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**ECONOMIC IMPACT OF REGULATION  
IN THE FIELD OF LIBERAL PROFESSIONS  
IN DIFFERENT MEMBER STATES**

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**IAIN PATERSON, MARCEL FINK, ANTHONY OGUS ET AL.**

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Research Report

# **Economic impact of regulation in the field of liberal professions in different Member States**

Regulation of Professional Services

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**Final Report – Part 1**

Study for the European Commission, DG Competition\*\*

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\* (Case Studies: Germany, France)

\*\*The contents of the study do not necessarily reflect the opinion  
or position of the European Commission.

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## Part 1 - Main Report



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## Executive Summary

This study presents a comparison of the legislation, regulations and codes of practice governing the practice of a range of professional services across member states of the European Union. The professions covered by the study are legal services (lawyers and notaries), accountancy services (accountants, auditors and tax advisers), technical services (architects and consulting engineers) as well as pharmacy services (community pharmacists).

While there is a body of theory concerning regulation, in particular concerning the self-regulation of liberal professions, most comparative empirical studies of outcomes have been carried out in the context of state comparisons in the USA. We distinguish between theories that give answers to the question ‘why regulation of professional services (at all)?’ and those that offer answers to the question ‘why is there often too high a degree of regulation?’ This distinction is made because a specific regulatory base exists for all the four professional services fields in all member states, but the range of regulatory scope and intensity varies considerably throughout the Union.

This fact gives rise to the basic research questions posed in the study, namely whether, to what extent, and in which areas, regulation differs between countries, and in particular to identify the economic effects of different degrees of regulation in member states. The approach used in the study is comparative, and draws on as much information about the liberal professions in member states as exists and has been made available for the study. No adequate knowledge base of regulations or outcomes was previously in existence, so questionnaires were sent to professional bodies in each of the fields covered in all member states, and additionally to European professional umbrella organisations, as well as to some relevant Government departments. The questionnaires sought details of market entry and conduct regulation, recent changes in regulations, and basic economic data of the market for each profession. In addition, detailed accounts of the regulatory features and economic outcomes of specific professions in specific member states are contained in the 17 case studies in Part Two of the report.

Comparative analysis requires comparable data: regarding regulation, this was achieved by our development of special regulation indices; regarding market outcomes, the main source of data was obtained from Eurostat and, where compatible, from member states’ statistical offices. The data is usually restricted to volumes of business and employment (of professionals and generally). Further relevant economic data would have included prices, costs, and earnings. Obtaining such data for even one country on these variables is fraught with difficulties, including non-availability as a time-series (or in most cases, at all) and non-

disclosure policies. Nevertheless, the study has been able to demonstrate the existence of trends from the data at the level available.

The study of professional regulatory systems in member states differentiates between two large groups of regulations: regulations on market entry and regulations on “market behaviour” or conduct. Typical *market entry regulations* are qualification requirements (formal certificates of qualifications – i.e. university degrees, length of practice and/or professional examinations), registration or membership in a professional body, rules on areas of reserved practice (i.e. exclusive rights for one – or sometimes more – professions to offer specific services or goods on the market), and in some cases economic needs tests. Typical *conduct regulations* are regulation of prices and fees (fixed prices, minimum and/or maximum prices etc.), regulation of advertising and marketing, regulation of location and diversification (geographical restrictions on offering services, restrictions on establishing branch offices), restrictions on interprofessional co-operation or e.g. restrictions on forms of business (e.g. whether incorporation is allowed and under what preconditions).

To simplify the rather complex picture of different forms of regulations on different professions in different countries, a regulation index each for market entry and for market conduct has been computed for each profession/professional group and member state. Subsequently the respective indices for market-entry and market-conduct were combined into an overall regulation index for each profession/professional group. The table below shows figures for the overall regulation indices, for all the professions/professional fields where one has been calculated (N.B. excluding notaries).

The higher the degree of regulation (intensity), the higher the respective figure (within a range from 0 to 12). All the regulation indices with a value of 5 or higher are shown in black boxes, indices between 2.5 and 4.9 are in grey boxes, and those below 2,5 have a white background.

Countries with a high degree of regulation intensity for all professions are Austria, Italy, Luxembourg and, with some exceptions in the field of technical services, Germany as well as France (and possibly Greece). Belgium, Spain (and possibly Portugal) appear to be in the medium category, whereas UK, Sweden (with the exception of pharmacists), the Netherlands, Ireland, Finland and Denmark (the latter again with the exception of pharmacists) show rather liberal regulatory regimes (at least from a *comparative* point of view within the EU).

**Total IHS regulation indices for different professions**

	Accountants	Legal	Architects	Engineers	Pharmacists
Austria	6.2	7.3	5.1	5	7.3
Belgium	6.3	4.6	3.9	1.2	5.4
Denmark	2.8	3.0	0	0	5.9
Finland	3.5	0.3	1.4	1.3	7.0
France	5.8	6.6	3.1	0	7.3
Germany	6.1	6.5	4.5	7.4	5.7
Greece	5.1	9.5	n.a.	n.a.	8.9
Ireland	3.0	4.5	0	0	2.7
Italy	5.1	6.4	6.2	6.4	8.4
Luxembourg	5	6.6	5.3	5.3	7.9
Netherlands	4.5	3.9	0	1.5	3.0
Portugal	n.a.	5.7	2.8	n.a.	8
Spain	3.4	6.5	4.0	3.2	7.5
Sweden	3.3	2.4	0	0	12
UK	3.0	4.0	0	0	4.1

With regard to the various professional fields the most extensive/restrictive regulation can be found in regards of *pharmacies/pharmacists*. Only Ireland, the Netherlands and the UK show comparatively low regulation indices. In *architectural* and especially in *engineering services* the situation is rather bi-polar: in respect of market entry some countries show rather restrictive licensing models (especially Austria, Germany, Italy, Luxembourg), in others certification without or with only very limited exclusive tasks reserved to the professions is the standard model (e.g. Sweden, UK, The Netherlands, Finland, Denmark). The conduct regulations for architects and engineers are – compared to those of other professional groups – rather less restrictive in most of the countries. This applies even in those cases where high levels of regulation on market entry exist. In *legal services* (lawyers) one can observe all degrees of market entry regulation. The same is true for conduct regulation. This leads to a high level of diversification in the overall regulation indices: from very low (Sweden, Finland) to very high (Greece, Austria, France, Spain, Germany and others). For *accountancy services* market entry in all countries exhibits some type of licensing model, but the scope of exclusive rights to offer services varies considerably. The same is true – albeit to a lesser degree – regarding qualification requirements. Together with variations in the degree of conduct regulation this leads to a rather high intensity of regulation in e.g. Belgium, Austria, Germany, Italy, France, Greece and Luxembourg. In all the other countries regulation lies in the medium category. Interestingly it appears that a high degree of regulation in accounting professions very often goes hand-in-hand with similar structures in the field of legal professions (lawyers).

In addition to the general overview of the regulatory systems of liberal professions in all member states of the European Union, the study also provides detailed case studies for

each profession. These include a mix of countries with low and high levels of regulation. The subset of member states includes: for legal services (lawyers, notaries): - Denmark, UK/England and Wales, Italy, Germany, and France; for accountancy services (accountants, auditors and tax advisers) - Italy, Netherlands, Germany, France; for technical services (architects and consulting engineers) - Austria, Finland, France, Spain; and for pharmacy services (community pharmacists) - Ireland, Portugal, Sweden, Germany.

The case studies aim not only to analyse the functionality of different types of regulatory regimes, but also to detect and comment on trends in regulatory reform. What is evident in this respect is a high degree of “system-stability”. In this context we did not find any complete system change (from a licensing model to certification model or in the other direction) and it only rarely occurs that exclusive tasks reserved to one or more professions are opened to other service providers. However, frequent changes in the regulatory framework can be observed in the field of conduct regulations. These changes in almost all cases have taken the form of liberalisation (e.g. in respect of price regulation, advertising, form of firm, inter-professional co-operation). Such liberalisation is *seldom* accompanied by the introduction of tighter regulation in the field of market entry. Apart from traditional, somewhat ‘defensive’ forms of regulation (on market entry and conduct) in some (but not all) countries, there is a trend to more pro-active forms of consumer protection and quality management, which implies a lower degree of anti-competitive effects. For several professions in several countries in recent years, for example, professional indemnity insurance has been made obligatory (or, if already in existence, broadened). Other examples are the introduction of obligatory continuing education, facilities for specialisation, or in some cases, specific voluntary certification and/or benchmarking systems.

The report also provides a benchmarking analysis of the professional services. Tables of distribution of key ratios (by country and by profession) professional density (per million of population), sector turnover per capita in the population and per person active in the branch (adjusted by prices and level of GDP) are evaluated to identify high, medium and low levels of relative performance. The performance levels in terms of outcomes are set against the degree of regulation in each country and professional field, as determined by the regulation indices. Some general trends have been indicated by the benchmarking and analysis of the legal, accounting, technical and pharmacy professional services, summarised as follows:

- Relatively high volumes of turnover from revenues (fees) compared to the number of practising professionals in countries with high degrees of regulation (conduct and entry). A connection may be surmised between volume of business per professional and excess profit (compared with the outcome under less restricted competition), albeit indirectly, in the absence of specific profit data. It seems unlikely that this effect is due to differing technologies, or other factors that would engender productivity advantages.

