARB and the Royal Institute of British Architects (RIBA) have agreed to hold these criteria in common. RIBA also validates courses at over 40 schools of architecture in the UK. The entry requirements and the type of courses vary from school to school. Most provide courses of studies based in a studio for design work, or tutorials and 'crits' (critiques). The "crit" is where the student presents his/her design project work to tutors (and other students) who provide feedback. The courses also usually include history, theory and technology lectures and computer aided design tutorials. Some provide opportunities for hands-on building projects; and some also offer specialist areas of study.

RIBA provide an alternative route to qualification by examination for office-based candidates. The programme involves self study and distance learning and is open to candidates at Part 1 and 2 level who have a minimum of three years work experience in architectural practice. Part 1 is normally completed in four years, and Part 2 in a minimum of two years. Candidates remain in practice full-time for the duration of the programme. The programme is delivered in partnership with the School of the Built Environment at Oxford Brookes University. Further information and the full range of entrance requirements can be found on the webpages of Oxford Brookes University.

Those who have studied or qualified to be an architect outside the UK need to have their qualification(s) assessed for equivalence to the UK Parts 1 & 2 by the Architects Registration Board (ARB). The RIBA recognises ARB recommendations at this stage. They will then be able to progress their studies on a recognised Part 2 course; or undertake a Part 3 qualification once they have met the required criteria.

The Directive 2005/36/EC of the European Parliament and of the Council on the Recognition of Professional Qualifications came into force from October 2007.

Under the provisions of the EC Architects' Directive/EEA Agreement, EU and EEA architectural qualifications may be accepted in the United Kingdom by the Architects Registration Board (ARB). Those that are recognised need not sit the Part 3 Professional Practice Examination in order to register. However, the RIBA recommends that EU Architects do still undertake Part 3 as a useful introduction to UK building legislation and contracts.

EU qualified architects may join the RIBA after a period of five year's approved professional practice in the European Union, as documented by a comprehensive curriculum vitae. However, in order to reduce this required period of professional experience, EU qualified architects who undertake and pass a recognised UK Part 3 examination may join RIBA immediately afterwards.

Architects qualified outside of the European Union must undertake assessment with the Architects Registration Board (ARB) to gain equivalence to Parts 1 and 2 and complete a minimum of 24 months experience (including 12 months in the UK) before they can undertake Part 3 and join the ARB register. The ARB has published a set of guidance booklets for those who qualified outside the EU/EEA and want to be registered. These may be found at:

<http://www.arb.org.uk/registration/applying-for-reg-world.shtml>

#### **4. 8.3 Training Requirements**

Architecture students are required to undertake a minimum of two years professional experience in architectural practice, before becoming eligible to complete their qualification by taking a recognised examination in Professional Practice and Management (Part 3):

- The first period of experience normally takes place between the degree and diploma stages of the academic programme and is known as Stage 1 Professional Experience.
- The second period should take place after the end of the diploma/Part 2 and is known as Stage 2 Professional Experience or Post Part 2 Experience

The RIBA Examination in Professional Practice and Management (Part 3) assesses applied professional knowledge, skill and judgement. The

candidate's professional experience is the core element which is assessed thoroughly at this stage by professional examiners. Part 3 is the final qualifying examination for architects and entitles successful candidates to register with the ARB, to use the title 'architect' and to join the RIBA as a Chartered Member. The regulations for Part 3 may be found at:

<http://www.architecture.com/Files/RIBAProfessionalServices/Education/Part3/Part3Regulations.pdf>

## **5. 8.4 Continuing Professional Development**

The obligation to maintain professional competence is set out in guidelines issued by the ARB. Section 9 of the Architects Act 1997 requires that architects demonstrate competence to practise. In addition, Standard 6 of the Architects Code provides that 'Architects should maintain their professional service and competence in areas relevant to their professional work, and discharge the requirements of any engagement with commensurate knowledge and attention.' The ARB has defined what this means in Standard 20:

*"For the purposes of Section 9(1) the prescribed practical experience shall be that such a person shall have undertaken sufficient activities including continuing professional development and active engagement in the practice, or teaching or study of architecture, during the period of two years immediately prior to the application (or in the case of a person who falls within the categories described in Section 9(1)(b), the date upon which the retention fee is due), in order to maintain competence to practise in accordance with the Board's guidelines which shall be published from time to time".*

## **C. Engineering:**

### **C.1 Estonia.**

There is no legal regulation of the engineering professions or trade other than the law as stated above on the setting up in business which applies to businesses in general. Some of the activities of engineers are regulated but apply to whoever undertakes that work whether they call themselves an engineer or not.

There are a number of professional associations that promote the interests of their members. Most notably, the Estonian Association of Civil Engineers. This was founded on 9 February 1991 by 124 founders. It is a voluntary and non-profit association for civil engineers. Its goals are to:

- forward the development of construction;
- be a connecting link between university trained engineers active in construction;
- protect the common interest of the membership;
- develop the proficiency of the membership;

- take part in formation of civil policy in technics, science and education;
- advance the foreign relations of the EEL and its membership.

Estonian Association of Architectural and Consulting Engineering

Companies website:

<http://www.epbl.ee/modules.php?name=Content&pa=showpage&pid=59>

## **C.2 France.**

As in Estonia, there is no legal regulation of the engineering professions or trade other than the law as stated above on the setting up in business which applies to businesses in general. Some of the activities of engineers are regulated but apply to whoever undertakes that work whether they call themselves an engineer or not. The title "engineer" is not legally protected as such.

The academic qualifications awarded in engineering are protected by the relevant educational establishment and by the Ministry of Education. Only a certain number of schools are authorised to deliver engineering degrees. The Law of 10 July 1934 applies to these qualifications.

As the engineering profession is not regulated per se, there are no legally protected sub-professions e.g. chemical engineer, sound engineer etc. Those specialisms are recognised in practice through the academic qualification, the status of the academic institution and by reputation and experience.

Foreign qualifications or prior experiences are recognized by the VAE system. Each person who has an experience as an engineer in his country can register with one of the schools which are authorised to deliver the title of "engineer". The school will tell him or her the further courses and the complementary experiences he/she needs to perform in order to acquire the degree.

Given that protection of the status of the profession is through academic qualification the Ministry of Education is the relevant national body responsible for engineering qualifications. There is no overarching professional association to which all engineers belong. Most engineers' associations are associations of former students of a certain school. These are conjoined in a federation. That association is the CICF. It has a national committee (the CTI) which advises the Ministry of National Education on the criteria for accrediting schools to provide degrees in engineering.

Membership of a professional association is not compulsory and it doesn't provide any particular privilege.

There is no prohibition against engineers being in multi-disciplinary business entities. Indeed, most engineers are employed by companies that employ people from a range of professions and trades.

- <http://www.cnisf.org/>
- <http://www.cicf.fr/>
- <http://www.syntec-ingenierie.fr/fr/accueil>

### **C.3 Germany.**

#### **3.1 Designation/ Title:**

The title "*Ingenieur*" (*Engineer*) is protected is so far protected by law of the 16 different federal states of Germany. (According to § 2 sample Engineer Act, agreed upon at the conference of ministers for economic affairs on the 10<sup>th</sup> /11<sup>th</sup> of December 2003) it is planned to be protected by federal law.

In order to meet the laws and regulations, especially for activities in Civil Engineering e.g. according to State Construction Acts, the applicant must give proof of a degree in the field of civil engineering in order to be permitted to perform reserved professional tasks. The applicant must also register for inclusion on a special list at the competent state professional association. The competent public authority must prohibit any professional activities of service providers which do not have the necessary specialist knowledge.

Additionally: using the above mentioned title and designation against those rules constitutes the statutory offence of misuse of titles and designations, § 132 a penal code (StGB).

There are about 90 different sub-designations/disciplines of Engineering including Agronomy Engineering, Chemical Engineering, Civil Engineering, Economic Engineering, Electrical Engineering, Mechanical Engineering, Shipbuilding Engineering etc. For the statistical purposes of the Federal Chamber of Engineers in Germany engineering offices are divided in groups of economic fields such as:

- Engineering offices for constructional overall planning,
- Engineering offices for technical special planning,
- Engineering offices for Industrial design,
- Engineering offices for constructional special expertise,
- Engineering offices for technical-economical consultancy,
- Engineering surveying offices.

Engineers may also be active either as Consulting Engineer (Beratender Ingenieur) and / or Publicly Certified Expert (Sachverständige/-r). The title "Engineer" associated with their discipline is legally protected for all engineers. Additionally, the title "Consulting Engineer" is regulated and special protected by State Engineer Acts.

In order to gain that special protected title as "Consulting Engineer" an Engineer must fulfil special criteria, will be registered on a special list at

the competent Engineer Association of her/his State and thus get open access to reserved tasks. E.g., according to § 8 of the State Engineer Act of Mecklenburg- Western Pomerania (IngG MV) to be listed and practice as "Consulting Engineer" following qualifying criteria are required:

- Candidate must be domiciled and have professional branch in Mecklenburg – Western Pomerania or mainly professionally practice in MV.
- Candidate must legally hold the title "Engineer" (see above qualifications).
- Candidate has to be self-responsible and independent.
- Candidate has to prove professional practice of at least 3 years.

In order to comply with an EU-directive on professional qualifications the Federal Chamber of Engineers has to establish a federal register for engineers and their specialized and authorized fields.

According to the State Engineer Acts corporate bodies, e.g. companies with limited liabilities and partnership companies can become a member of the profession, but not of the professional association. They can be listed in a special register for corporate bodies at the Competent State Chamber of Engineers in order to hold the title "Consulting Engineers" in the name.

### **3.2 Qualifications:**

E.g., according to § 1 of the State Engineer Act of Mecklenburg-Western Pomerania (*IngG MV*), to become a member of the profession and obtain the title "Engineer" by itself or in word order a person must:

- have either successfully completed studies mainly in a Member State of the European Union:
  - of at least 3 years at a state university or officially recognized university; or
  - at another public or officially recognized vocational institution with equivalent standards and obtained a diploma with the designation "Engineer" by itself or in connection with other words.
- have 3 years of professional experience as Engineer, certified by a Member State of the European Union after successfully completed studies in the sense of (a) in a third country, which were officially recognized by the Member State of the European Union.
- have acquired an education in the European Union, which is officially recognized as equivalent to the studies stated in (a) by a Member State of the European Union.
- be entitled – without diploma - to hold the designation "Engineer" or a similar designation by the law of a Member

State of the European Union, proven with a certificate of the Member State of the European Union.

Qualifications must be acquired at a university, a technical university, a college of advanced technology, a college of applied science, a professional academy or an equivalent institution.

Other State Engineer Acts of Germany contain similar provisions.

According to the Bologna Process most universities (*Universität - U*), technical universities (*Technische Universität - TU*) and colleges of applied science (*Fachhochschule - FH*) and professional academies (*Berufsakademie - BA*) now offer next to the diploma courses with the degree and an award of the title *Diplom-Ingenieur* studies with the degree of Bachelor of Engineering, Master of Engineering or Bachelor of Science and Master of Science. The Masters Degree is an equivalent degree of the German diploma.

Registration fees to become a compulsory member differ between the State Chambers and cost about €100-150. In addition an annual contribution between €355–600 is due.

According to the State Engineer Laws foreign diplomas and engineers are officially recognized and persons are entitled to use the designation "Engineer", if forwarding an application to the competent authority and give proof of a successfully completed education at a foreign university or a similar foreign educational institution equivalent to the ones stated under (a) –(d) above.

If the foreigner is not German and not a citizen of an EU-Member-State, the permit may be denied if mutual recognition is not granted. So far mutual recognition of foreign qualifications within the EU is covered by the "General System for the Recognition of Professional Qualifications". If somebody acquired a diploma in a non-EU country and if this diploma has already been recognized in a Member State of the EU and if, in that Member-State the person has pursued the occupation in question for either two or three years, depending on the circumstances, this diploma may be recognized in Germany.

FEANI, the European Federation of National Engineering Associations, is a federation of professional engineers that unites professional engineering associations from 29 European countries. It represents the interests of 3.5 million professional engineers in Europe. Through its activities, especially the attribution of the EUR ING professional title, FEANI aims to facilitate the mutual recognition of engineering qualifications in Europe and to strengthen the position, role and responsibility of engineers in society. The General Secretariat of FEANI, managing the activities of the federation, is located in Brussels since late 1997. The contact details are :



FEANI AISBL, avenue Roger Vandendriessche 18, B-1150 Bruxelles.  
Tel.: +32 2 639 0390, Fax: + 32 2 639 0399

Once qualified, the candidate can use the particular designation in relation with name, e.g. Dipl.-Ing. (FH) or (BA) etc. as designation of Diplom-Ingenieur with a degree of a university of applied science (Fachhochschule) or professional academy (Berufsakademie).

### **3.3 Continuing Professional Development.**

According to State Engineer laws continuing education is obligatory for members and Publicly Certified Experts. Conditions of this obligations and its control is ruled differently in the 16 Engineer Chambers. Most State Engineer Laws provide that continuing professional development is obligatory as part of the professional duties of members of the Chamber of Engineers without further conditions and rules. At the end it is left to the members to organize their own education.

Some Chambers provide rules about how many hours per year a member has to attend education courses. The amount of hours varies between 6 – 12 hours within two years and attended courses and the amount need to be proven by members if asked for. In some states members may only attend courses approved and authorized by the chamber.

### **3.4 Regulatory Authority**

Depending on State Law the State Ministry of Science and/or Education is responsible for regulating the qualification for the profession in its state. The State Ministries supervise the activities of the competent State Chamber of Engineers.

There is one Federal Chamber of Engineers of Germany, located in Berlin, as an overall representative of about 43.000 engineers. In addition there are 16 regional State Chambers of Engineers in each of the federal states of Germany, located in the capital of each state. Four state chambers refer to Civil Engineers only. They call themselves "Chambers of Construction".

The Federal Chamber of Engineers is a registered private association. The 16 State Chambers are organized as self-governing legal persons of public law, established by law and thus quasi public bodies. The organs of the Chambers of Engineers include the General Assembly, the Board and mostly the Authorization Commission.

The Chambers of Engineers are open to all self-employed and employed engineers, except the above mentioned four "Chambers of Construction". Membership is compulsory for Engineers listed in special registers at the State Chambers of Engineers (Register of Consulting Engineers – *Beratender Ingenieur*, Register of Structural Engineers (*Tragwerksplaner*), Register of Fire Protection Engineers



(*Brandschutzplaner*), Register of Chartered Engineers (*bauvorlageberechtigte Ingenieure*). In order to follow the laws and regulations, especially for activities in Civil Engineering - the State Construction Acts - it is necessary to be registered at the competent State Chamber.

All non-registered Engineers may become members after forwarding an application at the competent Chamber of the State, in which the candidate is domiciled or wants to open the branch or mainly provide the professional services.

Voluntary members have to prove professional practice of at least 2 years. For voluntary members a registration fee differing between the State Chambers of around €50 is to be paid. Additionally an annual contribution between €80–350 is due.

There are about 16.000 Consulting Engineers as mandatory members and over 20.000 voluntary members in Germany. The privileges of membership are professional (international) exchange between members, supporting engineers competition and contribution to the professional development and further education of civil engineers and finally a special pension scheme.

The universities or universities of applied science or equivalent educational institutions generally issue the certificate / diploma of the profession. Next to the rules about holding the title "Engineer" there are further rules about displaying the ownership of offices and companies in business stationary, at business premises and on websites online.