- Lower volumes of turnover from revenues (fees) - *only in proportional relation to the number of practising professionals* - in countries with low degrees of regulation (conduct and entry). This finding applies indeed also to professions and countries where the overall level of business is in fact higher. That is, we may surmise that low regulation is not a hindrance, but rather a spur, to wealth creation.
- A tendency towards market ‘shake-out’ in professions and countries with a low level of regulation, allowing the formation of larger enterprise units. In the professions studied this effect is not associated with a higher than usual level of business (volume per capita), and high market concentration, except in accountancy services.
- A negative correlation between degree of regulation and productivity for the case of legal, accounting and technical services. Since the measure of volume factors out differences in price levels and overall output levels of the economies, and since neither technological differences between countries nor lower employment levels are apparently the decisive source of higher productivity here, the correlation may also indicate a shortfall in potential output among highly regulated countries and professions.

It should be borne in mind that such effects as described above are not necessarily an automatic result of regulation. However the existence of certain types of restrictive anti-competitive regulation undoubtedly lends credence to the view that such regulatory structures can, and in many cases are, used by the professions to obtain economic results that are in their favour, but contrary to the needs of, and against the interests of consumers as a whole.

These empirical findings point in the direction of effects predicted by the ‘private interest’ theories of regulation, particularly in those aspects that are termed by economists as being ‘rent-seeking’. Whereas more detailed economic analysis would be needed to measure the strength of these effects, and establish statistical significance - the data for such an analysis simply is not available at this juncture – we may at least regard these effects as more than working hypotheses.

We are unable, from the data, to estimate the impact of the differences between regulatory regimes on the quality of services provided for consumers in detail, but there have been no apparent signs of market breakdown in those member states which we have shown to be less regulated. There is thus no basis for questioning the high quality and essential values of existing professional services, *regardless* of the presence of high or low levels of regulation.

Nevertheless, assuming a reasonable homogeneity of quality in the services we have studied and recent trends towards liberalisation notwithstanding, the available empirical evidence points in the direction of regulatory induced suboptimal outcomes from the point of

view of the whole economy (and from the viewpoint of consumers in particular) being present to varying degrees in legal, accounting, technical and pharmacy fields in many member states of the European Union, particularly in those countries with restrictively regulated professional services.

We are led by this study to the overall conclusion that the lower regulation strategies which work in one Member State might be made to work in another, without decreasing the quality of professional services, and for the ultimate benefit of the consumer.

## 1. Introduction and Background

Professional services, such as legal services, accountancy services, technical services and pharmacy services are distinguishable from the general category of services in the economy, even from the more apposite category of business services, to which the first three mentioned belong. The distinction rests primarily on the historical development of the occupations at the heart of these services. These came to be known as ‘liberal professions’, with whom particular groups of individuals are identified as practitioners. Indeed, one may often refer to ‘members’ of a liberal profession, due to their qualification, and acceptance by a recognised professional body, drawing a clear distinction with other non-members.

Within each field of professional services there may be several liberal professions. In this study, legal services comprise lawyers and notaries, ‘accountancy’ includes auditors and (sometimes) tax advisors as well as accountants, technical services are those of architects and consulting engineers, and pharmacy services refers to the activities of dispensing chemists (and thereby excludes clinical pharmacists).

Each of the professions has a long tradition particular to each member state. Separate historical development of professions within each field (legal, accounting, technical, and pharmacy services) have produced different characteristics in respect of form and organisation of the profession. Arguably, however, allowing for such variances, each profession performs a similar basic function in the society of each country. Nonetheless, it is the differences between member states in the regulation of the profession (professional field) and in economic outcomes that is the theme of this report.

In spite of the supposed and existing ‘special’ character of liberal professions, in respect of their relationship with clients, and responsibilities *vis a vis* the system of law, and/or governments, the approach taken here is primarily to regard the professions in their role as actors – in equal treatment along with other branches - in the wider economy of each member state, and also, of course, of that of the European Union. Such an approach can be found in a wide range of economic literature, more recently in the field of ‘law and economics’. This theoretical (and empirical) background is summarised in the report, and the results of our own empirical findings are set against this body of knowledge.

The term ‘economic’ here includes not only those aspects for which quantitative data can be collected, but also the set of organisational rules, that is to say, regulations, by which the economic activity of the liberal professions are bound. The first section of the report is devoted to establishing a consistent framework for analysis of these regulations. A classification scheme is constructed which enables a concise overview of the regulatory structure, and delivers a ‘compendium’ of the state of present regulation, in member states.



Going one step further, we introduce an Index of Regulation for each Profession/Professional field, in order to be able to benchmark the degree of economic restrictions applying to each of the four professional areas separately.

More detailed information about particular professional services, and the individual professions, in a limited number of countries is presented in case studies, along with a closer look at economic characteristics of each branch. The subset of member states was chosen in order to cover a spectrum of regulation-system types. As such, although the details in case studies are specific to the countries involved, certain insights may be gained that may be relevant to other member states, not treated here in depth, but whose regulation of professional services is similar.

Economic statistics are available, albeit for a limited range of characteristics, for nearly all member states in each professional field. These are examined comparatively across member states, and the results are evaluated with respect to knowledge about degree of regulation, as summarised succinctly by the regulation indices.

Regulations represent, in general, restrictions to competition between professionals and their enterprises. This is not in itself necessarily a value judgement. The relevant question to be answered is always whether the advantages of overall 'mix of regulation' (economic or otherwise) outweigh the disadvantages (economic or otherwise) or not. By comparing member states, we are able to make observations based on information about their peers. It is not necessary, in this approach, to posit questions regarding further novel steps towards reducing (the mix of) regulation - it suffices to compare the existing regimes.

For that reason, we do not need to address, in this study at least, factors outwith the known spectrum of professional regulation in the EU, which might impinge on those aspects of regulation that are sometimes claimed as being unique to a profession. That is to say, we take the standpoint that each profession studied in this report shares the same 'core values' in every member state, regardless of whether they exhibit greater or lesser degree of regulation. Notwithstanding an awareness that particular regulations should not be taken in isolation, but regarded as an entire set applying in a particular country, it is thus feasible and desirable to examine the regulation mixes while attempting to answer two basic questions:

- do lesser degrees of regulation (that lead to more competition) exist in other member states (peers)?, and
- are the outcomes in such peer member states at least as, or even more, favourable than in member states where the respective professional is more restrictively regulated?

This is the essence of the comparative benchmarking approach of this study.

## 1.1 Range of Professions/Professional Services in the Study

The Institute of Advanced Studies (IHS) carried out a study in 2002 for the European Commission, Directorate-General for Competition<sup>1</sup>, into the regulatory structure and economic impact of various Professional Services / Liberal Professions. The professions covered at present are all those belonging to Legal Services, Accountancy Services, Technical Services, and Pharmacy Services.

The professions that are included in these four areas of professional services are:

*Legal Services* – Lawyers and Notaries

*Accountancy Services* – Accountants, Auditors and Tax Advisers<sup>2</sup>

*Technical Services* – Architects and Consulting Engineers

*Pharmacy Services* – Pharmacists in retail business.

A knowledge base of types of regulation has been constructed encompassing (as far as possible) all 15 member states of the EU at present.

Similar types of regulation – in terms of their economic impact - have been grouped together to form a basis for classifying the extent and type of regulation in each member state.

*A note on terminology:* at various parts of the study we refer to the ‘number of professionals’ or ‘number of practising professionals’ in particular professional services. These terms refer to individuals who hold the appropriate professional qualifications in a member state and are thus authorised to participate freely in all aspects the profession. Thus, individuals with the equivalent of ‘trainee’ status may indeed already be highly qualified and practising professionally, but are not included within our narrow definition, if for example, they are not free to establish a firm in their own name. A measure of individual ‘professionalism’ may not be construed through this usage. This terminology has been chosen ahead of ‘members’, in the sense of ‘members of the profession’, on account of confusion with membership of a professional association or chamber etc., which may or may not be mandatory, or because there may be a plurality of possible ‘memberships’. Specific definitions for each profession are given in Chapter 4.

### 1.1.1 Member states selected for Case Studies

It was necessary to choose a subset of countries for which to carry out more detailed analysis – comprehensive coverage of all member states at this stage was not feasible.

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<sup>1</sup> Contract No. COMP/2002/D3/S12.334490.

<sup>2</sup> in those member states where tax advising is a liberal profession.

Therefore it was decided that the widest coverage could be obtained by examining a different set of countries for each of the four different professional fields. The following criteria were taken into account in making the choice: 1. geographical balance; 2. balance between countries which have more and less liberal regimes in professional services (on the basis of prior knowledge); 3. size of countries; 4. availability of information.

The following member states were selected for case studies in the respective fields of professional services:

*Legal Services:*

- Denmark, Germany, UK/England and Wales, Italy, France

*Accountancy Services:*

- Italy, Netherlands, Germany, France

*Technical Services:*

- Austria, Finland, France, Spain

*Pharmacy Services:*

- Ireland, Portugal, Sweden, Germany

representing a total of 17 case studies altogether at the level of professional field, and approximately double that number at the level of liberal profession (as referred to above).

## **1.2 Outline of the Methodology**

In order to satisfy the aim of providing an up-to-date comparative analysis of the regulatory framework for each of the professions / professional services in all 15 EU member states, a survey questionnaire was used. By this means it was intended to acquire authoritative information and data at source, i.e. from professional bodies, to augment knowledge gathered from other sources, such as published reports, previous studies etc.

Secondly, the availability of data on the professional services from sources, independent of the professions themselves was investigated. The most suitable data for comparative purposes are those from statistics bureaux at the member state and European levels. Data available at this level is incomplete for countries and years since 1990, but sufficiently available for certain comparative purposes. Detailed data for each of the professions, or professional fields, was also gathered for those countries selected for case studies. This data is perforce not structurible on a common, directly comparable, basis, but nevertheless contributes to an overall view of the outcomes in different countries.

### 1.2.1 Survey Questionnaire

Nearly 300 organisations (i.e. professional bodies, European umbrella organisations and relevant government Ministries) were sent a questionnaire. Over 100 specific professional bodies were considered as being essential for the purpose of obtaining a complete knowledge base of the regulatory structure in 15 member states

*Return of Questionnaires:*. Returns from professional bodies remained far below 100%: eventually about 75% of the questionnaires from the essential professional bodies were returned. Most returned questionnaires responded to the first part –on regulations, some responded to part 2 – recent changes in regulation, while the response to part 3 – economic data – was seldom answered. Some professional bodies showed a high degree of interest in the subject of the questionnaire. However many organisations failed to respond, despite repeated efforts being made to obtain returns. An overview of the return of questionnaires is presented in the annexes, along with a synopsis of the types of questions which elicited more or less response.

In view of the ‘gaps’ left by unanswered questionnaires – especially in countries, like Greece, where little or no previously published information on the regulation structure has been found to be available<sup>3</sup>, inevitably there are a small number of countries and professions which remain outwith the range covered in the study.

### 1.2.2 Compilation and analysis

As mentioned in the introduction, the following tools and deliverables were developed:

- a compendium of regulations for each member state, covering market entry (including scope of activity) and conduct regulations, in the form of generalised tables
- indices of regulation (market entry, conduct, and combined) for several professions and each of the four professional fields
- case studies (see above)
- a comparative benchmarking and analysis of each of the four professional services in all member states<sup>4</sup> relating economic outcomes with the degree of regulation (as per indices).
- a review of the concurrence of empirical evidence with theoretical considerations.

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<sup>3</sup> Correctly speaking, in English language.

<sup>4</sup> Subject to availability: the number of member states varies between 12 and 14.

### 1.2.3 Pharmacy Services – retail trade

Products sold by pharmacists in dispensing chemists are produced by major pharmaceutical companies (and others) and distributed world-wide. The nature of this mass retail market and details of differences in pharmaceutical prices in EU member states is discussed prior to the case studies on pharmacy services. The availability of previous research about prices/demand in this branch is a prerequisite for interpreting information on economic outcomes. In particular, we calculate a turnover share of total net turnover attributable to the level of dispensing pharmacies, in order to have an equivalent measure of output volume to the data used in legal, accountancy and technical professional services.

### 1.2.4 Alternative approaches

Other information than that presented here would be desirable for a complete picture of professional services /liberal professions. Unfortunately, the availability (in actual fact, lack of data) of data and information does not always match the resources of the study. Such areas are:

*Trade in Professional Services:* The level of trade in professional services available from the OECD database contains information on only 3 member states for both legal services and accounting services, only one of which belongs to the subset of member states selected for the case studies in these professions – an inadequate basis for comparison.

*Price Comparisons of Professional Services:* Comparison of fees and prices charged directly by professional services in different EU member states would be of great interest. The difficulties inherent in defining common and standard services on the one hand, and the relatively infrequent consumption of these services by individual consumers on the other hand (lack of mass market, except for pharmaceuticals), are among the reasons for the difficulty of obtaining useful information on this subject.

An extensive search for sources of secondary information, including consumers rights/protection associations in EU member states, yielded no results. Primary investigation (market research) of such differences would entail a level of effort beyond the resources of the current study.

## Structure of the report

The report is divided into three parts: the main report, of which this is the introductory first chapter, a report on case studies of particular countries/professions, and annexes.

The next section of the main report, Chapter 2 contains, as a general background to this report, a review of literature relevant to our topic and a synopsis of arguments for and

against (different types of) regulation in the field of professional services that have been put forward by authors of various theoretical (and sometimes empirical) studies of the liberal professions/professional services.

In the following chapter 3 we present an overview of the regulatory framework in each of the liberal professions in the legal, accountancy, technical and pharmacy professional services – for all EU member states. A characterisation of regulatory regimes existing in the EU follows, and this enables us to compile a compendium of reference tables in which groups of countries with similar regulation structures may be identified. Further, we develop and introduce a scalar index of regulation for market entry regulation, conduct regulation, and combined, for each liberal profession and professional services field.

The case studies that are described in Part 2 of the report offer an in-depth account of regulation and economic characteristics of professions in several EU member states, for each of legal, accountancy, technical and pharmacy services. The insights gained from these case studies, additional to our assessment of the overall degree of regulation reported in Chapter 3, are summarised for each professional services field in the fourth chapter of the main report (Part 1) and recent trends in liberalisation in the liberal professions are also reviewed.

Chapter 5 (benchmarking and analysis) comprises an examination of basic data concerning the economic branches in which the four professional service fields in this study are located. Ratios of key economic variables may be viewed across member states, allowing a broad comparison of high, medium and low relative performance and identification of groups of countries with similar patterns of outcomes. We draw on the regulation indices already introduced in the third chapter in carrying out a cross-comparison of economic outcomes with the degree of existing regulation over a wide range of EU member states. Indications pointing to a possible relationship between regulation intensity and productivity are scrutinised in greater detail, by filtering out the effects of ‘localised’ country effects.

In the last section, Chapter 6 of the main report, we present a summary of the main findings. Conclusions are drawn from interpretation of the results against the background of ideas dealt with in the second chapter.



## 2. Regulation of professional services – Theory and Publications

Nearly all of the professions covered in this survey – lawyers, notaries, accountants, auditors, consulting engineers, architects, and non-clinical pharmacists – are subject to degrees of (self-)regulation to a greater or lesser extent. The ‘self’ in self-regulation is not used in the literal sense, but connotes some degree of collective restriction, other than constraints emanating from the government or state, to effect outcomes that would not be obtained by individual market behaviour alone.<sup>1</sup>

Although some aspects of self-regulation have their origins in spontaneous ordering from within a profession, more often it may be regarded as a deliberate delegation of the state’s law-making powers to an agency, whose membership is composed of representatives of the profession themselves. Such arrangements are particularly in evidence in EU member states among lawyers’, notaries’, statutory auditors, and pharmacists’ professions.

Licensing of professionals, based on laws and regulations strictly limiting the supply of services to authorised individuals, is a more stringent form of self-regulation than certification of members of a professional body, where the latter function is voluntary, and does not hinder access of non-certified individuals to the market.

There are two lines of argument followed by economists which follow from theories applicable to the professional services. These are often referred to in overall terms as being pro and contra higher degrees of regulation. Here we will rather distinguish between theories that answer the question ‘why regulation of professional services (at all)?’ and those that answer the question ‘why is there too high a degree of regulation?’, because (as was shown in previous chapters) many aspects of regulation can be, and have been in certain countries, reduced in degree, particularly in recent times. The reference to degrees of regulation rather than ‘no regulation’ versus ‘regulation’ indicates that there is usually a common denominator of regulated areas to be found in practice in the professional services. The denominator is, however, placed at a different point on the ‘scale’ of regulation, as is made transparent by the regulation indices developed for the professions and professional fields in part 3 of this study. In rough terms the denominator is traditionally lowest in the field of technical services, followed by accountancy, legal, and pharmacy. Even the denominator may be lowered in time, however, as has occurred recently in the pharmacy profession (see part 3).

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<sup>1</sup> Black (1996), Ogus (2000).