According to §§ 11 a – c State Engineer Act (*IngG MV*) companies, foreign companies and partner companies are allowed under special circumstances to hold the title "Consulting Engineers" in their firm name. Apart from that no special rules exist governing the type of business of the service provider.

### **3.5 Restricted Services**

There are legal requirements to make it compulsory for some tasks, to engage Consulting Engineers or Publicly Certified Experts. For instance the authorization for signing building plans is governed by the federal construction acts. In all Chambers engineers specialized in construction engineering are generally authorized to sign building plans. In some states engineers have to be a member of the Chamber as a further condition. Occasionally additional memberships in several Chambers are necessary. In case an engineer is not a member of a Chamber in one State, a listing in the Chambers list of authorized engineers is required in the other states.

### **3.6 Fees**

The fees of engineers are regulated in the "Official Scale of Fees for Services by Architects and Engineers" (*Architects and Engineering*

*fee order, Honorarordnung für Architekten und Ingenieure, HOAI*). It is based on the "Act for Improving Rent Legislation, Limiting Rent Increases and Regulating Services provided by Engineers and Architects", which authorised the federal Government – in agreement with the Federal Council – to pass a fee system for services offered by engineers (§ 1) and architects (§ 2).

The HOAI stipulates minimum and maximum fees for specific engineering services. It applies to all providers of engineering services covered by this regulation. The fee specified in the HOAI is mandatory. Derogation is allowed only in limited cases. Fees agreed otherwise – by violating the fee system of the HOAI – are invalid.

A violation of the fee system may also be regarded as an unfair commercial practice (§ 4 (11) UWG, Unfair Competition Act, see, e.g., LG Hamburg, 29.07.2008, 321 O 228/08). Fees for engineering services not included in the HOAI can be negotiated by the parties.

### **3.7 Bonding/Insurance/Financial guarantees.**

Indemnity insurance is obligatory for Consulting Engineers. Depending on regional legislation a minimum coverage may not be required everywhere. A Guideline for unified Engineer Chamber-regulation recommends a minimum insurance amount of €1.5 million covering personal damage and €300,000 covering property loss.

### **3.8 Contacts**

<b>Engineering</b>	<b>Name:</b>	Bundesingenieurkammer e.V. (BIngK)  <i>Federal Chamber of Engineers of Germany (BIngK)</i>
	<b>Website:</b>	<a href="http://www.bingk.de">http://www.bingk.de</a>
	<b>Address:</b>	Charlottenstraße 4  D – 10969 Berlin
	<b>Contact:</b>	Mr. Thomas Noebel (Head)  Mr. Jost Haehnel (Head of Communication)
	<b>Phone:</b>	0049 (0) 30 - 2534 2900

	<b>Fax:</b>	0049 (0) 30 - 2534 2903
	<b>Email:</b>	<a href="mailto:info@bingk.de">info@bingk.de</a>

## **C.4 Italy.**

### **4.1 Designation/Title**

The designation or title is protected under Italian Law by Law n.1395 of 21/06/1923 ("Protection of the title and of the professional practice of Engineers and Architects). Only those registered with the professional association can bear this title. A person providing those services without the official designation will be subject to prosecution.

There are two sections of the profession. For those having a Bachelor degree there is section B. For those having a Master degree there is section A. This is the same as for accounting and architecture. Both sections includes three specialist-designations, which are: civil engineering; industrial engineering; and informatics engineering

### **4.2 Qualifications.**

To become a member of this professional association there is a professional examination. To do the professional examination it is necessary to have a university degree in the specific field.

The academic title must have been issued by a State University or by a university recognized by the State. The professional examination can be taken at any site where it is available but the registration procedure can be forwarded only in the professional association of the province where the engineer lives or has his/her professional domicile.

In accordance with the EC Directive 2005/36/CE, adopted into Italian Law by *D.lgs. 9/11/2007 n.206* equivalent qualifications obtained in other EU or EEA States must be recognised. As far as the mutual recognition of non-EU/EEA qualifications is concerned, the request for the acknowledgment of the qualification must be sent to the Ministry of Justice.

The process of the application for acknowledgment is different depending on whether the application is submitted by a foreigner regularly resident in Italy or by a foreigner sending the application from abroad, and who intends to use the recognition of professional titles in order to obtain a visa to enter Italy for self-employment. In the latter case, the

foreigner must apply to the Ministry of Justice for a statement that there are no reasons obstructing the issue of the license enabling the exercise of professional activity.

Among other things, it is expected that the educational and professional titles to be approved, should be submitted in one original copy and legalized by the competent Italian diplomatic mission or consular post in the country in which the document was formed. The grant of approval is also dependent on the Government quota for the number of foreigners admitted each year into the national territory.

#### **4.3 Training/ Experience**

There is no special training requirement to qualify for membership of the profession and neither is Continuing Professional Development - CPD mandatory.

#### **4.4 Regulatory Authority**

The Ministry responsible for regulating the profession is the Department of Justice. The professional body is the Engineers Professional Association (*Ordine degli Ingegneri*). It is a body of public law. Whilst technically membership is not compulsory, only those that are members can sign a project. The National Council of the Engineers Professional Association issues the certificate to practice as an engineer.

An engineering firm can be multidisciplinary (Legge n.248/2006)

There is the professional code of conduct (Prot. CNI n. 8991 of 07/01/1999), available at <http://www.cni-online.it/documenti/dv05685.htm>.

#### **4.5 Restricted Services**

There are rules referring to the type of professional activity that a member of the professional association can provide according to the registration in section A or Section B (see Designation/Title). These rules are laid down under D.P.R. 328/01 which establishes a differentiation between the professional skills of those registered in the two sections.

For those members in Section A the activities involve the use of advanced methodologies, innovative or experimental design, management, estimation and testing of structures, systems and processes, complex or innovative, distributed among the subscribers to the various sectors in the following way:

- Sector "civil and environmental engineering": planning, design, development, management, estimation, testing, management and evaluation of environmental impact of

buildings and facilities, infrastructure, spatial and transport of works for protection of soil and the cleaning and purification, geotechnical works, systems and civilian installations and the environment and the territory.

- Sector "Industrial Engineering": planning, design, development, management, estimation, testing, management, environmental impact assessment of machinery, industrial equipment, facilities for production, processing and distribution, systems and processes industrial and technological equipment and instrumentation for diagnostics and for medical and surgical therapy.
- Sector "Informatics engineering": planning, design, development, management, estimation, testing and management of equipment and electronic systems, automation and power generation, transmission and processing of information.

For those members in Section B the activities are distributed in the following areas:

- "Civil environmental engineering": activities based on science, sometimes in competition and cooperation in the activities of design, supervision of works, estimation and testing of building construction including public works, planning, supervision of works, supervision, accounting and settlement relating to civil simple, using standardized methods, direct measurements on construction equipment and current and historical measurements and geometry of any kind.
- "Industrial Engineering": activities based on science, sometimes in competition and cooperation in the activities of design, management, estimation and testing of equipment and facilities, including public works, the direct and instrumental measurements of technical related machinery and equipment, activities that involve the use of standardized methodologies, such as the design, management and testing of individual organs or of individual components of machines, equipment and systems, and systems and processes of type simple or repetitive.
- "Informatics engineering": activities based on science, sometimes in competition and cooperation in the activities of design, management, estimation and testing of equipment and electronic systems, and automation of generation, transmission and processing providing information, direct and instrumental measurements of technical facilities and related electronic systems, activities that involve the use of standardized methodologies, such as the design, management and testing of individual organs or components of instruments and electronic systems, automation and generation, transmission and processing of information, and systems and processes of type simple or repetitive.

#### 4.6 Fees.

The minimum fee charges were abolished by *Legge n.248/2006*.

#### C.5 Malta.

- 
- **5.1 Designation/ Title:**

The title and designation of the profession of engineer is protected in law. Architects and Civil Engineers are united under one professional title. The profession of a "perit" is regulated by the Periti Act Chapter 390 of the Laws of Malta where it is defined in Art 2 as that which involves the assumption of the responsibility for the design and, or, construction of building works, including works in architecture and civil and structural engineering. Art 3(1) of the same Act provides that no person can practice this profession unless he is the holder of a warrant under Art 5.

- **5.2 Qualifications**

This is set out in Art 3 (2) of the Periti Act which states that a person shall not qualify for the award of a warrant unless he/she:

- is a citizen of Malta or of a Member State otherwise permitted to work in Malta under any Law;
- is of good conduct;
- is of full legal capacity;
- satisfies the Board (Bord tal-Warrant tal-Periti) that:-
  - He/she is in possession of academic qualifications obtained after successful completion of a course of study of at least four years full time duration or the equivalent at the University of Malta or such other University or academic institution as may be recognised for the purpose by the Board after having consulted the Kamra, which contains those minimum core subjects in the fields of architecture and civil engineering , as the Minister may, after consulting the Kamra, prescribe;
  - For a period of not less than two years after the obtaining the academic qualifications referred to in (a) he has trained in Malta under the supervision of a practising warrant holder, in accordance with such guidelines as the Minister may, after consulting the Kamra , prescribe. Where the academic qualifications referred to in (a) are obtained after a course of five years full-time duration or more or its part-time equivalent, the period of training required is reduced to one year. With the approval of the Board, the training may, for period not exceeding one year out of the two years required, be undertaken in a State outside Malta with a professional in related disciplines, duly qualified to practice in such a state.

- has been duly examined and approved by the Board in an examination or examinations for the purpose, as the Minister may, after consulting the Kamra, prescribe.

The Board may exempt a person who obtained the academic qualifications from the University of Malta or from such other University or academic institution approved for the purpose by the Board after consulting the Kamra, from all or part of the examination or examinations

Art 4 lists special circumstances where the Board may consider applications for the granting of a warrant. A person who possesses the qualifications listed above may be granted a warrant, if the Board is satisfied that such person is in possession of an academic degree obtained after the successful completion of a course of studies in architecture, civil engineering or related disciplines as at university or equivalent academic institution, and such person has, where the course of studies in the opinion of the Board, was of a lesser duration than four years' studies, or equivalent part-time duration, or did not contain those minimum subjects in the fields of architecture, civil engineering as prescribed by the Minister has undertaken practical training for a period of not less than six months and not more than three years as the Board may establish from case to case, under the certified supervision of a practising warrant holder, in accordance with such guidelines as the Minister, after consulting the Kamra, may prescribe. The Board may also require such a person to undergo such tests in such subjects which it may deem necessary.

The Act provides that two or more warrant holders can form a partnership of warrant holders having for its exclusive objective to practice the profession.

### • **5.3 Continuing Professional Development.**

The Kamra tal-Periti does offer training programmes and other educational events to its members. In fact its strategic objective is to support members of the profession in achieving excellence in their practice of architecture and engineering in the interest of the community.

### • **5.4 Regulatory Authority**

The Ministry for Resources and Rural Affairs has overall responsibility for regulating the profession. The professional association is Kamra tal-Periti. Membership is not compulsory. It provides membership through corporate partners, training programmes and events. The warrant is issued by the Bord tal-Warrant tal-Periti as established by law.

## **C.6 Netherlands.**

The title of "*ingenieur (ir/ing)*" or "engineer" is legally protected in the Netherlands. However, the profession itself is not regulated. The main professional association is KIVI NIRIA. It has 25.000 members including practitioners and students. All engineering disciplines are organized within KIVI NIRIA. Bouke Bosgraaf; International Adviser, at the KIVI NIRIA office in Den Haag. Tel: +31 (0) 70 3919900 - E-mail: boukebosgraaf@kiviniria.nl.

Those embarking on a university education in engineering in the Netherlands usually take a course that entails 5 years study. Graduates of engineering faculties at Dutch universities of technology are awarded the degree of 'Master of Science' in Dutch '*ingenieur*' (abbreviation 'ir.') and are allowed to use the title *ir.*, which is protected by law. Graduates of the Dutch universities of professional education are awarded the degree of 'Bachelor of Engineering' in Dutch '*ingenieur*' (abbreviation 'ing.') and are allowed to use the title *ing.*, which is protected by law. KIVI NIRIA has only one grade of membership -'member'- and there is no professional title.

## **C.7 Spain.**

### **7.1 Designation/ Title:**

Whilst the title itself is not protected in law there are certain services that can only be performed by persons who hold that title. As in independent professional one needs to be registered member of the professional association, *Federación de Asociaciones de Ingeniería: Instituto de Ingeniería de España* . This is the integrated quasi-public body for all the Official Colleges of Engineers in Spain. (There is a College in each Spanish Province; these are grouped into Regional Boards, and all of them are integrated in the national board). The national "college" provides unitary representation and defence of the engineering professional as well as the Engineering Colleges and their Regional Boards. They also seek to effect the Principle of Equal Treatment of Engineers and their freedom to practice throughout Spain.

Although an individual engineer can work within a company without being a registered member of the professional association, he/she cannot sign projects. Anyone providing services without the official designation is liable to be prosecuted by ordinary justice. In fact, you cannot work without the permission, because you cannot get the official registration stamps in the architecture projects (mandatory for any work) if you are not a registered member.

A corporate body can be designated a member of the professions or become a member of the professional association if the firm meets the following conditions:

- All associates and/or shareholders must be individuals (i.e. no parent companies or associations as business partners).



- The majority (at least 51%) of the associates or shareholders must be registered in a related College.
- The majority of managers and administrators must be registered in a related College.
- Must present the necessary forms at the Official College (or colleges) and pay the initial and annual fees to be a member.

## **7.2 Qualifications:**

In order to become a member of the profession, the entrant must have a university degree in engineering of 5 years duration and have completed a final practical project. The latter may take between 1 and 2 years. The architect must have professional indemnity insurance and pay a fee to the official College Colegio Oficial de Ingenieros).

## **7.3 Continuing Professional Development .**

Whilst the statutes establish Continuing Professional Development as a 'must', for the profession, the regulations for it are still undeveloped. However, the Official Colleges provide a lot of education programmes, especially regarding new technologies and methods.

## **7.4 Regulatory Authority**

Nationally, the profession comes within the responsibility of the Ministry of Public Works. In addition there is the quasi-public body, the Federación de Asociaciones de Ingeniería: Instituto de Ingeniería de España (Spanish Federation of Engineering Colleges and Associations). See <http://www.wmaker.net/iies>.

It is the official professional association covering all range of engineering activities. It has over 100.000 members (registered engineers). Its responsibilities:

- To raise the prestige of the engineering profession.
- Integrate and coordinate actions of individual members
- To represent the Spanish engineering profession in international engineering organizations.
- Representation and defence of the engineering profession.
- Improvement of engineering education and training

In addition there are the following professional associations for engineers:

- Asociación de Ingenieros Aeronáuticos de España
- Asociación Nacional de Ingenieros Agrónomos
- Asociación de Ingenieros de Caminos, Canales y Puertos
- Federación de Asociaciones de Ingenieros Industriales de España
- Asociación Nacional de Ingenieros del I.C.A.I.
- Asociación Nacional de Ingenieros de Minas
- Asociación de Ingenieros de Montes
- Asociación de Ingenieros Navales y Oceánicos de España

- Asociación Española de Ingenieros de Telecomunicación
- Asociación Civil de Ingenieros de la Defensa

All of them are part of the Spanish Federation of Engineering Colleges and Associations. Engineers must display their name and surname, title and college membership number on all stationery.

## **7.5 Restricted Services**

Any building project, restoration, civil work, etc. must be signed by a registered professional. The project is then presented at the Official College for checking and thereafter presented to the local authorities to get the appropriate permission. The "visa" system in Engineering projects is a requirement that guarantees the identity, qualifications and the capacity of professional to execute the job. It also credits the authentication, registration, correction of formal submission of documents and its concordance to current rules and legal requirements, as a matter of public protection.