## 2.1 Answers to the question “Why regulate professional services?”

The starting point for the pro-regulation theories is the listing of those characteristics that apply to the markets for professional services, and which differentiate these markets from the economist’s ideal conception of perfect competition. In the equilibrium predicted under unrestricted competition the welfare of producers (producer surplus) can not be increased without a detriment to consumer surplus, or vice-versa.<sup>2</sup> The extent to which familiar conditions leading to market failure may be present in liberal professions is discussed here briefly:

- Regarding the type of competition in professional services markets – traditionally there have been many small producers, and no a-priori grounds for expecting cartel formation or oligopolies (*prior* to the formation of self-regulating bodies), so that, despite the heterogeneous nature of services provided, and traditional localisation of providers, this is not of great concern.
- Regarding the provision of public goods – the professional competence of lawyers, accountants, engineers, pharmacists, etc. takes mostly the form of provision of information. Information generally satisfies conditions of non-rivalry and non-exclusivity, as it can in principle be supplied to third parties without incurring extra costs. Due perhaps to the relevance of particular information to the professional’s clients (heterogeneity) this feature is also of lesser concern. Nevertheless it is arguable that the proper functioning of the law and of the accounting system, and also of the health-care system, is an essential feature of the infrastructure of society and therefore constitutes to some degree a public good.
- Regarding externalities – a traditional concern in the professions is the effect that provision of low quality might have on third parties (as opposed to lower quality demanded by the market by being acceptable in relation to price). Not only, but especially in medical professions, are the negative consequences of poor advice potentially deleterious for other members of society than the client him/herself. This deficiency of the market may apply in particular in our study to pharmacists, engineers and notaries. The common existence of academic education, training periods and experience in the professional services are the first line of defence against such deleterious consequences. Immense importance in this connection must be attributed to the individual liabilities of the professions in private law.

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<sup>2</sup> I.e. a Pareto-efficient situation.

- Regarding access to information concerning the characteristics and prices of services and goods being equal for consumers and producers – the markets for professional services exhibit perhaps their greatest potential problems. The problem of asymmetric information between the agent (lawyer, accountant, architect, pharmacist etc.) and the less-informed principal (the customer/client) is manifest. In addition, professional services are often regarded as being credence (or trust) goods, meaning that consumers may not be able to assess the quality of the service provided before purchasing, or even after consumption, due to the information/knowledge deficit, compounded by a probable lack of experience in making repeat purchases.

Two aspects of information asymmetry are considered as being potentially deleterious: first, an adverse selection resulting from declining quality of services. The argument runs that the opacity of the market services to customers could result in their only being prepared to pay an average price for an unknown (hence presumed average) quality, discouraging producers of higher quality services, who expect corresponding higher prices, to exit the supply side, thus reducing average quality supplied by those remaining in the market. The net effect would be a 'downwards spiral' of quality and prices. This argument is taken by analogy from the well-known discourse on sellers of used cars.<sup>3</sup>

Secondly, professionals are said to be faced with a moral hazard problem when their own income generating goals and practices run counter to the objectives of the client, and where the asymmetry of information on the price-quality relationship stands in the way of fair bargaining. In such a situation there is a risk that the professional over-supplies the service to the client, or supplies a higher quality than necessary satisfying the client's needs, so that higher prices are charged to the customer than he/she could have achieved were he/she fully informed. This line of argument is connected to the contention that many consumers are unable to make informed decisions and need to be protected against malpractice.

Such reasons, as discussed above, advanced in favour of regulation are known as public interest theories, as opposed to the private interest approaches, which may generally be regarded as contra-regulation.<sup>4</sup> Before turning to these latter, it is salient to point out some of the remedies that have traditionally been adopted in most countries, foremost being licensing and certification.

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<sup>3</sup> Akerlof (1970)

<sup>4</sup> Maks and Philipson (2002)

Both licensing and certification are *ex-ante* quality control mechanisms, with licensing exerting a significantly higher degree of control. Licensing means that only professionals gaining the license may interact in the market for services. It is a barrier to entry. This barrier goes a stage, or more than one stage further than the quality instrument of academic study. As we will document later in this study, there is a wide range of restrictions to entry based on training periods, professional examinations, and years of experience.

The problem of information asymmetry has traditionally been used as a justification for various kinds of fee settings or price controls, whether implying, fixed minimum, maximum, or recommended tariffs. As we have seen, there has been a considerable degree of movement away from such restrictions in the professional services, in many, although by no means all member states.

Prohibitions on advertising have often been justified by professional bodies in the past as being inappropriate for the markets for experience goods (services). The lack of consumer information on quality could lead to a competition purely on price, leading to decrease in quality along the lines of the ‘used car’ argument cited above. Given the changes in technology in recent years, which have enabled the smallest of firms to publish openly, electronically, information designed to signal quality or reputation, it is not surprising that there has been a definite trend away from advertising bans.

Recent research<sup>5</sup> reports general evidence that restrictions on advertising of professional services increase the fees charged for professionals’ services and that more advertising leads to lower fees. In fact, the weight of opinion in most societies and professions has probably now tipped the scales in favour of regarding liberalisation of advertising as being the cure for the ‘remedy’.

## **2.2 Answers to the question “Why is there too much regulation of professional services?”**

The theoretical arguments rehearsed in the previous section have the disadvantage of not providing a means to compute whether particular instruments of regulation would lead to a net gain in welfare, for producers and consumers, over the claimed loss in welfare, also known as market failure. Hence it is quite possible that the practices adopted by self-regulating professions result in regulatory failure – not regulatory failure in the technical sense of non-compliance with regulations, but in the economic sense of decreasing welfare by more than would be necessary to obtain otherwise acceptable market outcomes.

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<sup>5</sup> Stephen and Love (1999).

Indeed theoretical private interest approaches postulate that professional bodies will advance their (members') interests beyond the minimum level required to the detriment of consumers – i.e. rent-seeking behaviour will occur. The term 'rent' is used in the sense of microeconomics to denote the difference between revenue and cost of producing services. The existence of competition dissipates rents in general market behaviour: on the other hand a decrease in levels of competition will lead to wealth transfer from consumers to producers.

Restrictions on using advertising and of the choice to set tariffs in order to attract customers are regarded as deleterious to the beneficial effects of competition for services. Restrictions on forms of association (lawyers with accountants, for example) are also seen as imposing a burden on consumers, who might otherwise benefit from economies of scope and 'one-stop shops'.

According to 'public choice' lines of argumentation<sup>6</sup> professional bodies are in a strong position to lobby governments in order to influence the outcomes of regulations and statutes. Since elected politicians seek re-election they have to address the attentions of influential interest groups, particularly those composed of important opinion leaders in society.

Even worse, from this perspective, self-regulation itself may represent the ultimate form of regulatory 'capture'<sup>7</sup>, and professional bodies can in practice be acting the part of a legitimised cartel, with wide ability to determine or influence the regulatory framework to the main benefit of producers.

In particular professional bodies may exert excessive control over entry conditions to the profession. The preconditions for the most restrictive market entry regulations are given when the benefits are concentrated among a relatively small group of producers, when the costs of professional organisation are relatively low, and where costs are spread across a large population (which then meet with less organised opposition from consumers' groups).<sup>8</sup>

It has been argued, in contrast, that the specific knowledge<sup>9</sup> of professional bodies, especially concerning the risk of services being of poor quality, and their ability to react flexibly, will therefore lead to the costs of self-regulation being lower than the costs of governments themselves regulating, or setting up an independent body to carry out regulation. Be that as it may, it begs the question of just how much regulation is necessary, and in which areas of service provision.

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<sup>6</sup> Van den Bergh and Faure (1991).

<sup>7</sup> Kay (1998); Capture theory, Posner (1974).

<sup>8</sup> Stigler (1971); Peltzman (1976)

<sup>9</sup> Miller (1985).

Economic rents in the form of excess revenues will result, according to the 'private interest' theories, when the self-regulating higher professional body has a monopoly right over a professional service and does indeed exercise a restricting influence over entry to the profession. Such behaviour will artificially keep the supply of service providers below the level it would reach in an unrestricted situation. Not only will prices be higher, but the level of services produced will be below the potential of the market.

Most empirical studies in the legal field have been carried out in the USA. Three separate studies<sup>10</sup> undertaken at different periods find that lack of reciprocity between state bar associations (an entry restriction) leads to a lower lawyer density and higher lawyer incomes. There have been many studies of advertising restrictions. In general these show that advertising prohibitions raise fees charged for professional services and correspondingly, that the more advertising, the lower are fees.<sup>11</sup>

Arguably the strongest single measure that can affect outcomes in professional services markets is the existence of licensing requirements from self-regulating bodies. Not only entry is directly under licensing control, but the lobby effect of a licensed profession to influence conduct regulation is greatly increased. For this reason, private interest theories would expect more favourable outcomes (here, from a consumer's point of view) in professions following the certification model of self-organisation.

Many economists have preferred arrangements of certification to licensing systems because consumers are in the position of being able to orientate their market decisions by reference to certified producers, but may choose to purchase from non-certified practitioners, especially when lower quality needs are served by lower purchase price.<sup>12</sup> On the other hand, a study of pharmacies in Netherlands and Belgium warns of the deleterious effects caused by the costs of measures taken by the licensing body to increase quality (e.g. increased education) being passed on to customers in a higher mark-up, resulting in some customers refraining from buying medicines.<sup>13</sup>

While most studies of licensing have been carried out among states in the USA, a study of lawyers, architects, , physicians, and pharmacists in Belgium showed that higher degrees of licensing restrictiveness was related to higher prices and higher earnings.<sup>14</sup>

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<sup>10</sup> Holen (1965); Pashigian (1977), Kleiner, Gay and Green (1982)

<sup>11</sup> Stephen (2002).

<sup>12</sup> Svorny (1999)

<sup>13</sup> Faure, Maks and Philippsen (2001).

<sup>14</sup> Van den Bergh and Faure (1991)

Finally, the suggestion that formation of several self-regulating bodies, in competition with each other (for professional members) has been put forward: under conditions of competition, the economic rents will be dissipated or, at least, reduced<sup>15</sup>. Such a situation exists in practice in some member states, as we have seen, under models of certification, but not where self-regulation is conducted in a licensing mode.

### **2.3 Empirical Studies on liberal professions**

The following specific references to published material on the liberal professions/professional services made here represent the most relevant and useful background to the subject matter extracted from the reviewed literature. The focus here is on recent empirical research.

In respect of empirical questions of regulation not much systematic research from an international comparative point of view has been done up to now. One of the most important publications in this respect is Herrmann (1996), who provides a detailed analysis for a large number of professions in several European countries. Some basic information can be found in IFB (1993), which gives an overview of the regulation on liberal professions in all Member States of the European Union at the beginning of the 1990s. OECD (1996) provides some useful information. However, most of it is in tabular form only.

A rather good source for information on accounting and legal professions is IBFD (2001). It provides some useful insights into both professional fields. However, much of the information given there is not up to date and the quality of information varies considerably from country to country. The same is true for the different articles on lawyers in different countries in Henssler/Nerlich (1994).

A subset of EU member states has been analysed in Felderer et al. (1998) for legal professional services and accountancy professional services, and in Felderer et al. (1999) for legal, accountancy and technical professions. Others, e.g. Gelking (1996): or Wein (1995) deal with specific professions and questions involving more abstract arguments concerning costs and benefits of regulations. One important book that combines empirical facts and theoretical insights has been published by Faure et al. (1993).

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<sup>15</sup> Kay and Vickers (1990), Ogus (1995).



### 3. The Regulatory Framework of Liberal Professions in the European Union

#### Introduction and Methodological Background

This chapter gives an overview of the regulatory framework of the liberal professions that are the subject of the study. The information given here comes from different sources. These are:

- Questionnaires returned from professional bodies.
- Relevant literature (articles, books, reports).
- Texts of law.
- Other sources, like: homepages of professional organisations, other sources on the internet<sup>1</sup>, individual members of the professions, additional information submitted by professional bodies and ministries with the questionnaires.

*Regarding incompleteness:* there are some professions in several countries for which we did not obtain a returned questionnaire. In these cases information was drawn from the relevant literature (if available) or the respective fields in tables etc. were left empty (if not available).

#### ***A “structure” for the regulatory systems of professional services***

On beginning a description of regulatory systems we first have to distinguish between regulation in the wider sense and regulations in the narrow sense. Regulations – in the wider sense of the word – include rules that are applicable to all participants in the economy. Such rules are, for example, general regulations on consumer protection or the general labour law. Such regulations are not part of our analysis. Here we concentrate on regulations in the narrow sense, which are rules that are directly, and in most cases solely, applicable to the liberal professions or professional services.

In a first step one can differentiate in this respect between two large groups of regulations. These are:

- regulations on market entry
- and regulations on so-called “market behaviour” or conduct.

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<sup>1</sup> In addition to homepages of specific professional organisations, the following internet websites have been of great importance: *lawyers and notaries*: [http://www.simons-law.com/e/index\\_e.htm](http://www.simons-law.com/e/index_e.htm), <http://elixir.bham.ac.uk/menu/country/default.htm>; *accountants*: [http://www.accaglobal.com/members/services/int\\_mobility/factsheets/](http://www.accaglobal.com/members/services/int_mobility/factsheets/); *architects and engineers*: <http://www.archieuro.archiworld.it/presae.htm>.



### Market entry regulations

There are different types of market entry regulations that can be distinguished.

In the field of *personal preconditions*: for a long time in many professions citizenship played an important role (this has changed in the meantime due to EU-legislation). Other personal preconditions to enter a market may for example be a minimum age or good personal reputation. Typically some negative conditions apply here, e.g. not having been convicted of a criminal offence.

Preconditions in the field of *Qualifications* are often formal certificates of qualifications (i.e. certificates on university degrees), respective practising or professional examinations.

Some *other preconditions* may encompass economic needs tests (i.e. ostensibly to answer the question of whether a new entrant is required), registration or membership in a professional body.

At the same time one or more areas of reserved practice for liberal professions very often exist. This means that there are exclusive rights for one (or sometimes more) professions to offer specific services or goods on the market.

These kinds of regulations lead – amongst other factors – to a certain degree of *potential competition* on a specific market, within the parameters set by the regulations. Together with the so-called market-behaviour or conduct regulations, described in the next paragraph, they influence the *actual degree of competition*.

### Conduct regulations

Regulations on market behaviour take different forms of professional and standards quality controls. They influence price-, quality- and product-competition. Typical regulations on market-behaviour are:

- regulation of prices and fees (fixed prices, minimum and/or maximum prices etc.),
- regulation of advertising and marketing,
- regulation of location and diversification (geographical restrictions on offering services, restrictions on establishing branch offices),
- restrictions on interprofessional co-operation,

- restrictions on forms of business (e.g. whether incorporation is allowed and under what preconditions),
- other regulations (regulations on continuing education, rules on specialisation or a certain kind of indemnity insurance etc.).

Both forms of regulation (market entry and market behaviour regulation) may derive from different sources. It is not only the provisions of (EU member) state law that is relevant here, but also rules that are issued by professional bodies. In general the following types of regulations appear as most relevant:

- national state law
- regional state law,
- rules issued by compulsory professional bodies (licensing),
- rules issued by voluntary professional bodies (certification model)<sup>2</sup>,
- regulations by the European Community (treaties, directives, decisions of the European Court of Justice).

Such regulations are issued and implemented under *different forms of professional organisation*:

- in models with licensing via state / public authorities,
- in models with licensing via professional bodies - often with compulsory membership in a professional association,
- in models with pure certification (no licensing).

In the second case the licensing may be implemented by only one professional body, or, as is apparent for some professions in some jurisdictions, there are alternative (and therefore to some extent competing) professional bodies.

In the last case, there often exist civil law professional bodies without compulsory licensing, and professionals do not have the exclusive right to offer one or different kinds of service. Also there is no market entry regulation in the narrow sense in this case - however it very often appears that there are some basic market-behaviour regulations.

The easiest distinction in this respect – apart from the question of whether there is any binding regulation at all – is the one between *self-regulation* and *regulation via the state/public authorities*. However, it occurs relatively often that a regulatory system is in fact

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<sup>2</sup> The distinction between compulsory and voluntary professional bodies is not necessarily co-extensive with the distinction between licensing and certification. This is true for example where membership to the professional body might be compulsory but it operates a certification system only. However, as to our knowledge, such a combination very rarely occurs, if at all.

a hybrid between these two categories. Elements of self-regulation are mixed with elements of regulation by the state. There may be for example a public regulator but with only residual regulatory authority, overseeing the practices of the self-regulatory agency. There are also cases where representatives of other (often partly self-regulated) professions are involved in the implementation of the rules of the profession (that is not their own profession). The latter form is called *interprofessional co-organisation*.

### ***An overview of the regulatory framework: regulation tables and regulation indices***

This chapter presents an overview of the regulatory systems of selected liberal professions in the EU. In a first step we provide *tables on different fields of regulation* and try to distinguish different regulatory groups of countries. In a second step, several *regulation indices* for each profession are constructed: for each profession there is an index for market-entry, one for conduct and an overall index. These indices, together with several quantitative figures on market-outcomes, will be used later on to analyse the overall regulatory and market situation for our selected liberal professions in the member states of the European Union.

The regulatory systems of liberal professions very often appear to be rather complicated and detailed knowledge often is necessary for a right interpretation of the one or other rule. For this reason our main source for the *regulation tables* provided below is our questionnaire, which has been sent to all the relevant professional bodies in the EU as well as to all the relevant ministries. This questionnaire includes all the regulatory instruments mentioned above. At the same time, we asked for the vital organisational and institutional characteristics of the respective regulatory systems.

In most cases the information given in the regulation tables directly mirrors the information given in the questionnaires. Unfortunately

- not all relevant professional bodies and ministries replied to the questionnaire
- not all returned questionnaires have been filled in completely,
- and not all information given in the questionnaires turned out to be clear and correct.

For that reason, some of the information provided in the following regulation tables has been extracted from

- relevant literature,
- texts of law and
- other relevant sources (see above).

The fields for which information is insecure have been marked with a question mark. Professions for which we do not have a filled in questionnaire at the time of writing are marked in italics and some fields remain free (“n.a.”).

To obtain a better impression from an internationally comparative point of view we introduce the following simple colour-code for the analysis of *market entry*:

	High regulation
	Medium regulation
	Low regulation
	No such profession (in the form of lib. prof.)
<i>white + italic</i>	Not enough information

lib. prof. = liberal profession

In a first step – concerning market-entry, the countries are respectively assigned to one or the other colour-coded group mainly in respect of the exclusive rights of the relevant profession(s). A market entry index is calculated for each profession in each country, whereby the outcomes of index-calculation fit the colour-coding quite closely.