## **7.6 Code of Ethics**

The Ethical Code of Practice for Engineers (in Spanish) is set out at <http://www.ingenierosindustriales.es/decreto2000.php>.

## **C.8 United Kingdom**

### **5.**

### **6. 8.1 Designation/Title**

This is not protected in UK law and the profession is not regulated per se. Indeed, "engineer" is used by a whole range of people from those with very basic skills to those with very advanced qualifications and experience. Furthermore, there is a vast range of types of engineer and hence a plethora of trade bodies.

### **7. 8.2 Qualifications**

Traditionally, many, perhaps most, embarked on a career in engineering through traditional apprenticeships. This enabled them to build up practical knowledge and hands-on experience. The more modern apprenticeships also enabled the apprentice to gain recognised qualifications. There are two levels of apprenticeship which both lead to National Vocational Qualifications (NVQ). Scottish Modern Apprenticeships are funded by the Skillseeker Initiative and lead to Scottish Vocational Qualifications (SVQ). These schemes also enable the apprentice to work towards a National Certificate (NC) or a Higher National Certificate (HNC).

Alternatively, entrants can take vocational qualifications through a work-related course. These qualifications include National Diplomas,

Vocational GCSEs, GCEs in applied subjects, Scottish Group Awards (SGA) and Higher National Diplomas (HND). They focus on practical skills and knowledge and can be studied full time or part time, usually at a further education college. With a vocational qualification the entrant may be able to go straight into an Advanced Apprenticeship.

Alternatively, the entrant to the profession may start with a degree in engineering. There is a wide range of engineering degree courses in the UK. These all teach the fundamentals of engineering. Business and management skills are also becoming an essential part of engineering degree courses.

More information on these routes into engineering is available from:

- The Institution of Engineering and Technology – [www.theiet.org](http://www.theiet.org)
- Circuit–the IET’s student and graduate website – [www.theiet.org/circuit](http://www.theiet.org/circuit).
- Apprenticeships – [www.apprenticeships.org.uk](http://www.apprenticeships.org.uk)
- Modern Apprenticeships in Scotland – [www.scottish-enterprise.com/modernapprenticeships](http://www.scottish-enterprise.com/modernapprenticeships)
- UCAS – [www.ucas.ac.uk](http://www.ucas.ac.uk)
- Royal Academy of Engineering – [www.raeng.org.uk](http://www.raeng.org.uk)
- WISE (Women into Science & Engineering) – [www.wisecampaign.org.uk](http://www.wisecampaign.org.uk)
- Engineering Council UK – [www.engc.org.uk](http://www.engc.org.uk)

## 8.

### ■ Engineering Technicians

According to the Engineering Council UK,

*"Engineering Technicians are concerned with applying proven techniques and procedures to the solution of practical engineering problems. They carry supervisory or technical responsibility, and are competent to exercise creative aptitudes and skills within defined fields of technology."*

*Professional Engineering Technicians contribute to the design, development, manufacture, commissioning, decommissioning, operation or maintenance of products, equipment, processes or services. They are required to apply safe systems of working".*

In order to be registered as an engineering technician with the Engineering Council UK the applicant will ordinarily have one of the following qualifications:

- A National Certificate or National Diploma in Engineering or Construction & the Built Environment
- or an approved qualification in engineering or construction at level 6 in the Scottish Qualifications and Credit Framework

- or the City & Guilds Higher Professional Diploma in Engineering
- or a technical certificate as part of an approved Advanced Apprenticeship Programme
- or an NVQ3 or SVQ3 which has been approved for the purpose by a licensed engineering institution
- or a work-based learning route approved by a licensed professional engineering institution
- or qualifications in similar areas providing they are assessed as equivalent by a licensed professional engineering institution.

## 9.

### ■ Chartered Engineers

Described by the Engineering Council UK as:

*"Chartered Engineers are characterised by their ability to develop appropriate solutions to engineering problems, using new or existing technologies, through innovation, creativity and change.*

*They might develop and apply new technologies, promote advanced designs and design methods, introduce new and more efficient production techniques, marketing and construction concepts, pioneer new engineering services and management methods".*

ECUK holds details of academic qualifications that partially or fully satisfy the education requirement for CEng and IEng registration. An applicant can search their database of qualifications accredited by UK professional engineering institutions at:

<http://www.engc.org.uk/registration/acad/search.aspx>

These include the following:

- University of Technology – Jamaica :
  - Mechanical Engineering.
  - Electrical Engineering.
- Trinidad and Tobago Institute
  - Civil Engineering.
- University of The West Indies (Trinidad Campus) - West Indies
  - Chemical and Process Engineering.
  - Mechanical Engineering.
  - Agricultural Engineering.
  - Industrial Engineering.
  - Civil Engineering.
  - Mechanical Engineering with a minor in Biosystems Engineering

Engineering (Electrical and Computer Engineering  
Civil with Environmental Engineering  
Civil Engineering  
Civil with Environmental Engineering  
Manufacturing Engineering  
Production Engineering and Management  
Engineering Management  
Petroleum Engineering  
Chemical and Process Engineering  
Chemical and Process Engineering with  
Environmental Engineering  
Chemical and Process Engineering with Management

In addition to these qualifications the applicant will have to satisfy the professional competence standards laid down for a chartered engineer and set out at:

[http://www.engc.org.uk/documents/EC0006\\_UKSpecBrochure\\_MR.pdf](http://www.engc.org.uk/documents/EC0006_UKSpecBrochure_MR.pdf)

The applicant will also be required to submit to a Professional Review Interview (PRI), undertaken by two trained representatives of his particular engineering institution.

#### ■ 8.3 Incorporated Engineer

Described by ECUK as:

*"Incorporated Engineers maintain and manage applications of current and developing technology, and may undertake engineering design, development, manufacture, construction and operation.*

*Incorporated Engineers are variously engaged in technical and commercial management and possess effective interpersonal skills".*

In order to be registered as an engineering technician with the Engineering Council UK the applicant will ordinarily have one of the following qualifications:

- An IEng accredited Bachelors or honours degree in engineering or technology
- or a Higher National Certificate or Diploma or a Foundation Degree in engineering or technology, plus appropriate further learning to degree level
- or an NVQ4 or SVQ4 which has been approved for the purpose by a licensed engineering institution.

## **D. Management Consulting**

### **D.1 Estonia.**

The activities of a management consultant are not regulated in Estonia by law. There is no obligations to have a registered company or a qualification to provide services as a management consultant. There is also no special State organisation or ministry responsible for those services.

The Estonian Consultants Association is the business association that is active in this field. It was founded by management and business consultants of their own accord and is a self-governing non-profit association. The mission of ECA is to provide and promote high-quality consulting in Estonia.

The ECA Code of Ethics provides the following:

- The Code is in compliance with the directives that seek to guarantee the protection of European Union customers' interests.
- It regulate the activities of ECA member-consultants, aiming at guaranteeing the ethics of consulting activities in the Republic of Estonia.
- Compliance with the Code is compulsory for all ECA members and recommended to non-member consultants.
- ECA proceeds from the conviction that consulting is a professional activity that renders the client assistance in solving his or her specific problems and contributes to disseminate successful experience.
- The consultant shall not enter into a contract with clients in the areas in which he or she is not capable of assuring competent solutions.
- The cooperation relationships between the consultant and the client shall be based on the needs of the client, not on wishes and ideas.
- The cooperation between the consultant and the client is generally formulated in the form of a contract, which specifies the objectives, contents, duration and the cost of the contract.
- The consultant must not impose any supplementary conditions on the client.
- The results of the consultant's work need not necessary by measurable in numerical terms.
- The consultant must resolutely follow the commitments made regarding the content, form, deadline and results of the work.
- The most considerable aspect in evaluating the results of the work performed by the consultant shall be the satisfaction of the client.
- The prices of the services rendered by the consultant must be based on the essence of the problem, the volume of work, direct costs involved and the price level at the market.
- The consultant must decline any agreements which undermine free competition.
- The consultant must not divulge any information about the client to third parties without the appropriate consent of the client.

- The consultant must refrain from making the client any proposals that are based on his or her own interests or on the interests of other clients and which damage the interests of the given client.
- The consultant must not continue or take over the work commenced by other consultants without their prior consent.
- The consultant has interests in developing his or her field of activity and exchanges experiences and information with other consultants provided it does not damage the interests of his or her clients.
- The consultant always admits making mistakes.

## **D.2 France.**

The activities of a management consultant are not regulated in France by law. There is no obligations to have a registered company or a qualification to provide services as a management consultant. There is also no special State organisation or ministry responsible for those services.

There are no special qualifications required by law in France to describe oneself as a management consultant. It depends purely on promoting one's services to the market and clients will, of course, look at relevant academic qualifications and experience.

There are several professional associations. Membership of none of them is compulsory. Syntec-management is the largest, with a membership of 50% plus of the profession. The association has a code of ethics principally protecting the confidentiality of the business of members' clients.

There are no French associations that are members of IMCI.

- <http://www.syntec-management.com/index3.htm>
- <http://www.fncpc.org/site/FNCPC/>
- <http://www.feaco.org/>

## **D.3 Germany.**

Since the beginning of 1950 the demand for Management Consultancy by Industry, Economy and Administration has continuously increased in Germany. Due to enhanced complexity, expanding globalisation and fast changes in the industry the turnover increased by 8 percent a year during the last 10 years in this service sector. According to the "Survey of the European Management Consultancy Market 2007/2008" - published by the European umbrella organisation in Management Consultancy, the "European Fédération Européenne des Associations de Conseil en Organisation" (FEACO) - the European Consultancy Market increased by 10 % in 2007. The average turnover in Europe in 2008 is published with €81

billion (2007: €74 billion). Germany offers with 24,1 % turnover share the biggest market in Europe.

The title is not protected under German Law. Titles like Management Consultant, Strategy Consultant, Economic Adviser or Business Adviser are free to use, independent of qualification, professional experience or the nationality (foreigners may need a residence permit) of a person.

A legally fixed job profile with stipulated education, official designation or professional practice does not exist for activities in Management Consultancy. Classic sub-designations of Management Consultancy are

- Strategy Consultancy
- Organisations-/ Process Consultancy,
- IT Consultancy and
- Human Resources Consultancy.

According to the FEACO the Consultancy market is divided into 5 consultation fields:

- Business Consultation (market share 42 %)
- Outsourcing (market share 20 %)
- Development and Integration (market share 20 %)
- IT Consultancy (market share 15 %)
- Others (market share 3%)

There is no special State organisation or ministry responsible for these services. The biggest and relevant economic and professional organisation in Germany is the Federal Association of German Management Consultants (*Bundesverband Deutscher Unternehmens-berater BDU e.V.*, - hereinafter BDU -). It is a registered society, founded in 1954 by Management and Personal Consultants. It has a membership of approximately 13.000 Management and Personal Consultants, working in 530 member firms. It is the biggest Association of Management Consultants in Europe. Membership of the association is corporate not individual. Corporate bodies can become members of the profession and the association. The average turnover of firms, organized in the BDU, makes 25 % of the whole average turnover in the economical field.

The specialist professional associations of the BDU are:

- Change Management.
- Financing and Rating.
- Establishment, Development and Succession.
- Information management and Logistics.
- Management and Marketing.
- Public Sector.
- Outplacement consultation.
- Personnel consultation.
- Personnel management.
- Project management.
- Quality management consultation.
- Redevelopment- and Insolvency management.



- Company Management + Control.

The mission of the BDU as well as of the other associations is to influence the general economical and legal set-up of the service sector positively; to promote the use of external consultancy; as well as the information- and experience exchange between its members; and to increase the high-quality standards in the service sector.

The BDU created criteria (Code of Ethics) for becoming a member of the BDU, to prove to its clients the quality of a reliable, loyal, reputable and competent consultant. This requires:

- Proof of professional aptitude (Vita).
- 5 years of professional experience as Management Consultant.
- 3 years of professional experience as self-employed person or in a leading position of a corporate body.
- 3 excellent references of clients.
- 2 specialized interviews with BDU – Management Consultants.
- Commitment to BDU professional principles.
- Professional supervision by BDU – honorary council.

The following principles for activities in Management Consultancy are laid down:

- Independence and Neutrality of the Management Consultant, especially from suppliers of goods and services, necessary to achieve the suggested aim of the Management Consultant.
- Objectivity (Consultation under consideration of all risks and chances).
- Competence (Consultation only in fields, in which the Consultant has proven knowledge).
- Confidentiality (no information or knowledge gained during the consultation process is given to third parties).
- Fair Competition (especially no poaching) and respectable acquisition.
- Incompatible with professional activities are those which endanger professional duties and loyalties and professional ethic minimum standards.

In addition the Management Consultant must take further vocational training of at least 30 hours a year.

In addition to those provisions, Management and Personal Consultants have to be aware of regulations of different fields of law, especially civil law, which influence the practical work of Management and Personal Consultants.

Since 1998 Management Consultants have the opportunity to obtain the internationally accepted title of "Certified Management Consultant (CMS)". Different from the BDU-membership, this title is linked to a natural person and only given to the owner or employees of members of the BDU. If an employee is leaving the BDU-member-firm, the title

will be dispossessed. To meet the requirements, one has to prove 3–8 year professional experience in Management Consultancy (depending on professional experience in other professional sectors), the presentation of 3 Consultancy projects and 2 structured specialized interviews. The title has to be recertified every 3 years. CMC`s are registered in a public register in the Internet. So far about 3.000 CMS are registered in Europe.

#### Contacts

- Bundesverband Deutscher Unternehmensberater BDU e.V. Federal Association of German Management Consultants <http://www.bdu.de>
- Bundesverband Deutscher Volks- und Betriebswirte e.V., BDVB Federal Association of German Economists and Graduates of Business Administration <http://www.bdvb.de>
- Verband freier Berater e.V. Association of free Consultants <http://www.kmu-berater.de>
- Bundesverband Deutscher Studentischer Unternehmensberatung e.V., BDSU e.V.
- Federal Association of German Student Management Consultancy. <http://www.bdsu.de>
- Junior Consultant Network, JCNetwork e.V. <http://www.jcnetwork.de>

<b>Management Consultancy</b>	<b>Name:</b>	Bundesverband Deutscher Unternehmensberater BDU e.V.  <i>Association of German Management and Personal Consultants (BDU)</i>
	<b>Website:</b>	<a href="http://www.bdu.de">www.bdu.de</a>
	<b>Address:</b>	Zitelmannstrasse 22  53113 Bonn
	<b>Contact:</b>	Mr. Klaus Reiners (Head of Press Department)

	<b>Phone:</b>	0049 (0) 228 - 91 61 - 0
	<b>Fax:</b>	0049 (0) 228 - 91 61 - 26
	<b>Email:</b>	<a href="mailto:info@bdu.de">info@bdu.de</a> <a href="mailto:rei@bdu.de">rei@bdu.de</a>

#### **D.4 Italy.**

The title of the profession is not protected in law. There is an association (APCO, *Associazione Professionale Italiana dei Consulenti di Direzione e Organizzazione*, Italian Professional Association of Management Consulting) but there isn't a law related to this association. The profession is self-regulated. Membership of APCO is individual not corporate.

In APCO there are territorial branches and study groups. There are also different professional areas: strategy, marketing and sales, logistics, R&D, quality, finance, management and informatics systems, human resources, education, consultancy to SMEs, consultancy to public administrations.