The colour code concerning conduct regulation is as follows:

	regulation
	no regulation
n.a.	not enough information

Additionally here the relevant fields are marked with Y (“yes”) and N (“no”). This means that regulation applies/does not apply in the relevant field. In some cases “Y” and “N” are set in brackets. This is the case, when the relevant regulation only applies under specific circumstances etc. (see for further explanation section 3.1.2 below).

Our methodology on “*regulation indices*” is developed to facilitate comparison among the four professions covered by this report as well as, saliently, across member states’ economies as well. The respective overall index score reflects the number of restrictions that are applied and the relative importance of those restrictions. The higher the respective index score, the more restrictive the regulation system for that profession. We construct three types of indices:

- one for market-entry
- one for conduct, and
- an overall index.

Within each regulation category, a score is assigned to the particular form of regulation. The score for market entry and conduct ranges from 0 as least restrictive to 6 as most restrictive. The score for the overall index ranges from 0 to 12 (the sum of the market entry and the conduct index). Each regulation category receives a weighting that indicates the relative (assumed) importance of that category in respect of market outcomes. The higher the

weighting, the more important a regulation category is considered to be, relative to other regulation categories.

The use of weights for different categories of regulation is, in the last instance, necessarily subjective. This is a general feature of index construction, not singular to this case. Nevertheless, indices are widely used in different fields of social sciences. For example, in the field of industrial relations and wage setting alone, over 30 different indices exist, all showing some differences in the categories included, their weighting and, alongside with this, outcomes (see for a discussion: Kenworthy 2001).

A possible orientation for our purpose is a study done by Nguyen-Hong (2000)<sup>3</sup>. To the best of our knowledge up to now this is the only existing attempt to construct an index on the regulation of liberal professions. Unfortunately this study concentrates on international trade in professional services and for this reason focuses on some other categories of regulation than we do here (e.g. investment and ownership by foreign professionals etc.). Differences from the indices provided by Nguyen-Hong (2000) have various reasons:

- different categories of regulations measured in the index,
- a different system of weighting,
- the index applies to another time period (mid 1990s for Nguyen-Hong, 2001/2002 for our index)
- a higher quality of information on specific regulations in our study<sup>4</sup>.

However, a major parallel between our methodology and the methodology adopted by Nguyen-Hong (2000) is that in both cases a market entry index, a conduct index, and an overall index have been constructed.

For the market entry index our weighting and coding is as represented in the following table<sup>5</sup>:

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<sup>3</sup> See Nguyen-Hong, Duc (2000): *Restrictions on Trade in Professional Services*, Staff Research Paper, Productivity Commission, Melbourne.

<sup>4</sup> Nguyen-Hong mainly used information provided by OECD (1996) for his index.

<sup>5</sup> For pharmacists a slightly different method applies. See the relevant sub-chapter below.

### Market Entry Regulation Index

	Category/Variables	Coding	Scale	Weighting1	Weighting2
<b>ER</b>	<b>Entry regulation (general)</b>	<b>ERLC*0.40+ ERED*0.40+ ERQT*0.20</b>	<b>0 to 6</b>		
<b>ERLC</b>	<b>Licensing</b> Number of exclusive and shared exclusive tasks	0 = 0 1 = 1.5 2 = 3 3 = 4.5 4 or more = 6	0 to 6		40%
<b>ERED</b>	<b>Requirements in education/does only apply in cases of licensing; if no licensing: "0"</b>	ERED1*0.30+ ERED2*0.40+ ERED3*0.20+ ERED4*0.10	0to6		40%
ERED1	Duration of special education/university or other higher degree	0 to ≥ 6 years	0 to 6	30%	
ERED2	Duration compulsory practising	0 to ≥ 6 years	0 to 6	40%	
ERED3	Number of professional exams	(0 to ≥ 3)*2	0 to 6	20%	
ERED4	Number of entry routes to profession (inv. scale)	(0 = 4 or more routes; 1=3 routes; 2=2 routes; 3=1 route)*2	0 to 6	10%	
<b>ERQT</b>	<b>Quotas/economic needs test</b>	0=no 6=yes	0 or 6		20%

ER is the overall entry regulation index. The scale is from 0 to 6, and the higher the figure the more restrictive the regulation. Licensing (ERLC) and requirements in education (ERED) have been assigned the highest weights (40% each). It is evident that market entry in most systems is mainly driven by these two categories of regulation. For ERLC we follow the methodology of Nguyen-Hong (2000) and count the number of exclusive or shared<sup>6</sup> exclusive tasks provided by the relevant profession. The respective *categories* of tasks are taken from OECD (1996). We are aware of the problem that the number of exclusive tasks may not perfectly reflect their actual importance. This means that, for example, one exclusive task provided by one profession may cover a higher overall market share (e.g. in % of GDP) than two or more exclusive tasks provided by an other profession. In fact there is no way to solve this problem, as there is insufficient information on the actual importance (in terms of market data) of different tasks provided by liberal professions from an international comparative point of view.

ERED (requirements in education) is constructed from three other categories: duration of special education/university or higher degree (30%), duration of compulsory professional practice (40%) number of professional exams (20%) and number of entry routes to profession (10%). The duration of compulsory practice has been assigned the highest weight

<sup>6</sup> In this case two or more different professions are licensed to offer the relevant service..

as long phases of mandatory practice (sometimes combined with relatively low income) may discourage potential professionals, to a considerable extent, from entering a profession. The duration of special education (for a university or other higher degree) and the number of special professional entry exams are each important measures of the degree of market entry regulation as well. The number of different entry routes to the professions is coded as follows: the higher the number of different possible routes, the lower the figure adding to the overall entry index. We gave this field a weight of only 10%, as the (stand-alone) effects of higher flexibility in the entry system (irrespective of the general degree of market entry regulation as expressed in the other categories) should be comparatively low. The existence of quotas/economic needs tests (ERQT), which seldom occurs in the European Union except for pharmacists and notaries, is of more importance and weighted 20%. If there are no restricted tasks (i.e. a “0” in licensing/ERLC applies), then the figure for ERED and ERQT are automatically set at “0”, even if some specific education is obligatory in one or more existing certification (but not licensing !) structures.

The construction of the conduct regulation index is somewhat more complicated, as more categories have to be considered. For the conduct index our weighting and coding is as follows:



### Conduct Regulation Index

	Category/Variables	Coding	Scale	Weight-ing 1	Weight-ing 2
<b>CR</b>	<b>Conduct Regulation (general)</b>	<b>MCPR*0.25+ MCAD*0.15+ MCLOC*0.15+ MCDIV*0.20+ MCIC*0.25</b>	0 to 6		
<b>MCPR</b>	<b>Regulations on prices and fees</b>	0 = no regulations 1 = non binding reference prices on some services 2 = non binding reference prices on all services 3 = maximum prices on some services 4 = maximum prices on all services 5 = minimum prices on some services 6 = minimum prices on all services	0 to 6		25%
<b>MCAD</b>	<b>Regulations on advertising</b>	0 = no spec. regulations 2 = some forms forbidden (like comparative price advertising, direct mailing etc.) 4 = most forms are forbidden (advertising only in very narrow margins allowed) 6 = all forms of advertising are forbidden	0 to 6		15%
<b>MCLOC</b>	<b>Regulations on location</b>	0 = location not restricted 6 = location restricted	0 to 6		15%
<b>MCDIV</b>	<b>Regulations on diversification</b>	0 = no specific regulations 3 = diversification under specific preconditions allowed (branch office head is a professional, maximum number of branch offices etc.) 6 = diversification not allowed in any case	0 to 6		20%
<b>MCIC</b>	<b>Regulations on form of business and interprofessional co-operation (general)</b>	MCIC1*0.5+ MCIC2*0.5	0 to 6		25%
<b>MCIC1</b>	<b>MCIC1 Regulations on form of business</b>	0 = all forms (incl. incorporation allowed in any case) 2 = partnership allowed, incorporation only allowed in specific cases (regulations on ownership etc.) 5 = incorporation forbidden in any case 6 = partnership and incorporation forbidden in any case; only sole practitioners etc. allowed.	0 to 6	50%	
<b>MCIC2</b>	<b>MCIC2 Regulations on interprofessional co-operation</b>	0 = all forms allowed 3 = with all professions but no incorporation; or only with comparable professions in all forms allowed etc. 4.5 = only with comparable professions and no incorporation 6 = generally forbidden	0 to 6	50%	

Regulations on prices and fees (MCPR) and regulations on forms of business and inter-professional co-operation (MCIC) have been given the highest weightings (25% each). It is evident that the model of price setting has direct effects on the relevant market outcomes. The highest weighting coded here has been given to minimum prices: Whereas maximum prices and even reference prices also have some impacts on competition, the direct effects of minimum prices are the strongest.

The question of business form and inter-professional co-operation is very important in respect of potential investment coming from other economic sectors as well as product-innovation and business efficiency generally. The same is true in respect of rules concerning diversification (possibilities to open branch offices) (MCDIV). This category has been weighted 20%. Other categories are regulations on location (15%) and regulations on advertising (15%).

Our overall index is constructed from the sum of the market entry and the conduct regulation indices.

These indices provide a summary measure that quantifies the most important market restrictions that can be identified from available information sources. One pitfall to be avoided in constructing an index is that a higher score may simply reflect a greater availability of information rather than a more regulated regime - c.f. Nguyen-Hong (2000). For this reason, we construct a regulation index only for professions/countries where enough information of a rather good quality was available at the time of writing. Again, we have to stress that indices such as our regulation indices are not objective rational-scale measures. However, they are objective measures conditional upon the prior subjective definition of a higher or lower degree of regulation (as implemented by the choice and weighting of relevant categories of regulation). Isolated changes in the choice of relevant categories of regulation as well as coding and weighting would lead *ceteris paribus* to some changes in the regulation indices. Nevertheless, it is certain that no cases of countries/professions originally classed as having a high degree of regulation being classed as countries with a low degree of regulation (or vice versa) would arise after the adoption of an isolated reweighting. That is to say, the constructed indices are not highly sensitive to small changes in coding or weighting.

### 3.1. Accountancy Services

#### 3.1.1. Organisation and market entry regulation

The following three tables (Table 3-1, Table 3-2 and Table 3-3) give an overview of actual organisational models of market entry regulations *in accountancy services*<sup>7</sup>. We can see from this that there exists a licensing-model in all EU member states – and, in fact – there has to be a licensing-model in all member states according to respective directives of the European Union, which codify some minimum requirements for international statutory audits (and the professionals engaged in these activities). But the member states have a considerable degree of freedom as to how to organise the respective licensing

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<sup>7</sup> The term 'accountancy services' is always used in the wide sense, to include not only accountants, but also auditors, and (sometimes) tax advisors.

arrangements. We can see this in Table 3-1 regarding the basic organisational model and the question whether membership in a professional body is compulsory or not.

It is obvious, that when compulsory membership in a professional body is required, these body/bodies as a matter of course is/are regularly involved in the formulation and implementation of regulation as well as in the decision of disciplinary sanctions. A mandatory membership for auditors in a respective professional body exists in: Austria, Belgium, Denmark, France, Germany, Italy, Portugal, United Kingdom, Luxembourg and Ireland. In the United Kingdom and Ireland membership is compulsory only in those cases where Chartered or Certified Accountants want to work as a Registered Auditor (and for this purpose need to be licensed to do statutory audits). No compulsory membership in a professional body is found in: Finland, Spain and Sweden.

Table 3-2 shows the qualification requirements to get an accountant and/or auditor in the different Member States. U stands for “University Degree”, “HE” for “higher education”. In the case of the United Kingdom “Ch A” stands for “Chartered Accountant”, “Ce A” for “Certified Accountant”. If the information concerning University/higher education degree is set in brackets, this signals that a University degree is not a binding pre-condition to enter the profession and may be replaced e.g. by long practise times or specific non-university courses. In most countries to acquire the right for statutory audit a university or other higher degree is a precondition, but in some countries other, alternative “entrance roads” to the respective profession exist (as in Germany, the UK or Ireland). In all countries there are one or more special professional entry exams for auditors.

As already mentioned above, statutory audit is an exclusive right of one or more professional groups in all Member States of the European Union. Even more interesting is a second question on the exclusive rights other than that for statutory audit (Table 3-3). Here we can see that the market entry regulations for financial services are rather heterogeneous from an internationally comparative point of view. The respective *categories* of tasks given in Table 3-3 are taken from OECD (1996)<sup>8</sup>. “XX” means that the relevant task is reserved to the relevant profession *or* that it is reserved to the relevant profession and other licensed professions. We do not distinguish between these two cases because the question of “shared exclusive tasks” is a very complicated one and a major potential source of error. It became evident during our research that in many cases not even the professional association has exact knowledge on this point. If an “X” is set in brackets here, this means that the relevant regulations apply under specific circumstances only.

Overall, the exclusive rights of accountants are much wider in Austria, Belgium, France, Germany, and Luxembourg than they are in the other EU-member states. This is mainly because of the fact that not only statutory audit falls under exclusive rights in these countries

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<sup>8</sup> All the information given is revised and updated according to our own sources.

but also services like non-statutory audits, accounting and bookkeeping (Austria, Belgium) as well as tax advice and tax representation (Austria, France, Germany), which are exclusive rights of the respective (and other) professions. According to this some of the professions listed in Table 3-1 are, if the respective title is protected at all, primarily of certifying character only (as for example the *Administrateurs* in the Netherlands or the Management Accountants in the UK).

Table 3-1 Accountancy Services: General

Country	Profession	Access to profession: level of regulation				Implementation of regulation by		Disciplinary sanctions decided by		Membership in a prof. assoc. compulsory?
		nat.	subnat.	gov.	self-reg	gov.	self-reg.	gov.	self-reg.	
<b>Austria</b>	Beeideter Wirtschaftsprüfer	X		X	X	X	X	X	X	Y
	Beeideter Steuerberater	X		X	X					Y
<b>Belgium</b>	Chartered Accountant	X	?	X	?	n.a.	n.a.	n.a.	n.a.	Y
<b>Denmark</b>	State Authorised Public Accountant	X		X	X	X	X	X		N
	Registered Public Accountant	X		X	X	X			X	N
<b>Finland</b>	KHT	X		X		n.a.	n.a.	n.a.	n.a.	N
	HTM	X		X		n.a.	n.a.	n.a.	n.a.	N
<b>France</b>	Expert Comptable (Chartered Accountant)	X		X	?	n.a.	n.a.	n.a.	n.a.	Y
	commissaire aux comptes (Statutory Auditor)	X		X	?	n.a.	n.a.	n.a.	n.a.	Y
<b>Germany</b>	Wirtschaftsprüfer (Business Controller)	X		X	X		X	X	X	Y
	Vereidigter Buchprüfer (Sworn Auditor)	X		X	X		X	X	X	Y
	Steuerberater (Tax Adviser)	X		X	X	X	X	X	X	Y
<b>Greece</b>	Orkoton Elektion (Certified Public Accountant)	X		X	X	X	X	X	X	Y
<b>Italy</b>	Dottore Commercialista (Certified Public Accountant)	X		X	X	X	X	X	X	Y
	Regioniere Peritp Commerciale (Accountant)	X		X	X	X	X	X	X	Y
<b>Netherlands</b>	Register Accountant (Public Accountant)	X		X	X	n.a.	n.a.	n.a.	n.a.	Y
	Accountant Administrative Consultant (Public Accountant)	X		X	X	n.a.	n.a.	n.a.	n.a.	Y
	Administrateur (Bookkeeper)					n.a.	n.a.	n.a.	n.a.	N
	Belasting-advusir (Tax adviser)					n.a.	n.a.	n.a.	n.a.	N
<b>Portugal</b>	Statutory Auditor	X		X		n.a.	n.a.	n.a.	n.a.	Y
<b>Spain</b>	Audotires da cueantas (Accounting Auditor)	X		X		X		X	X	N
<b>Sweden</b>	Auktorisened revisor (Authorised Public Accountant)	X		X		n.a.	n.a.	n.a.	n.a.	N
	Godkänd revisor (Approved Public Accountant)	X		X		n.a.	n.a.	n.a.	n.a.	N
	Revisor (Accountant)					n.a.	n.a.	n.a.	n.a.	N
<b>United Kingdom</b>	Chartered Accountant		X	X	X	X	X		X	(Y)
	Certified Accountant		X	X	X	X	X		X	(Y)
	Registered Auditor	X		X	X	X	X		X	Y
	Public Finance Accountant				X	n.a.	n.a.	n.a.	n.a.	N
	Management Accountant			X	X	X	X	X	X	N
	Insolvency Practitioner	X		X	X	X	X		X	Y
<b>Luxembourg</b>	Expert Comptable (Tax adviser)	X		X						N
	Révisieur d'Enterprises	X		X	X	X	X	X	X	Y
<b>Ireland</b>	Chartered Accountant	X		X	X	n.a.	n.a.	n.a.	n.a.	(Y)
	Certified Accountant	X		X	X	n.a.	n.a.	n.a.	n.a.	(Y)
	Tax Consultant/Tax Practitioner					n.a.	n.a.	n.a.	n.a.	N