APCO associates individual professionals who practice as management and organisational consultants. There are no age limits and no academic qualifications specified. In order to become a member the applicant must undergo an interview at the APCO head office in Milan.

APCO is member of ICMCI (the World Federation of National Associations of Management Consultants). It organizes two/three times a year courses for entrant members. The course is useful and preparatory to the subscription to the association (or possibly to the international CMC certification) but it isn't binding or obligatory. The course is opened to foreigners but is only provided in Italian. The CMC qualification expires after three years, then it is necessary to renew it.

There is no special training requirement to qualify for membership of the profession. APCO regularly organizes a basic course for management and organisation consultants preparatory to the subscription. Throughout the year APCO organizes specialized workshops.

The Department of Justice is the State body responsible for regulating the professions. However, as stated above, this profession is not regulated by the State at present. APCO regulates its own membership. The use of APCO's logo is disciplined in detail from special rules, binding for all members APCO.

#### **D.5 Malta.**

The title of the profession is not protected in law. It does not come under any regulatory authority and there are therefore no specified qualifications. There is no register of firms providing management consultancy. However, based on Malta Enterprise International Business Directory 2008 there are 58 firms providing management consultancy in Malta.

Despite this lack of regulation and coordinated professional association, the profession has achieved high level of standard and has been reinforced with various management training programmes being offered by both the private sector and the University of Malta. The training programmes being offered are both at diploma level and also at post graduate level.

#### **D.6 Netherlands.**

The title is not protected under Dutch Law. Titles like Management Consultant, Strategy Consultant, Economic Adviser or Business Adviser are free to use, independent of qualification, professional experience or the nationality (foreigners may need a residence permit) of a person. There is no legally fixed job profile with stipulated education, official designation or professional practice does not exist for activities in Management Consultancy. Neither is there compulsory membership of a professional association.

The Free University of Amsterdam (Vrije Universiteit Amsterdam) offers a Masters Programme in Business Administration with a specialisation in

Management Consultancy. The programme takes one year to complete, is worth 60 credits and it is taught entirely in English. Each subject is assessed on the basis of individual interim examination scores and the result of an individual or group assignment. The programme promotes the development of creative and analytical skills.

There are six courses that are specific to this specialization. There is also a compulsory ethics course and a research seminar. During the final phase of the programme, students are required to organize and conduct an independent scientific research project which will serve as the basis for their Master's thesis.

Once all the components of the Master's programme have been passed, the graduate is awarded the title of Master of Science in Business Administration. This degree is recognized internationally. The admission requirements are:

- Applicants who have gained a Bachelor's degree in Business Administration, Economics or Econometrics and Operations Research at VU University Amsterdam are admitted automatically to the Master's programme.
- Applicants with at least a Bachelor's degree from an accredited university are admissible if they have a specialization in Business Administration, witnessed by thorough knowledge of the standard literature described below (or its equivalent)
- Applicants with at least a Bachelor's degree in other specializations can be admitted to the master, but depending on their degree they will be required to take extra courses with a maximum of 30 credits. Thus, their programme will take from a year to a year and a half.

## **D.7 Spain.**

The designation and title of "management consultant" is not protected in Spain. There are no specific qualifications required for practising the profession, but it is expected that those providing these services will have related qualifications in, for example, economics or business administration. In practice the range of qualifications varies a lot, as what is perceived as more important is the professional experience and proven success in the business activity.

Members of the professional association are companies, and not individuals. To become a member of the Asociación Española de Consultoría (Spanish Association of Consulting) ([www.consultoras.org](http://www.consultoras.org)) a company must:

- Be constituted in accordance with the current legislation on company formation.
- Provide a permanent occupation for a number of graduates suitable to the nature of the services provided. This number

shall be not less than five university graduates or three university graduates with a masters degree. Those companies with fewer graduates may be accepted in certain circumstances.

- Not have sought to take advantage of business opportunities in breach of the principles of free competition.
- Have a professional management team dedicated to the principal activity of consultancy services.
- Demonstrate from recent and precise examples of the provision of high level of quality services in previous related works, executed in appropriate technical conditions.
- Commitment to the Code of Ethics of the Association in all their activities.
- Commit to pay the fees of the Association.
- Indicate the sector or sectors of activity in which they are engaged.

Those companies that meet all the above conditions, but are linked to corporate groups outside the sector (financial institutions, developers, etc..) must certify that more than 50% of its business is provided to customers outside of the group.

Most large companies have training programmes and agreements with universities and education institutions for trainees.

The Ethical Code of Practice for Consultants is the International FIDIC Code. <http://www1.fidic.org/about/ethics.asp>

### ***D.8 United Kingdom.***

The designation and title of this profession is not protected by law and neither is the profession regulated as such. There are no set qualifications, though typically younger members of the profession will have a Masters in Business Administration, the older members will be qualified through experience.

The Institute of Management Consultancy (IMC) was the Professional Body for Management consultants. Membership is entirely voluntary. Its mission is to set, maintain and raise the standards of both professionalism and competence for the profession. It has a professional code of conduct and provides an assessment procedure whereby consultants may become certified. The award gained through this process is the Certified Management Consultant which is the only internationally recognised award for competence in the UK. It is in addition recognised in all the 40 countries which along with the UK belong to the International Council of Management Consulting Institutes (ICMCI). The Caribbean Institute of Certified Management Consultants is also a member of ICMCI.

In January 2005, IMC merged with the Chartered Management Institute, retaining its identity and individualism at the same time as benefiting from the strength of the Chartered Institute. IMC has developed new

membership categories for both individuals and practices. As the professional body for management consultancy in the UK, the IMC offers consultants a structured professional development framework to support ongoing learning and development. As part of this framework, the Institute has launched two new professional qualifications by combining the established professional standards of the IMC with the qualifications expertise of the Chartered Management Institute.

In April 2007, the Institute of Business Consulting (IBC) was created by the merger of the Institute of Business Advisers and the Institute of Management Consultancy. It has taken over the role of the IMC and acts within the CMI framework.

On joining a firm of management consultants, the new entrant will normally receive several months of induction and training. Usually, during that time, they will be supervised by an experienced consultant, where their diagnostic skills are developed and they adopt the professional standards of their firm. Particular emphasis is placed on the writing of clear, considered English, and the ability to present thoughts and ideas verbally to clients. In addition, the opportunity is usually taken to provide additional training to fill any gaps in knowledge and experience.

The Certificate in Management consultancy was developed by IBC. It provides an introduction to management consultancy. It is intended for people who are considering a move in to the profession from a functional discipline, or for those who wish to obtain an introduction to the skills and knowledge needed in the field of management consultancy. There are no specific entry requirements for this qualification, but it is expected that most candidates are intending to enter in to a management consulting role and will therefore be educated to degree level or hold a minimum of two years business experience.

The Diploma in Management Consultancy is designed to help the student develop the knowledge, skills and behaviours to operate as a management consultant. It is intended for people who want enter management consultancy from a functional discipline, or for those who wish to develop to the skills and knowledge needed to operate in the field of management consultancy. IBC recommend that candidates are educated to degree level or equivalent, or hold a minimum of five years' business experience.

For more information see:

[http://www.ibconsulting.org.uk/Landing\\_Page\\_1.aspx?id=10:5636](http://www.ibconsulting.org.uk/Landing_Page_1.aspx?id=10:5636)

### **E. Tourist Guide Services:**

The definition of a Tourist Guide is provided in EN 13809 of the European Committee of Standardisation (CEN) :

*A person who guides visitors in the language of their choice and interprets the cultural and natural heritage of an area which person normally possesses an area-specific qualification usually issued and/or recognised by the appropriate authority.*

This is distinct from tour manager, tour director or escort as defined by CEN as follows:

*Person who manages an itinerary on behalf of the tour operator ensuring the programme is carried out as described in the tour operator's literature and sold to the traveller/consumer and who gives local practical information. Tour managers may or may not be tourist guides as well. They are not trained or licensed to work in specific areas unless they have the proper requirements or legal right, depending on the region.*

### **E.1 Estonia.**

The tourist guide profession is not regulated as such but some of their activities are and this is discussed below. Because the activities of tourist guides are intricately tied up with those of tour operators and travel agents it is important to read this section in conjunction with VI F.1 below.

Tourist guide services and the services of guide-interpretors and escorts may be offered and provided by undertakings, agencies, foundations and non-profit associations (hereinafter undertaking).

The rules governing the set up of a travel undertaking are the same as those for other businesses and are described above. The undertaking of tourist guide services is defined for the purposes of the register as "a natural person who introduces sights of interest on the basis of a pre-arranged programme, route and time schedule". A "guide-interpreter" means a natural person who introduces sights of interest on the basis of a pre-arranged programme, route and time schedule and provides brief introductions to sights of interest and conversation by consecutive or simultaneous interpretation. A "tour escort" means a natural person who accompanies consumers on the route prescribed by a tour operator and organises the provision of services which are part of the package in a timely manner and with quality provision.

The Estonian Association of Tourist Guides is a non-profit organisation representing the interests of tourist guides in Estonia.

### **E.2 France.**

These come under the auspices of the Ministry of Tourism and the Ministry of Culture and Communications. Membership of a professional association



is not compulsory. The main association is the Federation Nationale des Guides-Interprètes.

Tourist guide services are registered as a subpart of the travel agency profession. The designation is regulated and protected by the Article L-211 of the Tourism Code modified by the Law No. 2006-437 of 14th April, 2006. It is illegal to provide tourist guide services without a licence. For tourist guide services there are several sub-designations and for each sub-designation there are specifications in the exam which permit those that pass to have the professional card. These include:

- Guide interpreter (fluency in two foreign languages is compulsory).
  - A Guide Specialising in the History, Art and Patrimony of A City.
  - A Guide speaker.

To work as a tourist guides a person must have a professional card. This card can be obtained after three years of relevant studies at university. There is the mutual recognition system for EU and EEA applicants. Non-EU/EEA persons need to submit their qualifications to a school recognized in France and have these evaluated through the VEA system.

There are two types of Tourist Guide cards:

- A Regional Tourist Guide obtainable from the prefect of the region after an examination undertaken in the region. Candidates must have studied for a two year degree in history of arts, communication or tourism or have professional experience as a tourist guide.
- National Tourist Guide card is given after three years of studies at university.

### *Contacts*

The following universities deliver national tourist guide degrees and are authorised to recognize foreign qualifications or professional experience:

- Angers University, ESTHUA, 14 bis, rue Moncel , 49400 Saumur. France. Tel: (0033) 241 226 979. [www.univ-angers.fr](http://www.univ-angers.fr) e mail: [nicolas.gandubert@univ-angers.fr](mailto:nicolas.gandubert@univ-angers.fr)
- Clermont Ferrand University II, University Blaise Pascal, 34, avenue Carnot, 63037 Clermont Ferrand, Cedex 1. Tel: (0033) 473 406 280. [www.univ-bpclermont.fr](http://www.univ-bpclermont.fr) e mail: [tourisme@univ-bpclermont.fr](mailto:tourisme@univ-bpclermont.fr)
- Université Lumière Lyon II, 5 avenue Pierre, Mendès France 68676 ,France, Bron Cedex, [www.ghhat.univ-lyon2.fr](http://www.ghhat.univ-lyon2.fr), [www.univ-lyon2.fr](http://www.univ-lyon2.fr). e-mail : [malika.gragueb@univ-lyon2.fr](mailto:malika.gragueb@univ-lyon2.fr). Tel number : (0033) 478 772 303
- University Paris Est,, Marne la Vallée 6, 8 cours Danube,77700 Serris, France. [www.univ-mlv.fr](http://www.univ-mlv.fr). Tel number : (0033) 160 957 814. e mail: [arlette.david@univ-mlv.fr](mailto:arlette.david@univ-mlv.fr).

### E.3 Germany.

In Germany, the designation "tourist guide" is not legally protected. The general understanding of the term "tourist guide" is based on the definition EN 13809 of the European Committee for Standardisation (CEN). The definition was adopted by the World Federation of Tourist Guide Association (WFTGA) in 2003. It is recognized by the Association for Tourist Guides in Germany, BVGD and by several tourist guide associations and tourism organizations all over the country as well.

As to sub-divisions of the profession: there are designations referring to the area of the tourist guides activities and specialisations e.g., special cities or regions as:

- "Gästeführer der Region Berlin" - "Tourist guide of the region Berlin"
- (<http://www.berlin-guide.org>).
- "Gästeführer – Weinerlebnis Franken" - „Tourist guide – wine experience Frankonia".  
(<http://www.wipfeld.de/Gaestefuehrer.html>)

Further common are special designations for tour guides providing tours to a special environment e.g.:

- "Ländlicher Gästeführer" - „Rural tourist guide" ([www.alf-ba.bayern.de](http://www.alf-ba.bayern.de))
- "Natur- und Landschaftsführer" - „Tour guide - nature and landscape" ([www.bund.rlp.de](http://www.bund.rlp.de))

Those designations usually prove special experience and training. Certificates entitling a person to use those designations are issued by different institutions providing special training programmes or courses for tourist guides e.g., tourist guide associations, private companies but also local or public authorities (e.g., local tourism offices) or the chambers of industry and commerce (IHK). After completion of the course, the person gets a certificate evidencing the qualification.

Members of the Association of Tourist Guides in Germany (BVGd) can become local or regional associations of tourist guides. In case that no local or regional association exist, an individual/natural person is accepted as member of the association as well. Members of the local tourist guide associations are usually natural persons.

Some tourist guides associations offer membership as affiliated members (*fördernde Mitglieder*, i.e., membership for persons who are not active as tourist guides) but provide them with limited rights (e.g., no voting rights, no membership at the BVDG). Further, some associations offer membership as honorary members (*Ehrenmitglieder*).

In Germany, the profession "tourist guide" is not explicitly regulated by law. Special education or qualification is not required to work as tourist guide. However, the European Standard DIN EN 15565 determines requirements and recommendations for the provision of professional tourist guide training and qualification programmes (e.g., skills, theoretical knowledge, presentation and communication techniques, techniques, group management, practical training, qualification or trainers) and requirements for minimum numbers of training units (hours) as well.

The Association of Tourist Guides in Germany (BVGD) was the first association in Germany that developed a training programme for tourist guides certified to DIN EN 15565. It aims to uphold and to increase a high professional standard within the tourist guide profession and to secure a high quality of tourist guide services. The qualification system is not mandatory and not legally binding (DIN), but recognized within the European Union.

To help these standards to come in practice, the BVGD provides guidelines in accordance with DIN EN 15565 to organizers of tourist guide training programmes (e.g., tourist guide associations). The organizers themselves are responsible to implement the guidelines – defining the minimum requirements of the programme – and to develop their own educational and training programme.

The BVGD supervises the performance, gives advices and confirms that the training programme complies with the BVGD-training programme certified to DIN EN 15565. After completion of the training and a successful examination, the tourist guides get the "BVGD-Certificate DIN EN".

A further training programme for tourist guides certified to DIN EN 15565 developed the Berlin Starting Point GmbH, a company offering tourist guide services and also organizer of training programmes for tourist guides of the city of Berlin. ([www.berlin-starting-point.de](http://www.berlin-starting-point.de), [www.berlin.seminar.de](http://www.berlin.seminar.de))

There are no special training requirements by law. An official certificate (e.g., a diploma, bachelor- or master degree) does not exist. However, becoming a member of a local tourist guide association requires often the evidence of special qualification and experience.

The requirements for membership vary from association to association. Some require for instance a certificate proofing special qualification as tourist guide and issued by a certain institution (e.g., *Verein Dachauer Gästeführer* e.V. - Institute for certification: Volkshochschule Dachau GmbH) other require for example proof of three years practical experiences as tourist guide (*Hamburger Gästeführer Verein*).

### *Contacts*

Bundesverband der Gästeführer in Deutschland e.V. (BVGD)

*Association of Tourist Guides in Germany (BVGD)*

[www.bvgd.de](http://www.bvgd.de)

Registered association

<b>Tourist Guide Services</b>	<b>Name:</b>	Bundesverband der Gästeführer in Deutschland e.V. (BVGD) <i>Association of Tourist Guides in Germany (BVGD)</i>
	<b>Website:</b>	<a href="http://www.bvgd.de/">http://www.bvgd.de/</a>
	<b>Address:</b>	Gustav-Adolf Straße 33 D – 90439 Nürnberg
	<b>Contact:</b>	Mrs. Dr. Ute Jäger (Head)
	<b>Phone:</b>	0049 (0) 911 - 65 64 675
	<b>Fax:</b>	0049 (0) 911 - 65 64 746
	<b>Email:</b>	<a href="mailto:jaeger@bvgd.org">jaeger@bvgd.org</a> <a href="mailto:info@bvgd.org">info@bvgd.org</a>

Some tourist guide associations included rules regarding disciplinary matters in their bylaws. For instance, some bylaws determine to terminate membership and exculpate a member in case that he violates his duties or obligations, e.g., does not pay the membership fee, acts against the interests of the association. Further, some bylaws determine that in case of a dispute a mediator should be called before filing a claim and bringing an action to court.

#### **E.4 Italy.**

A tourist guide requires authorization issued by the Region. It is only valid for guiding services within that region. Foreign tourist guides can practice

in Italy only on condition of mutual recognition (reciprocity) with the Origin State and provided that they meet the requirements for a visa, work and residence permits etc.

In order to acquire authorization the tourist guide must have passed an examination and must establish competence in arts, archaeology, foreign languages, and he/she. Once granted authorisation he/she can enter freely in museums, monuments and archaeological sites.

Article 11 para. 3 of the Law on Tourism, article 11 defines a tourist guide as a person who, as his/her profession, guides individuals or groups of people in arts, monuments, landscape and sightseeing tours, explaining historical, artistic, natural attractions. The different regional regulations establish moreover that a tourist guide can practice in the place where he/she resides, sometimes, extended to the administrative provincial district.

The Law of 2 April 2007 No. 40 has provided for the liberalisation of the profession of tourist guide and, amongst other things, removed the quota system. Persons graduated in history of art, archeology or other equivalent subjects can become a tourist guide. They are not required to take the qualifying examination of the Region, though they may need to establish that they speak Italian.

Candidates required to take the tourist guide examination must meet the following requirements:

- Italian Citizenship or other EU Citizenship. Non-EU citizens are treated equally with EU Citizens if they have regulated their position, according to the Law of 28 February 1990 No. 39.
- Have a secondary school diploma with the name of the school that issued it. If the diploma is issued in a foreign country it is admitted only under the prior presentation of an approved translation where it is made clear the equivalence with an Italian certificate.
- A language chosen by the candidate among one of the official languages of the EU or Chinese, Japanese or Russian.

Graduates in history of art or in archeology or in an equivalent subject are required to undertake an aptitude test of their linguistic skills and knowledge of the territory in which they intend to practice.

Tourist guides working in another Member State who aim to establish in Italy, complying with European Directives 89/48/EEC, 92/51/EEC and 2005/36/EC, will have their diploma recognised and must integrate their training with the specific knowledge concerning the area in which they intend to practice, through compensative measures provided by the EC directives.

Non-EU citizens who wish to work as a Tourist Guide in Italy must obtain a licence (*Patentino di Guida*), after taking an examination at the

Provincia. The Provincia is the specific body which is in charge of professional training and authorisation and of carrying out controls on the sector. The exam for the licence consists in a written paper and an oral exam. It is not required that the candidate has a specific degree or other title, but it is preferable to have graduated in literature (*lettere*).

Once qualified by passing the examination or aptitude test, in order to practice the applicant must obtain a "*dichiarazione di inizio attività*" (hereinafter "d.i.a.", declaration of starting an activity) from the Commune where he/she is resident in accordance with Art. 58 L.R. 9/1995. Non residents, qualified as above, who wish to practice as tourist guides, for example, in Tuscany, shall apply to a Commune of that Region. The Commune shall verify the existence of all legal requirements and shall grant a specific identity card, with a photo. This card shall indicate the territories of practice and the title "*Guida della Toscana*" (that means that the Tourist Guide in this case may practice in the whole of Tuscany).

In the case of residence change, the Commune who received the application for a d.i.a. shall transmit all documents to the new residence Commune.

A d.i.a. application is submitted without formalities, in double copy, to the Commune Economic Activities Department (*Direzione Attività Economiche*). A copy is available in municipal offices. In the case of tourist guides the application must be signed at the Commune desk. If sent by letter or presented by other people, a photocopy of a valid identity card (or passport) of the applicant must be attached.

Federazione Accompagnatori, Guide, Interpreti Turistici

Sede Nazionale: Via Nazionale n. 60 - 00184 ROMA tel. +39064725320  
fax +39064817211 .

## **E.5 Malta.**

The Malta Tourism Authority is the governmental body responsible for oversight of this profession. The title of the profession is not protected in law. The Tour Guiding Diploma Course leads to a professional tourist guide career. On successful completion of the course students will obtain a license which will allow them to act as guides in the Maltese Islands. This is a full-time three-year (six semesters) programme of studies at the Institute plus a compulsory period of fourteen (14) weeks Local Industrial Trade Practice (LITP) and a fourteen (14) week language practice programme abroad. The Diploma will be awarded after successful completion of the three (3)-year programme of studies.

The licence of a Tourist Guide is issued by the Malta Tourism Authority following the completion of the above mentioned course. The only authorised course is that provided by the Institute of Tourism Studies. See (<http://www.its.edu.mt>).

The Malta Travel and Tourism Services Act specifies in Art 38 that a Tourist Guide shall provide his or her services under his/her personal name.

## **E.6 Netherlands.**

In the Netherlands the designation and title "tourist guide" is not protected in law. Guidor, the Dutch National Tourist Guide Association has 120 registered guides. Membership is voluntary. It is the only professional association for tourist guides in the Netherlands.

Guidor require their members to have undergone a rigorous training, followed by examinations in knowledge and language skills. They have a Code of Practice and a set of standard terms and conditions.

## **E.7 Spain.**

The title and designation of "tourist guide" is not protected *per se* under Spanish Law. Professionalism is promoted by the associations. The qualifications required to practice as a tourist guide vary from region to region, but typical requirements are that the entrant must:

- Be a citizen of the EU or EEA or a country with a reciprocity agreement with Spain, according to the respective provisions of applicable international instruments.
- Have attained the legal age to work.
- Hold any of the following qualifications:
  - Technician in Business and Tourist Activities or Tourist Enterprises Technician.
  - Senior Technician in Marketing Information and Tourism.
  - High university degree or equivalent. The approval of qualifications must be accredited by the competent authority.
- Have knowledge of Castilian and one or more foreign languages accredited or certified by an official centre or institutions of recognized prestige.

In seeking accreditation of foreign degrees and diplomas issued in countries that have signed the Hague Convention of October 5, 1961: it is sufficient only to obtain the legalization or "apostille" issued by the competent authorities of the country. These countries include, In addition to the European Economic Area countries, are: Antigua and Barbuda, Bahamas, Barbados, Belize, Dominica, Grenada, Honduras, Panama, Puerto Rico, Saint Vincent and the Grenadines, Saint Kitts and Nevis, Santa Lucia, Suriname, Trinidad and Tobago. It also applies, through "extensions" to Netherlands Antilles, Aruba, Anguilla, Bermuda, Cayman Islands, Montserrat, Turks and Caicos Islands, Virgin Islands. Qualifications issued in other countries must be legalized through diplomatic channels. They must be presented at:

- Ministry of Education or the country of origin certificates of studies and the relevant ministry for birth certificates and nationality.
- Ministry of Foreign Affairs of the country where such documents were issued.
- Diplomatic or consular representation of Spain in that country.
- Documents issued by diplomatic or consular authorities of other countries must be legalized in Spain in the Spanish Ministry of Foreign Affairs.

For more information, see link below (in Spanish).

[http://web.micinn.es/contenido.asp?menu1=4&menu2=6&menu3=&dir=04\\_Universidades/022EdUnSu/06@Titulaciones/031HoDeTi/061Titulos](http://web.micinn.es/contenido.asp?menu1=4&menu2=6&menu3=&dir=04_Universidades/022EdUnSu/06@Titulaciones/031HoDeTi/061Titulos)

In addition to the academic qualifications, in some regions, the entrant needs to prove previous experience or to pass a specific exam. There is no compulsory membership of a professional association, but in some regions you need to be registered as a qualified professional in the local government (council, regional public administration, etc.). Where that is the case, the region provides the tourist guide with a professional ID card.

## **E.8 United Kingdom.**

There are no regulations as such in the UK governing the tourist guide profession but the World Federation of Tourist Guide Associations supports the EN Standard 15565 Classification and Standard for the Training and Qualification of Tourist Guides. Both the Institute of Tourist Guiding and the Scottish Tourist Guides Association support the standard as well. STGA is the accrediting body for tourist guides in Scotland and the Institute is the accrediting body for tourist guides in England Wales and Northern Ireland - the qualification in the UK being the Blue Badge awarded by either STGA or the Institute.

### ***England, Wales and Northern Ireland***

The Institute of Tourist Guiding is the voluntary national professional association for tourist guides in England, Wales and Northern Ireland. It accredits a number of professional training courses for tourist guides. It does not itself provide training courses. All tourist guide/commentary and heritage interpretation training programmes and qualifications are area specific. The Accreditation Committee considers submissions, and, following consideration, makes recommendations to the Qualifications Board for Institute Accreditation of the following:

- Training and Assessment/Examination programmes for Tourist Guiding qualifications at Blue Badge Level (Educational Level 4)
- Training and Assessment/Examination programmes for Commentaries and Heritage Interpretation qualifications at Educational Levels 3 and 2



- Training and Assessment/Examination Programmes for short Endorsement qualifications for qualified Blue Badge Tourist Guides
- Training Centres/Providers

The Institute's qualifications correspond to National Educational Levels 2, 3 and 4, each relating to a specific area or site as follows:

- Level 2 covers commentary/presentation on one fixed route, which could be in a gallery, cathedral or stately home, or, for example, on an open-top bus. No. This qualification is open to all and no specific prior educational experience, knowledge or attainment is needed. An interest in the arts, history or other related subjects such as architecture is beneficial, but no qualification is essential. The Institute accredited course involves 50-70 contact hours (time attending lectures or practical sessions on site) plus 120 hours of private study. Owners/managers of sites and visitor attractions usually provide their own training for in-house guides. On completion of the course the candidate will be assessed with one written examination and one practical when they will be asked to make a presentation on site.
- Level 3 introduces route flexibility and the ability to work in two contrasting environments such as a walk and on a site. This qualification is open to all and no specific prior educational experience, knowledge, or attainment is needed. The Institute accredited course comprises 80-100 contact hours (time attending lectures or practical sessions on site) and in addition some 180 hours of private study. Courses are usually run when there is a demand for guides in a particular area, by local and regional tourist bodies or colleges and institutions. They are part-time, with evening lectures and practical training at weekends.. On completion the candidate is assessed with one written and two practical examinations. They will also be tested on their ability to plan a tour on foot to meet the particular needs of a given group of visitors.
- Level 4 (Blue Badge) requires flexibility of route and of environment (site, walk and moving vehicle), as well as a wider geographical area, and tour planning and management skills. apart from area-specific in-depth knowledge, a course participant will be trained in all aspects of guiding techniques: on site, such as churches and/or cathedrals, stately homes, museums and/or art galleries, whatever is of importance within the given area; on foot, either in an urban environment, or in the countryside, or even on the sea-shore; and on a moving vehicle. For training/assessment purposes a coach has to be used.

Where the tourist guide wishes to provide services in another language they must pass an oral test..

The Background Knowledge paper is an essential part of the Level 4 examinations for Blue Badge guides. This is a stand-alone, national qualification which is recognised by all tourist boards. This paper forms one module of the Blue Badge Level 4 Qualification. It is written nationally on a biannual basis and is a transferable module. The Institute provide a cd-Rom to help candidates prepare.

The cost of the examination is £75.00 and once signed up, candidates are entitled to acquire the Institute CD-ROM covering all the topics for £39.99 instead of the full price of £120.00. The format of the written examination showing weighting of different topics is set and available for inspection. Past papers to use for revision are available for purchase from the Institute of Tourist Guiding office.

The institute has prepared a draft framework for continuing professional development. See:

[http://www.itg.org.uk/word\\_docs/cpd.pdf](http://www.itg.org.uk/word_docs/cpd.pdf)

### **Scotland**

Tourism is a devolved matter, i.e. in Scotland it is under the remit of the Scottish Parliament and the tourist guide industry is organised separately in the different parts of the UK. Tourist guides are self-employed individuals with area specific qualifications. There is no problem in employing "foreign" nationals as tourist guides provided they have the relevant work permits but they are also expected to complete the qualifications to be a tourist guide and to meet language requirements - so for example a Haitian national who has completed the appropriate tourist guide training course would be likely to mostly work in the French language and in English also if their English meets the required standards. In the case of EU nationals they have no problem with work permits but would still be expected to complete the necessary qualifications and language fluency tests.

The Scottish Tourist Guide Association is the Accrediting Body for all Scottish Blue Badge and Affiliate (Green & Yellow Badge) Tourist Guides and is the only national tourist guides organisation in Scotland. It is a company limited by guarantee and has a voluntary Board of Directors and an office in Stirling with professional staff. STGA accredits tourist guides at three levels: Blue Badge (Scottish Tourist Guides); Green Badge (Regional Affiliate Tourist Guides) and Yellow Badge (Site Affiliate guides). Career progression is possible through the three levels.

The Blue Badge guide training course tends to run every 2 years. The course is provided by the University of Edinburgh. The selection procedures include interviews and attendance at an Introductory Course. The fee for the Introductory Course is approximately £225 (€257) and is non-refundable. The guide training course itself includes web based learning, tutorials, lectures, weekends and summer school courses.

The guide training course fees are in the region of £5250 (€5993), payable in instalments to the training provider. The course fees include university course materials, access to web-based learning materials, lectures, tuition and tours. Books are not included but membership of University libraries is available. STGA Final Examination Fees are also, currently £300 (€342) plus £60 (€68) per language.

Green Badge guide training courses are arranged from time to time by a variety of training providers. They are normally run to meet market demand. Yellow Badge guide training courses are normally run by employers or organisations for their own staff.

STGA Membership comprises:

- Ordinary Members (Blue Badge Guides) – qualified to guide throughout Scotland
- Regional Affiliates (Green Badge Guides) qualified to guide in specific areas of Scotland
- Site Affiliates (Yellow Badge Guides) qualified to guide on specific sites or fixed routes, normally for an employer or organisation
- Student Members – students training for the Blue Badge
- Non-practising Members – Blue Badge guides not currently working
- Retired Ordinary Members – Blue Badge guides who have retired
- Honorary Members – individuals who have given outstanding service to STGA
- Associates – organisations who wish to be associated with STGA

The STGA Training Committee prepares recommendations for the Board on the accreditation of courses; awarding of student membership; accreditation of student prior learning; consideration of appeals or complaints from students; provision of in-service training and other matters relating to training. A member of the committee is nominated to liaise between student members, the training provider (s) and the Board.

STGA has Investors in People Status (IIP), is a member of the World Federation of Tourist Guides Associations (WFTGA) and the Federation of European Guides (FEG) and subscribes to the FEG Quality Charter and the WFTGA Code of Practice. All members and affiliates of STGA subscribe to the STGA Code of Conduct and Standards or Performance. The STGA training and accreditation programme complies with European and International Standards for the qualification and training of tourist guides.

STGA accreditation complies with the Scottish Council for Qualifications Framework (SCQF) as follows:

- Blue Badge: Level 7 (Higher National Certificate equivalent)

- Green Badge: Level 6 (Higher equivalent)
- Yellow Badge: Level 5 (Standard Grade equivalent)

STGA controls the entry of students to Blue and Green Badge Courses:

- Blue Badge Training: candidates will be interviewed and if successful will be invited to attend an Introductory Course, which will assess potential skills in verbal presentation, customer care and academic aptitude as well as give an insight into core knowledge, professional skills and area studies. STGA reserves the right to require specific skills e.g. language skills to meet market demand. The fee for the Introductory Course is currently £225 and is non-returnable. Successful completion of the introductory course, will allow entry to the Blue Badge Training Course and students must become Student Members of STGA. Student Members pay 50% of the full membership fee, which covers administration, the STGA newsletter and access to STGA events and in-service training.
- Green Badge Training: candidates are interviewed and if successful will be offered a place on the course. STGA reserves the right to require specific skills e.g. language skills to meet market demand.

Employment for Tourist Guides in Scotland: Scottish Tourist Guides (Blue and Green Badge) are self-employed, free-lance guides and work for a variety of clients including tour operators and ground-handlers, conference organisers, corporate clients, public bodies and individual visitors. Blue Badge guides are qualified to guide throughout Scotland and Green Badge guides are qualified within specific regions of Scotland. STGA members and affiliates are usually self-employed and as such are responsible for generating their own income.

The amount and type of work undertaken by individual members varies considerably. The majority of members travel with visitors on extended tours of a general or specialist nature. Some members do only part-time or local guiding from choice, guides need to be flexible and some combine guiding with other work. It must be appreciated that demand for guides fluctuates markedly with the seasons and global economic changes.

A benefit of membership is an entry in the STGA annual Guide List, which is distributed to an extensive UK and overseas mailing list and on the STGA web site. STGA has a centralised booking service as a facility to its members and the travel trade; however we estimate most guides receive 90% of work from other sources. The majority of members develop good working relationships with various agents and in consequence obtain direct repeat bookings. STGA also

markets all members through industry contacts and government organisations and attends appropriate international trade fairs and promotional activities.

Yellow Badge guides are normally trained and employed by specific companies or organisations e.g. National Trust for Scotland. STGA is responsible for the examinations and accreditation only.

Professional Qualifications for Tourist Guides in Scotland:

- Research in-depth information for guided tours of the area of qualification
- Plan and agree itineraries and interpretation for guided tours in the area of qualification
- Interpret the area of qualification in depth
- Lead tour groups on coach, at site and on foot;
- Provide practical information, advice and assistance;
- Resolve emergencies and problems;
- Develop and maintain positive working relationships with clients, colleagues and visitors;
- Manage a small business and maintain appropriate records

All training providers will conduct their own practical and written examinations as appropriate, which must be approved by STGA and which will be a pre-requisite for sitting the STGA membership examination. STGA is responsible for the final membership examinations.

## **F. Tour Operations:**

### **F.1 *Estonia.***

This profession is not regulated as such but the activities of tour operators are. Tour operations services may be offered and provided by undertakings, agencies, foundations and non-profit associations. The rules governing their establishment etc are set out in E.1 above.

The law recognises the following types of *tourism services*: the provision of

- travel services by travel undertakings;
- accommodation and catering services;
- accommodation services;
- conference services;
- accommodation and medical rehabilitation services;
- tour-guide services and services of guide-interpreters and tour escorts.

The law recognises the following types of *travel services*: the provision of

- passenger services (not including taxi services);
- intermediation of passenger services;

- intermediation of visa services;
- intermediation of travel-related insurance services;
- intermediation of accommodation services;
- intermediation of catering services;
- intermediation of accommodation and catering services;
- intermediation of accommodation and medical rehabilitation services;
- intermediation of conference services;
- intermediation of tour-guide services and services of guide-interpreters and tour escorts;
- intermediation of leisure services;
- or intermediation of transport vehicle rental services.

A travel undertaking means an undertaking which offers for sale or sells packages organised by the travel undertaking itself or by other travel undertakings, and individual travel services. A tour operator is a travel undertaking which organises packages, and offers packages for sale or sells packages itself or through other travel undertakings. A travel agency is a travel undertaking which offers for sale or sells packages organised by a tour operator or which acts as an intermediary in the provision of travel services. The areas of activity of travel undertakings are classified as follows:

- offer for sale and sell, outside of Estonia, packages which include travel services provided in Estonia;
- offer for sale and sell of packages which include travel services provided in Estonia;
- organising, offer for sale and sell packages which include travel services provided outside of Estonia and charter flights;
- organising, offer for sale and sell packages which include travel services provided outside of Estonia, except for charter flights, or offer for sale and sell packages organised by foreign tour operators;
- offer for sale and sell packages organised by other travel undertakings which include travel services provided outside of Estonia;
- offer for sale and sell individual travel services.

The rules governing the set up of a travel undertaking are the same as those for other businesses except that it must meet the security provisions required by the Package Travel Directive as implemented in Estonia. This is to provide security for prepayments made by to the travel organiser by the consumer for package holidays, package tours and package travel. The security must be provided by an insurance company or credit institution located in Estonia or approved elsewhere in the EU or EEA to guarantee, in the case of the insolvency of a travel undertaking, the existence of financial resources for:

- return of the travellers to the place of departure, if the package contract includes passenger services;

- accommodation services provided to the traveller during the return of the travellers to the place of departure, if the package contract includes accommodation service;
- return of the price of the package to the consumer upon cancellation of the package or payment of compensation for a part of the package which is cancelled.

The use of security is decided upon by the Consumer Protection Board under procedures established by the Minister of Economic Affairs and Communications. The size of security is calculated depending on the total annual sales of packages planned by a travel undertaking and the area of activity of the travel undertaking in accordance with the following:

- 1 % of the total sales of packages but not less than 100000 kroons for areas of concern to offer for sale and sale of packages which include travel services provided in Estonia;
- 3 % of the total sales of packages but not less than 500000 kroons for areas of organising, offer for sale and sale of packages which include travel services provided outside of Estonia and charter flights;
- 1 % of the total sales of packages but not less than 200000 kroons for areas of organising, offer for sale and sale of packages which include travel services provided outside of Estonia, except for charter flights, or offer for sale and sale of packages organised by foreign tour operators;
- 1 % of the total sales of packages but not less than 100000 kroons for areas to offer for sale and sale of packages organised by other travel undertakings which include travel services provided outside of Estonia.

The provision of other services does not require to be covered by a security. If a travel undertaking operates in several areas of activity, the minimum amount of security will be the minimum amount prescribed for the area of activity for which the largest amount is prescribed.

Travel undertakings are required to submit to the Consumer Protection Board, on a quarterly basis, by the 20<sup>th</sup> day after the end of the financial quarter, a report on the sale of packages. The Minister of Economic Affairs and Communications has established the standard format for such report.

The main business organisations in the specific fields are (all with voluntary membership):

#### *Estonian Hotel and Restaurant Association*

Estonian Hotel and Restaurant Association is a voluntary and social organisation comprising physical persons and legal entities - the employers, operating in hotel and catering business. Its main objectives are:

- representation and defending the interests of the members of the association in public and with governing authorities and in relations with other physical persons and legal entities;
- participation in developing legislation concerning the association and its members;
- representation of the members of the association in relation with tourism-related and other organisations and associations, with hotels and restaurants and their associations and unions in the Republic of Estonia, as well as abroad;
- gathering and distribution of information concerning the activities of hotels and restaurants, including publishing and distribution of advertising and other print materials;
- carrying out market and client surveys and elaboration of respective recommendations;
- determining the need for additional training, organisation and co-ordination of the training.

#### *Estonian Ecotourism Association*

The Estonian Ecotourism Association (ESTECAS) was established in September 1996 and includes individuals, organisations and authorities responsible for tourism development. The main goal of ESTECAS is to promote cooperation for the development of ecotourism in Estonia and unite stakeholders in order to formulate the framework and conditions for the sustainable utilisation and upkeep of the country's natural and cultural heritage in tourism products. ESTECAS contributes substantially to capacity building in local communities and to the conservation of the natural and cultural heritage of Estonia.

### **F.2 France.**

These professions come under the auspices of the Ministry of Tourism. There is no compulsory membership of any trade associations. The one of which many are members is the SNAV (*Syndicat National des Agences de Voyages*), the travel agents' association.

Traditionally, in France, tour operators and tourist guide services were registered as a subpart of the travel agency profession. However, there was a recent change in the classification system for occupations and now tour operators are classified separately. A travel agency is defined as a commercial firm which provides travel and tourism services to its customers. That means two things:

- individual or collective travel and tourism services whether or not they constitute a package.
- Travel services such as the provision of transport tickets the booking of accommodation.

These professions are regulated by the Tourism Code, Article L-211 of which, as modified by the Law No. 2006-437 of 14th April, 2006 designates and protects their title. They are licensed professions and the



provision of travel agency or tour operations services without licence could lead to legal proceedings and a fine.

Licences are issued by the prefecture of the relevant department. The applicant must prove that he/she has more than 3 years professional experience as an executive in a travel agency or tour operations or holds a two year diploma of higher education in tourism or a recognized equivalent plus two years professional experience.

The travel agent or tour operator must provide a financial guarantee to cover their liabilities in the event of bankruptcy. This is obtained from a banking institution with headquarters or a branch in France or in other EU countries or in EEA State. They must also hold professional liability insurance. This latter may be obtained through APS, an organisation that guarantees tourism professionals.

The travel agent or tour operator may only engage in those activities. To issue flight tickets travel agencies must have an IATA agreement. The required to obtain this could be one year.

There are reforms on the regulation of these two professions in the pipeline as a result of harmonization of regulations between EU countries, and during 2010 the rules governing the activity of the professions will change. The licence and the exclusivity of the activity will disappear but the other conditions of professional liability insurance, professional qualifications and the financial guarantee will remain.

There are, of course, rules governing mutual recognition of foreign qualifications between EU and EEA Member States. For non EU/EEA persons they are required to have a professional permit and for that they must use the VAE system. By this method they submit their case to a school which has skills to recognize their studies and their professional experiences abroad.

#### *Contacts*

- <http://www.snet.fr/>
- [www.ceto.to](http://www.ceto.to)
- <http://www.snav.org/Snav/public?controller=fr.amadeuspro.f>  
[o.HomeContent](http://www.snav.org/Snav/public?controller=fr.amadeuspro.f)
- [http://fngi.fr/\\_fr/profession.php](http://fngi.fr/_fr/profession.php)
- <http://www.iata.org/index.htm>

### **F.3 Germany.**

This sector comes under the governance of the Federal Ministry of Economics and Technology (Tourism) and the Federal Ministry of Food, Agriculture and Consumer Protection (Consumer Protection).

The designation "tour operator" is not protected as a profession under German Law. It is used within the travel industry in a broad meaning for persons organising and selling trips and tours. However, "tour operator" or "travel organiser" is also a legal term. In §§ 651a - m German Civil Code

(*Bürgerlicher Gesetzbuch*, BGB, Second Book of the German Civil Code regulating the Law of Obligations) the German legislation determines the duties and obligations of traveler and tour operator as parties to the travel contract.

§ 651a (1) German Civil Code states: "*By a package travel contract, a travel organiser is obliged to render for the traveller a complete set of travel services (travel package) for the traveller. The traveller is obliged to pay the travel organiser the agreed price for the travel package.*" (Translation according to German Ministry of Justice, [www.gesetze-im-internet.de/englisch\\_bgb/index.html](http://www.gesetze-im-internet.de/englisch_bgb/index.html))

The rule defines the term "travel package" (*Reise*)<sup>39</sup> as "combination of travel services" (*Gesamtheit von Reiseleistungen*). However, it uses the term "travel organiser" without providing a definition. Generally, courts and legal authorities regard a tour operator as: a person, who offers a complete set of travel on his own responsibility and in his own name. In performing the travel service the person can use third-party-suppliers.

A "complete set of travel services" requires at least two single travel services which are combined to a package. Those single travel services are usually transport and accommodation. The term "travel services" in the meaning of the provision includes further, but is not limited to: sightseeing tours, sport or language courses or providing a rental car at the place of vacation. However, it does not mean an unimportant service which cannot be classified as independent or separate service itself as for instance, breakfast as part of hotel accommodation or meals during a flight.

The purpose of the tour is not relevant. The term "travel package" covers both, travel for vacation or leisure and travel for business purposes.

Travel agents are not covered by the scope of §§ 651a - m of the German Civil Code. In contrast with a tour operator a travel agent is a person, who does not combine single travel services to package by him or herself and does not offer travel services in his/her own name. The travel agent distributes single travel services on behalf of third party suppliers or tours already combined to a package on behalf of a tour operator and earns a commission for it. The German Civil Code does not provide special regulations governing the relation between traveler and travel agent. General contract law (§§ 675, 631 BGB, § 84 German Commercial Code, HGB) including case law apply.

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<sup>39</sup> The German wording of § 651a German Civil Code uses the word "*Reise*". The word "*Reise*" does not indicate a special kind of arrangements as for instance, a single tour or combination of different travel services. It can be translated into English in different ways for instance as journey, passage, tour, travel, trip, voyage. The translation of "*Reise*" as "travel package" refers more to the German word "*Pauschalreise*", addressed by the provisions of the German Civil Code and to distinct from the so-called "*Individualreise*", individual tour i.e., single travel services not combined to a package.

To fall into the scope of §§ 651a - m German Civil Code i.e., to be considered a "tour operator" in the meaning of § 651a German Civil Code, the designation is not relevant.

Important is the activity itself. To be legally defined a tour operator it is sufficient if the traveler get the impression that the person offers the package on his own responsibility. Agent-clauses, trying to deny the legal status of a tour operator are not valid.

§ 651a (2) German Civil Code state: "A declaration that the only contracts being arranged are contracts with the persons who are to carry out the individual travel services (service providers) will be disregarded if the other circumstances create the impression that the party making the declaration is performing the contractually provided travel services on his own responsibility." (Translation according to German Ministry of Justice, [www.gesetze-im-internet.de/englisch\\_bgb/index.html](http://www.gesetze-im-internet.de/englisch_bgb/index.html) ).

§§ 651a - m German Civil Code apply to all persons – natural persons and legal entities as well – which offer a package in the meaning of § 651a German Civil Code. The purpose of the activity is not important. The provisions cover commercial activities but also, tours organised on non-profit base.

For tour operators who organise tours in the meaning of the provision only occasionally (i.e., not more than twice a year) exemptions in regard to insolvency protection (§ 651 k (6)(1) German Civil Code) and information duties (§ 11 BGB-InfoV, Regulation on Civil Code Information and Disclosure Duties) apply.

Tour operators commonly use sub-designations, for instance: "bus tour operator" (*Busreiseveranstalter*), "language tour operator" (*Sprachreiseveranstalter*) and "business travel tour operator" (*Geschäftsreiseveranstalter*).

If a person organises a tour including car or bus transportation he/she is generally obliged to obtain a permission for transportation (§§ 2 (1) Nr. 4, 46, 48 Personenbeförderungsgesetz, PBefG, Transport of Persons Act). The permission can be obtained from the competent state authority (authorized/determined by the federal state government) of the place of the persons business (§ 11 (2) PBefG). However, a tour operator who plans, organises and, offers such tours but does not perform the transport by him or herself – with own busses – does not need permission for transportation if the transport is performed by a company which issues such a permission and provided that the tour operator discloses these facts to the participants in a clear, unambiguous manner (§ 2 (5a) PBefG).

There are a number of specialist professional associations:

- Fachverband Deutscher SprachreiseVeranstalter e.V. German Association of Language Tour Operator e.V. website: [www.fdsv.de](http://www.fdsv.de)
- Verband Deutsches Reisemanagement e.V. (VDR). German Business Travel Association e.V. website: [www.vdr.de](http://www.vdr.de)
- Bundesverband Deutscher Omnibusunternehmer e.V. Federal Association of German Couch Operator e.V. website: [www.bdo-online.de](http://www.bdo-online.de)
- Internationaler Bustouristik Verband e.V. (RDA) International Coach Tourism Federation e.V. website: [www.rda.de](http://www.rda.de)

A tour operator may be a natural person or a corporate body. § 651a BGB seq. covers all persons – natural persons and legal entities as well – which offer a travel package in the meaning of § 651a German Civil Code. (see above, “Is the title of the profession protected?”). A corporate body can also become a member of the professional associations.

For instance, the German Travel Association DRV, the biggest association for tour operators and travel agents in Germany, distinguishes between four types of membership (§ 4 DRV statute): 1. full members, 2. associated members, 3. affiliated members and 4. honorary members.

According to § 4 (2) of the DRV statute, full members can be: commercial travel agencies; other commercial travel mediators and commercial travel consultants; commercial tour operators, amalgamations of commercial travel agencies and/or operators.

The membership can only be acquired for the entire concern i.e., including all branches provided these are within the territory of the Federal Republic of Germany. If a member’s business covers several areas of operation, then the individual business divisions may attain their own membership rights in the corresponding association structure. The same applies to the obligations (§ 4 (3) DRV statute). Full members can also be the German branches of concerns which have their registered offices outside of Germany. If there are several such branches in Germany, membership may only be attained uniformly for all (§ 4 (4) DRV statute). Amalgamations of concerns may attain membership uniformly i.e., systems headquarters and individual business units are assessed jointly. It is also possible to apply for membership separately (§ 4 (5) DRV statute).

The DRV includes as associated members merchants, partnerships and joint-stock-companies which wish to promote the objectives of the association, but which do not fulfil the criteria for full membership (§ 4 (6) of the DRV statute). Affiliated members can be natural persons who are not active as tradesmen and non-commercial organisations, who/which wish to promote the objectives of the association but which do not fulfil the criteria for an full or associated membership. Individual persons cannot be affiliated members if they are employed by a company which is a member of the DRV or if their employer could become a member of the DRV. (§ 4 (7) DRV statute).

Companies, merchants and non-commercial organisations based abroad can become affiliated members. (§ 4 (8) DRV statute).<sup>40</sup> Natural persons - members and non-members - who have performed outstanding services for the association or in the general promotion of the tourism sector can be appointed honorary members (§ 4 (9) DRV statute).

Opening a business as tour operator or travel agent does not require a special qualification. A bachelor or master degree in tourism or practical experiences within the tourism branch might be useful but is not required by law. Generally, anyone can engage in business as a tour operator or travel agent (freedom of trade, § 1 GewO, Trade Regulation Act). However, some administrative or other legal rules might apply (see below).

Courses for tour operators or travel agents are offered by different institutions and associations including:

The German Seminar for Tourism Berlin e.V. (Deutsche Seminar für Tourismus, DSFT) offers every year about 150 seminars covering different issues of the tourism industry.

[www.dsf-berlin.de](http://www.dsf-berlin.de)

Educational programmes for tourism offered by the

Association for Tourism Education e.V. (Fachverband für touristische Aus- und Weiterbildung e.V., AJT)

[www.ajt-fachverband.de](http://www.ajt-fachverband.de)

A wide scope of educational programmes (workshops, seminars etc) are offered by the travel associations e.g.,

- German Travel Association e.V. (DRV). [www.driv.de](http://www.driv.de)
- Alliance of Independent Travel Seller – Federal Association e.V (asr). [www.asr.berlin.de](http://www.asr.berlin.de)
- The International Coach Tourism Federation e.V./RDA Academy. [www.rda.de](http://www.rda.de)
- German Business Travel Association/VDR Academy. [www.vdr-service.de](http://www.vdr-service.de)

Although a special education or qualification to act as tour operator or travel agent is not required, there are some institutions and association offering training programmes and certificates to promote and maintain a high level of quality within the profession. For many years, the European Tourism Institute (Europäisches Tourismus Institut, ETI) University of Trier

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<sup>40</sup> The English translation of § 4 (8) DRV statute says that they can become associated members. However, according to the German version of the statute they can become affiliated members (*förderndes Mitglied*).

(Germany) in cooperation with the Alliance of Independent Travel Seller - Federal Association e.V. (asr) offers a certificate for travel agents, "Ausgezeichnetes Reisebüro" (Excellent Travel Agency)

List: [www.ausgezeichnetes-reisebüro.de](http://www.ausgezeichnetes-reisebüro.de)

More recently, they also provide a certification for tour operators.

Certificate: "Ausgezeichneter Reiseveranstalter" (Excellent Tour Operator)

[www.eti.de](http://www.eti.de)

[www.asr-berlin.de](http://www.asr-berlin.de)

The main professional associations are:

- Deutscher Reiseverband (DRV). German Travel Association. website: [www.driv.de](http://www.driv.de): Represents tour operators and travel agencies of all sizes and organisational forms, service providers (suppliers of individual services in the travel industry) and foreign tourist boards. About 4.500 members. Status: registered association.
- Allianz selbständiger Reiseunternehmen - Bundesverband e.V. (asr). Alliance of Independent Travel Seller - Federal Association e.V. website: [www.asr-berlin.de](http://www.asr-berlin.de): Represents small business travel agents and tour operators. About 4.000 members. Status: registered association.
- Internationaler Verband der Paketer e.V. (VPR). International Association of Packager. website: [www.vpr.de](http://www.vpr.de): Represents package tour operators. 100 members. Status: registered association

Membership of a professional association is not compulsory.

The commercial activities of a tour operator are governed by provisions regulation the performance of businesses in general. They are regulated by the Trade Regulation Code (*Gewerbeordnung, GewO*). The business of a tour operator is usually classified as a trade with fixed location. In this framework it is determined as a business which is - generally - not subject to special supervision.

If a tour operator starts to operate a business he/she is obliged to notify (to register with) the competent authority (§ 14 (1) GewO). Usually, it is the local trade authority (Municipal Offices, City Council) of the tour operator's place of business. A notification is also required if the tour operator transfers or rearranged the business or closes the business again (§§ 14 (1) Nr. 1 - 3 GewO).

As previously stated, generally the business of a tour operator is not subject of special supervision. However, if facts show that the tour operator is an unreliable person the competent authority is authorised to prohibit the business - partly or in full (§ 35 GewO). Facts which

emphasize the unreliability of a tour operator are e.g., - but not limited to  
- financial instability or tax dues.

Running a travel agency as well as letting lodging or accommodation are qualified as businesses which require special supervision or inspection (§ 38 (1) Nr. 4 GewO). As soon as the travel agent notifies the competent authority about the business (start-up or changes) the competent authority examines the reliability of the travel agent (§ 38 (1) GewO).

The tour operator is obliged to provide security in case of his/her insolvency or a commencement of insolvency proceedings related to his/her assets. According to § 651k (1) German Civil Codes, the tour operator has to guarantee: firstly, that in such a case the traveller is reimbursed the price of the travel package tour to the extent as travel services are not performed because of the tour operators insolvency (§ 651k (1)(1) BGB). Secondly, he has to guarantee that the traveller receives compensation for necessary expenses incurred by the traveller for return travel caused by the insolvency (§ 651k (1)(2) BGB).

These guarantees may only be performed by the tour operator by means of an insurance policy taken out with an insurance company authorised to conduct business operations within the area of application of the German Civil Code (651k (2)(1) BGB) or by the promise of payment of a banking institution authorised for business operations within the area of application of the German Civil Code (§ 651k (2)(2) BGB). There are several insurers offering such insolvency protection on the German market.

Exempted from the requirement of insolvency protection is a tour operator who organises travel only occasionally and outside of his commercial activities (§ 651k (6)(1) BGB). Also exempted is a tour operator who is a legal person under public law whose assets may not be subject of insolvency proceedings (§ 651k (6)(3) BGB). Furthermore, a guarantee is not necessary if the travel package does not last longer than twenty-four hours, does not include an overnight stay and does not cost more than 75 Euros (§ 651k (6)(2) BGB).

The statute allows the insurer or the banking institution (customer finance guarantor) to limit its liability for the total amounts to be reimbursed by it in one year to €110 million. In case that the total of the amounts to be reimbursed by a customer finance guarantor in one year exceed the amounts of €110 million, the individual reimbursement claims will be reduced in the ratio of their total amount to the maximum amount (§ 651k (3) BGB).

To fulfil his obligation, the tour operator is obliged to provide the traveller with a direct claim against the customer finance guarantor and must evidence it by handing over a confirmation (guarantee certificate) issued by the customer finance guarantor or at its behest. The customer finance guarantor may not invoke, in relation to a traveller to whom a guarantee certificate has been handed out, either objections under the customer finance guarantor contract or the fact that the guarantee certificate was



only issued after termination of the customer finance guarantor contract (§ 651 k (3) BGB).

A travel agent has the duty to check the validity of the guarantee certificate at the time it is handed it over to the traveller (§ 651 k (3) BGB).

The tour operator or travel agent as well are entitled to request or accept payments for the package price (full or partly) prior to the end of the travel package if the guarantee certificate has been given to the traveller (§ 651 k (4) BGB).

If the tour operator has - at the time of conclusion of the contract - his principal place of business in another Member State of the European Community or in another contracting state to the Agreement on the European Economic Area, it is sufficient if the tour operator provides security in compliance with the provisions of the other state and if those provisions satisfy the requirements of the provision of the German Civil Code. To request payments the provision of security must be evidenced to the traveller (§ 651 k (5) BGB).

A tour operator who fails to comply with the obligations and accepts payment without having handed the security certificate to the traveller or without proofing security is subject to a penalty stipulated in the Trade Regulation Code. The maximal amount of the penalty is €5.000,00 (§ 147b GewO). To fail to provide the required insolvency protection is further an unfair commercial practice (§ 4 (11) Unfair Competition Act, Gesetz gegen den unlauteren Wettbewerb, UWG). It can be sanctioned under provisions of the Unfair Competition Act (§ 8 (3) UWG) and the Act on Injunction Claim (§ 2 UKlaG, Unterlassungsklagegesetz).

A person is allowed to combine e.g., the activities of a tour operator with the activities of a travel agent. A travel agent can offer travel services on behalf of suppliers, as for instance flights on behalf of an air company or accommodation on behalf of a hotel. But, he can also combine single travel services to a package and selling the package as own product (as a tour operator).

Depending on the circumstances, conflicts of interest could exist in regard to professions which are subject to special rules regulating the profession (lawyers, doctors, pharmacists). For instance: In a recent German case (LG Köln, 10/04/2008, 31 O 825/07), a pharmacist distributed travel catalogues of a tour operator - advertising "health trips" - out of his pharmacy store. The tour operator promised the pharmacist a commission if a person calls the tour operator and books a tour. The German court held that the distribution of travel catalogues was incompatible with the legal status and obligations as pharmacists. The activity violated § 4 (5) ApBetrO which determines that pharmacy premises has to be separated from other commercial premises. The distribution of travel catalogues has to carry out separately from the pharmacies premises. Acting otherwise is an unfair commercial practice (§ 4 (11) UWG). Both, the pharmacist and



the tour operator (who submitted the catalogues to the pharmacist and promised the commission) were held to omit the activities (§ 12 UWG).

#### **F.4 Italy.**

The relevant legislative and regulatory framework is common to both tour operators and travel agents. They are regarded as two members of the same group, though the latter has a wider role. They are classified as touristic businesses.

The « touristic business » consists in an economic activity, organised for the production, the marketing, the intermediation and management of products and services to supply to consumers. The characteristics of the different types of tourist activities are laid out in Article 1, lett. b) of the Agreement between State and Regions (Conferenza Stato-Regioni).

To engage in a tourism business it is necessary to register at the Chamber of Commerce (in the Register of Enterprises). That allows enterprises to benefit from tax breaks, contributions, subsidies, incentives and any other benefit that is provided by the existing laws concerning industry and state aids. Once registered they can offer services throughout the whole national territory, provided that all the conditions, established by a ministerial regulation, are met.

Foreign tour operators can practice in Italy only on condition of mutual recognition (reciprocity) with the Origin State and also if the other requirements for engaging in business in Italy are met (e.g. visas, residence and work permits etc).

The requirements for the exam as 'Direttore Tecnico'<sup>41</sup> of a Travel Agency are:

- Italian citizenship or other EU citizenship. Non-EU citizens are treated equally with EU Citizens if they have regulated their position, according to Law 28 February 1990, n. 39.
- Secondary school diploma with the name of the school that issued the certificate. If the diploma is issued in a foreign country it is admitted only under the prior presentation of an asserted translation where it is made clear the equivalence with an Italian certificate.

The fee for enrolment is €78.00. However, a key barrier to providing these services in Italy is the requirement to speak Italian as English or French is not as widely spoken in Italy as might be expected.

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<sup>41</sup> 'Direttore Tecnico' is the (natural) person in charge of the management of a travel agency and he/she is technically liable for all the activities carried out under his/her supervision

There are two main forms of tour operations: incoming tourism and outgoing tourism. Tour operators, unless they are either very small or specialised, provide both, but in Italy they are often local entities and, therefore, they are specialised either in incoming tourism or in outgoing tourism and, furthermore, they are often specialised in sectors: religious tourism, heritage tourism, environment tourism, family tourism etc.

Certain requirements are necessary to open a travel agency. First, a "*direttore tecnico*" (technical director) is a necessary condition to practice, although this person does not necessarily need to be the owner of the travel agency. However, this qualification is obtained after a qualifying examination is taken, which tests that candidate's:

- Tourism legislation knowledge
- Tourism techniques' knowledge
- Tourism geography's knowledge
- Two foreign languages.
- Management and organisation of travel agencies' knowledge.

Regions keep an "*albo dei direttori tecnici*", which is an official list of all professionals qualified to manage a travel agency. The applicant may be registered in a different Region from the one where he/she currently practices. Secondly, a travel agency requires insurance covering civil responsibility and a deposit, to compensate the user in case of malpractice or other damages.

The travel agency must comply with Italian Law: any transgressions are subject to sanctions (administratively and criminally, the latter in cases of serious violations). To practice, a travel agency needs a business name, different from the ones adopted by other travel agencies, a seat and must be registered in the list of all travel agencies kept by ENIT.

Referring to the activity, we may distinguish two types of travel agencies: travel agents and tour operators. The former provides the above mentioned services, whereas the latter mainly creates independent packages, together with the intermediating role provided also by travel agents.

In the absence of a national legislative framework, Regions regulate these professions, particularly with regard to the access on competence and professional qualifications. Not all Regions carry out their tasks in the most effective way and as a result there are Italian areas where a qualifying examination has not yet been planned yet. Without regulation, there is neither fair competition nor consumer protection.

The profession is protected by regional laws which provide for the recognition of titles and qualification.

According to a framework agreement reached among the Regions, some training and professional courses have been organised which issue a diploma. In other Regions courses and rules have not been established yet.

A prerequisite is a good general knowledge, mainly historical, artistic and architectonic. Attendance at specialist schools such as Professional Schools and Tourism Schools is an advantage. Commercial schools provide a special three year course in tourist entrepreneurship, followed by a two year course for the designation of technician in tourist services.

Technical schools for tourism offer a 5 year diploma as '*perito turistico*'.

## **F.5 Malta**

The Malta Tourism Authority has oversight of these professions. The title of the two professions is not protected in law. The current legislation governing the sector is contained in the Malta Travel and Tourism Services Act 1999, which provides for the licensing for the keeping of hotels, guesthouses, hostels, holiday premises, catering establishments or houses used for the provision of accommodation to tourists (Section 18). It also provides for licences to operate as an incoming tourism agency, travel agency or destination management company (Section 27), to carry on the business of organised excursion operator (Section 32) and to act as a tourist guide.

Section 31(2) of the Malta Travel and Tourism Services Act 1999 requires that "every tourism operation requiring a licence" to contribute to an insolvency fund and that the funds will provide compensation to any traveller, licensed tourism operator or tourist for undisputed debts or for unavoidable but necessary expenses arising from the insolvency of a licensed tourism operation.

## **F.6 Netherlands.**

The General Dutch Association of Travel Agencies (*Algemene Nederlandse Vereniging van Reisbureaus* -ANVR) was established in 1966. It became a federation in 1989 comprising four member associations: Association of ANVR Tour Operators, the Association of ANVR Travel Agents, the Association of ANVR Air Ticketing and Business Travel Agencies and the Association of ANVR Inbound Tour Operators (the last of these was disbanded in 2003). Each association has its own executive, which actively monitors its particular sector and represents its own members, and each is represented on the Federation Council.

The ANVR comprises more than 650 travel businesses with a total of some 2200 offices. In 1971 it set up a financial guarantee fund to protect prepayments made by consumers for travel services. This became the Travel Refund Guarantee Fund (SGR) in 1983. In 1972 it established an independent Travel Disputes Committee to settle disputes between consumers and its members. In 1982 it prepared a set of consumer-friendly terms and conditions for use by its tour operator members and these were updated in 1997 after consultation with the Dutch Consumers' Association.

Since 1994 the federation has also developed into an employers' organization. In 2007 the three component members merged into one body, the Dutch Association of Travel Agents and Tour Operators (*Algemene Nederlandse Vereniging van Reisondernemingen*).

### **F.7 Spain.**

The supervision of the activities of tour operators is a matter for the Autonomous Regional Governments within Spain (e.g. Cataluna, Galicia, Basque Country etc). The tour operators' profession is not a designated profession nor is its title protected under Spanish Law. There are no specific qualifications required for practising the profession. Members of the professional association are companies, and not individuals. The professional association does not provide courses that lead to the attainment of tour operators' qualification? There are no legal privileges or exemptions as a result of association membership The benefits are related to professional prestige, corporate agreements with unions, etc.

Tour operators must form commercial entities, either Sociedad Anonyma or Limited Responsibility Companies. They cannot be sole traders or partnerships. These may well be multi-disciplinary entities and typically provide tour operations, travel agency and tourist guide services.

The disciplinary framework is governed by Spanish Commercial Law and the disciplinary rules of the association.

### **F.8 United Kingdom.**

In the United Kingdom, the travel industry is self-regulating. There is the voluntary code of conduct of the Association of British Travel Agents (ABTA), which contains definitions of travel agent and tour operator. There are other trade associations such as GBTA and AITO which also have Codes of Conduct.

Travel agents are described as retailers and intermediaries: retailers because they stock their premises with the products of tour operators (i.e., brochures containing package holidays), intermediaries because the customer, having selected a holiday, will indicate a choice to the agent who then books the holiday with the particular tour operator. Travel agents also sell plane tickets, make bookings at hotels and some organise their own package holidays (when they, therefore, act as tour operators).

Tour operators put the raw materials of a holiday together; in other words they organise all the elements of the holiday: the means of travel, accommodation, facilities, excursions. Customers buy this package for an all-inclusive price, which is generally lower than had they booked the various components themselves. Increasingly, tour operators sell direct to the public.

The Foreign Package Holidays (Tour Operators and Travel Agents) Order 2000 applies to travel agents and tour operators who are "interconnected" i.e. the travel agent and tour operator are part of the same company or group of companies and they exceed a market share of 5%. In such a case, it is illegal for the travel agent to sell the package holidays of a tour operator with which it is "interconnected" without first disclosing to the consumer that the travel agency is linked to the tour operator. This is to be done by way of notice in the travel agent's retail premises and in the front of every foreign package holiday brochure of the tour operator.

The EC Directive on Package Travel, Package Holidays and Package Tours was adopted on 13 June 1990. The aim was to harmonise the rules governing packages throughout the Community. Member States were required to introduce measures to implement the Directive. The Directive was implemented in the UK by means of regulations made under section 2(2) of the European Communities Act 1972. The Package Travel, Package Holidays and Package Tours Regulations 1992 came into force on 31 December 1992. They were amended in 1995 and 1998.

The Directive defines an "Organiser" as "...the Person who, otherwise than occasionally, organises packages and sells or offers them for sale, whether directly or through a retailer". This applies to tour operators amongst others.

A key obligation of the tour operator is contained in Regulation 16 which requires that the organiser must provide sufficient evidence of security for the refund of money paid over and for the repatriation of the consumer in the event of insolvency. This is an ongoing obligation and the organiser should be able to provide such evidence at all times. The Regulation does not specify how the organiser is to meet this requirement, but there are a number of ways in which this may be done. Bonding is the most common method used in the UK.

Under the provisions of Regulation 16(2), the organiser must have in force one of the following arrangements, unless the package is covered by the equivalent arrangements of another Member State, or where the package is one in respect of which s/he is required to hold a licence under the Civil Aviation (Air Travel Organisers Licensing) Regulations 1972 (ATOL):

- bonding (Regulation 17);
- bonding where the approved body has a reserve fund or insurance (Regulation 18);
- insurance (Regulation 19);
- monies in trust (Regulation 20);
- monies in trust where the organiser is acting otherwise than in the course of a business (Regulation 21);

It is a criminal offence to fail to comply with Regulation 16. The bonding requirements under the ATOL system are considered by the

Department of Business, Enterprise and Regulatory Reform (DBERR) to be sufficient to exempt licence holders from the requirements of Regulation 16(2).

The organiser must obtain a bond from a bank or insurance company whereby the latter binds itself to pay to an approved body, of which the organiser is a member, a sum to cover the cost of insolvency. The bond must not be less than 25 per cent of the organiser's annual turnover. In theory, any organisation can apply to be an 'approved body' but, in practice, it will most likely be a trade association.

The Regulations were amended by the Package Travel, Package Holidays and Package Tours (Amendment) Regulations 1995 to permit organisers, retailers and approved bodies to enter into bonding arrangements with persons in the Channel Islands or Isle of Man or to have insurance cover from a person based there. The following organisations are 'approved bodies':

- ABTA
- FTO Trust Fund Ltd.
- AITO
- Passenger Shipping Association
- The Confederation of Passenger Transport
- The Association of Bonded Travel Organiser's Trust Ltd. (ABTOT)
- Yacht Charters Association.

The approved body is responsible for calling in the bond and distributing the funds to consumers in the event of insolvency.

Another method is bonding where approved body has a reserve fund or insurance (Regulation 18). This is a similar system to (a) above; however, as the approved body has a reserve fund or insurance, the bond is for not less than ten per cent of the organiser's annual turnover (rather than 25 per cent). The Regulations do not prescribe how the reserve fund is to be created. It may come from membership fees, from insurance, or from a levy imposed on packages sold.

As an alternative, the organiser obtains insurance from an authorised insurer to provide for repayment of monies paid by consumers in the event of the organiser's insolvency. The insurer must be authorised by the DBERR to operate the scheme.

The last option is "monies in trust" (Regulation 20). Money paid over by the consumer under a package contract is held by a person acting as a trustee for the consumer until the contract has been fully performed. There are no regulations laid down regarding the appointment of the trustee or who may be appointed. Neither are there any specified requirements that the trustee should be an independent person, although the general law of trusts applies.

All holiday companies selling air holiday packages and flights in the UK are required by law to hold a licence called an Air Travel Organiser's Licence ("ATOL"), which is granted after the company has met the CAA's licensing requirements.

Each ATOL holder must contribute to a protection fund called the Air Travel Trust (ATT). Some ATOL holders must also provide a bond to the ATT.

In the event of an ATOL holder's failure, the ATOL Scheme ensures customers who booked and contracted with the ATOL holder for an air holiday package or a flight, do not lose the money paid over or are not stranded abroad.

## VII. APPENDIX A: QUESTIONNAIRE ON THE BUSINESS ENVIRONMENT

### Size and structure of domestic market for each service

Contribution of selected industries to GDP (in Euros or US\$  
Millions)

Industry	2003	2004	2005	2006	2007	2008
Accountancy services & auditing						
Architecture						
Engineering						
Management Consultancy						
Tourist Guide Services						
Tour Operators						

**Source:** (These can usually be obtained from a Central Statistical Office or a Central Bank depending on who compiles the GDP data)

### Size of each selected industry

Industry	Number of firms	Average Turnover/Sales	Number of Employees	Largest two firms
Accountancy services & auditing				
Architecture				
Engineering				
Management Consultancy				
Tourist Guide Services				
Tour Operators				

**Source:** (These can usually be obtained from the relevant industry associations)



## Survey of Relevant Industry Associations for Each of the Selected Industries

The following questions should be answered by the head or former head of each of the six selected industry associations (e.g. architects)

1. Approximately how many service providers are there in your industry?  
\_\_\_\_\_
2. Approximately what percentage of the services providers are foreign?  
\_\_\_\_\_
3. What is the typical size of firms in the industry based on number of employees (use the following table to estimate the percentage of firms that fall in each category)

<b>Firm Size (number of employees)</b>	<b>1-10</b>	<b>11-20</b>	<b>21-50</b>	<b>Over 50</b>
Local firms	%	%	%	%
Foreign firms	%	%	%	%

4. On a scale of 1-5, where 1 is negative and 5 is positive, how would you rate the following general attitudes of persons in the industry towards foreign service providers

<b>Rating</b>	<b>1</b>	<b>2</b>	<b>3</b>	<b>4</b>	<b>5</b>
General attitude of persons in the industry towards foreigners entering or offering services in the industry					
General attitude of persons in the industry towards joint ventures and collaboration with foreigners					

Explain: \_\_\_\_\_  
\_\_\_\_\_

5. How competitive are service providers in each industry for customers or users?

Very competitive \_\_\_\_\_ Moderately competitive \_\_\_\_\_ Not competitive \_\_\_\_\_

6. Which of the following are users of services in the industry? Also rank the top 4 users

a) Public Sector \_\_\_\_\_ b) Multinationals \_\_\_\_\_ c) Large local private entities \_\_\_\_\_  
d) Small local private sector entities \_\_\_\_\_ e) Non-Government Organisations \_\_\_\_\_  
f) Foreign Governments \_\_\_\_\_  
g) Foreign private sector \_\_\_\_\_

7. What are the main challenges faced by service providers in this industry? \_\_\_\_\_  
\_\_\_\_\_
8. Outline any EU policies, regulations or restriction or policies, regulations or restrictions in your country that must be observed by foreign service providers (e.g. work permits, fees, local experience or qualification requirements)?

### Survey of service Users

The following questions should be answered by two representatives of each user group identified in question 6 above (e.g. Public sector officials or multinationals).

- 13.**How available are the services domestically (of the selected industry e.g. Architects)?

Not easily available\_\_\_\_\_ Moderately available\_\_\_\_\_ Readily available\_\_\_\_\_

Explain: \_\_\_\_\_  
\_\_\_\_\_

- 14.**How good is the quality of service provided (in the selected industry)?

Poor\_\_\_\_\_ Fairly good\_\_\_\_\_ International standard\_\_\_\_\_

Explain: \_\_\_\_\_  
\_\_\_\_\_

- 15.**How do the prices of local service providers compare with the prices of foreign service providers (in the selected industry)?

Local cheaper\_\_\_\_\_ Prices are about the same\_\_\_\_\_ Local more expensive\_\_\_\_\_

Explain: \_\_\_\_\_  
\_\_\_\_\_

- 16.**How willing are you to use foreign suppliers from within the EU?

Not willing\_\_\_\_\_ Somewhat willing but a little sceptical\_\_\_\_\_ Very willing\_\_\_\_\_

Explain: \_\_\_\_\_  
\_\_\_\_\_

- 17.**How willing are you to use foreign suppliers from outside of the EU?

Not willing\_\_\_\_\_ Somewhat willing but a little sceptical\_\_\_\_\_ Very willing\_\_\_\_\_

Explain: \_\_\_\_\_

**18.** Have you (or anyone you know) ever used foreign companies to provide the particular service? Yes\_\_\_\_ No\_\_\_\_ If yes, which of the following methods were used?

- I. Did they do the work overseas and deliver it by email, courier, fax or mail?\_\_\_\_\_
- II. Did you (or person you know) go overseas to the service provider to get the service?\_\_\_\_\_
- III. Has the foreign service provider set up a local operation in the domestic market?\_\_\_\_\_
- IV. Did the foreign service provider visit on a temporary basis to provide the service?\_\_\_\_\_

### **Trade related issues in the selected industries**

**Source:** (These data can usually be obtained from a Central Statistical Office or a Central Bank depending on who compiles the International Trade or Balance of Payments data)

1) Please provide data on exports and imports for 2003-2008 in each of the selected service industries

#### **Exports**

<b>Industry</b>	<b>2003</b>	<b>2004</b>	<b>2005</b>	<b>2006</b>	<b>2007</b>	<b>2008</b>
Accountancy services & auditing						
Architecture						
Engineering						
Management Consultancy						
Tourist Guide Services						
Tour Operators						

#### **Imports**

<b>Industry</b>	<b>2003</b>	<b>2004</b>	<b>2005</b>	<b>2006</b>	<b>2007</b>	<b>2008</b>
Accountancy services & auditing						
Architecture						
Engineering						

Management Consultancy						
Tourist Guide Services						
Tour Operators						

- 2) Are there any EU policies, regulations or restriction or policies, regulations or restrictions in your country that must be observed by foreign service (e.g. work permits, fees, local experience or qualification requirements)?
- 3) Please provide information on the extent to which there is outsourcing of these services (off-shoring) to firms overseas by large firms in Europe.
- 4) Please provide any available information on cross-border trade in these service sectors
  - ii. Within the EU (intra-European supply of services).
  - iii. With countries outside of the EU

**Other Required Information** (so that Consultant can make his own inquiries and fill gaps where necessary)

- Contact information for relevant industry associations in each country
- Contact information for Central Statistical Office or Central Bank in each country
- Contact information for head of Immigration or Visa Department in each country
- Contact information for head of the agency that distributes work permits
- Contact information for two service providers (companies or individuals) in each of the selected industries in each country.
- Contact information for one foreign service provider (company or individual) in each of the selected industries in each country (if information is available)



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