Table 3-2 Accountants: Qualification Requirements

Country	Profession	University/Higher education degree (years)	Practise (years)	Professional exam	Number of "entrance roads" to profession
Austria	Beeideter Wirtschaftsprüfer	U 4	5	Y (2)	2
	Beeideter Steuerberater	U 4	3	Y (1)	2
Belgium	Reviseur d'Entreprise	U 4	3	Y (2)	n.a.
Denmark	State Authorised Public Accountant	U 5	3	Y (2)	1
	Registered Public Accountant	U 4	2	N	1
Finland	KHT Approved Auditor	U 4-5	3	Y (1)	2
	HTM Approved Auditor	U 3	3	Y (1)	2
France	Expert Comptable (Chartered Accountant)	U 7	3	Y (1)	1
	commissaire aux comptes (Statutory Auditor)	U7	3	Y (1)	1
Germany	Wirtschaftsprüfer (Business Controller)	(U 4)	min. 3	Y (1)	3
	Vereidigter Buchprüfer (Sworn Auditor)	(U 4)	min. 5	Y (1)	2
	Steuerberater (Tax Adviser)	(U4)	min. 3	Y (1)	3
Greece	Orkoton Elekton (Certified Public Accountant)	U 4	8	Y (1) (?)	1
Italy	Dottore Commercialista (Certified Public Accountant)	U4	3	Y (3)	1
	Regioniere Peritp Commerciale (Accountant)	Umin3	3	Y (1)	1
Netherlands	Register Accountant (Public Accountant)	U 4+3	3	Y (1)	1
	Accountant Administrative Consultant (Public Accountant)	HE +6	2	Y (2)	2
	Administrateur (Bokkeeper)	(U4)	0	N	2
	Belasting-advusir (Tax adviser)	(U4)	0	N	2
Portugal	Statutory Auditor	U 5	3	Y (1)	1
Spain	Audotires da cueantas (Accounting Auditor)	U 3	3 or 8 (no U)	Y (2)	2
Sweden	Auktorisened revisor (Authorised Public Accountant)	U 4	5	Y (1)	1
	Godkänd revisor (Approved Public Accountant)	U 3	3	Y (1)	1
	Revisor (Accountant)	U 3 - 4	0	N	1
	Chartered Accountant	(U 3 - 4)	3 or 4	Y (2)	3
United Kingdom	Certified Accountant	(U 3 - 4)	3	Y (1-3)	4
	Registered Auditor	Cha A/Ce A	CH A+2/Ce A+2	N (but Cha A/Ce A)	7
	Public Finance Accountant		Y	Y	
	Management Accountant		3	Y (1: 3 parts)	1
	Insolvency Practitioner	(U 3- 4)	CH A+3/Ce A+3	Y (1 Special)	several
	Expert Comptable (Tax adviser)	U (3)	3	N	1
Luxembourg	Réviseur d'Enterprises	U (4), HE	3 or more (HE)	Y (2)	2
Ireland	Chartered Accountant	U (3-4), others	3,5 (with U.)	Y (min 2) + 2 (RA)	4
	Certified Accountant	U (3-4), others	3	Y (1-3) + 2 (RA)	4
	Tax Consultant/Tax Practitioner	HE, several	0	Y (3 parts)	several

Table 3-3 Accountancy Services: Scope of Activities

		XX = Exercise reserved; X= Activity exercised, but not reserved											
Country	Profession	Statutory audit	Non-statutory audit	Audit of mergers and contributions in kind	Public sector audit	Accounting and-bookkeeping	Insolvency practise	Tax advice	Tax representation	Management consultancy	Investment advice	Legal advice and representation	Expert witness in accounting
Austria	Beideter Wirtschaftsprüfer	XX	X	XX	XX	XX	X	XX	XX	X	X	XX	X
	Beideter Steuerberater		X			XX		XX	XX	X	X	XX	X
Belgium	Reviseur d'Entreprise	XX	XX	XX	XX	XX	X	X	X	X	X	X	XX
Denmark	State Authorised Public Accountant	XX	X	X	X	X	X	X	X	X	X		X
	Registered Public Accountant	XX	X	X		X	X	X	X	X	X		X
Finland	KHT	XX	X	XX	X			X		X	X		X
	HTM	XX	X	XX	X			X		X	X		X
France	Expert Comptable (Chartered Accountant)		X	XX		XX		XX	XX	X	X	XX	X
	Commissaire aux comptes (Statutory Auditor)	XX		XX	XX								
Germany	Wirtschaftsprüfer (Business Controller)	XX	X	XX	XX	X	X	XX	XX	X	X	XX	XX
	Vereidigter Buchprüfer (Sworn Auditor)	XX	X	XX		X	X	XX	XX	X	X	XX	XX
	Steuerberater (Tax Adviser)		X			X	X	XX	XX	X	X	XX	XX
Greece	Orkoton Elekton (Certified Public Accountant)	XX	X	XX		X	X	X		X	X		XX (?)
Italy	Dottore Commercialista (Certified Public Accountant)	XX	X	X	XX	X	X	X	XX				X
	Regioniere Peritp Commerciale (Accountant)	XX	X	X	XX	X	X	X	XX				X
Netherlands	Register Accountant (Public Accountant)	XX	X	XX	XX	X		X		X	X		X
	Accountant Administrative Consultant (Public Accountant)	XX	X	XX	XX	X		X		X	X		X
	Administrateur (Bokkkeeper)					X		X					
	Belasting-advusir (Tax adviser)					X		X			X		
Portugal	Statutory Auditor	XX	X	XX				X		X	X		X
Spain	Audotires da cueantas (Accounting Auditor)	X	XX	X	X	X	X	X	X	X	X	X	X
Sweden	Auktorisened revisor (Authorised Public Accountant)	XX	X	XX	X			X	X	X	X		X
	Godkänd revisor (Approved Public Accountant)	XX	X	XX	X			X	X	X	X		X
	Revisor (Accountant)		X		X	X		X	X	X	X		X
United Kingdom	Chartered Accountant		X		X	X		X	X	X	X		X
	Certified Accountant		X		X	X		X	X	X	X		X
	Registered Auditor	XX	X	XX	X	X		X	X	X	X		X
	Management Accountant		X			X		X	X	X	X		X
	Insolvency Practitioner						XX						
Luxembourg	Expert Comptable (Tax adviser)		X			X(X)	X	X	X(X)	X		XX	X?
	Réviseur d'Enterprises	XX	X	XX	X?	X(X)	X	X	X(X)	X		XX	X?
Ireland	Chartered Accountant	XX	X	XX	X	X	X	X	X	X	X	X	X
	Certified Accountant	XX	X	XX	X	X	X	X	X	X	X	X	X
	Tax Consultant/Taxation Practitioner					X		X	X	X	X		X

### 3.1.2 Conduct regulation

As already mentioned above, in addition to market entry regulations the second important group of regulations is that of conduct regulations. Relevant fields (from left to right on Table 3-4) are price-setting, advertising, regulation on location, regulation on diversification, the question whether incorporation is generally forbidden, the rules concerning inter-professional co-operation, the question whether professional indemnity insurance is compulsory and whether there is an obligation for continuing education.

Concerning prices, we distinguish between minimum, maximum and non-binding reference prices. If a “Y” is set in brackets here, this means that the regulation only applies to some kinds of services or other specific pre-condition. Similarly, this applies to the question of advertising: brackets symbolise that only very few kinds of advertising are not allowed, or only very basic regulation exists in cases where, according to our table, “some kinds” of services are forbidden. In the other fields brackets mean that the respective regulation applies in a specific form that would need further description. In reply to the answer whether “inter-professional co-operation is forbidden” in our table four answers are possible:

- “any”: this is quite clear: any form of inter-professional co-operation in a joint firm is forbidden.
- “incorp. gen”: it is generally forbidden to practise inter-professional co-operation in form of a corporate entity (joint stock-company).
- “with non lib. prof”: any form of inter-professional co-operation is allowed, but the respective partners must be members of a comparable profession (in this case e. g. lawyers etc.).
- “incorp with non lib prof.”: any form of inter-professional co-operation is allowed, but if the firm is a corporate entity (joint-stock company), the respective partners must be members of a comparable profession (in this case e. g. lawyers etc.).
- Brackets in most cases indicate that there are specific rules on ownership etc., e. g. that members of the profession have to hold 51% of the shares or that other specific circumstances apply etc.

The trends in liberalisation, that have taken place for accountants in Europe in respect of conduct regulation in the last ten years led to a situation whereby there are only very few countries now with very rigid price regulation (Germany for tax advisers, Greece, Italy and Portugal). In most countries only some forms of advertising are forbidden today. Germany, Spain and arguably France and Belgium still show high regulation in this field. There are no regulations on location (regulations on offering services only in a restricted geographic area) and only in Denmark and in Germany (again for tax advisers) specific regulations on diversification are in place. Italy appears to be the only country where incorporation de facto



still is not possible (see case study in chapter 3 of this report), whereas the situation concerning inter-professional co-operation is more heterogeneous. The same is true as regards the existence of compulsory indemnity insurance and the obligation for continuing education.



The information presented above only gives a brief overview over the regulatory situation for the profession of accountants in respect of market entry and conduct. Overall, it appears very hard to estimate in which country regulation is higher or lower.

### 3.1.3 Regulation Indices

The table below summarises the market-entry, conduct and overall regulation index for accounting services in the Member States of the European Union.

#### Accountants (Auditors): IHS regulation indices

	Market Entry	Conduct	Total	Rank
Belgium	3.9	2.4	6.3	1
Austria	4.2	2.0	6.2	2
Germany	3.6	2.5	6.1	3
France	4.0	1.8	5.8	4
Greece	3.6	1.5	5.1	5
Italy	3.2	1.9	5.1	5
Luxembourg	3.8	1.2	5.0	6
Netherlands	3.1	1.4	4.5	7
Finland	2.6	0.9	3.5	8
Spain	1.9	1.5	3.4	9
Sweden	2.4	0.9	3.3	10
Ireland	2.7	0.3	3.0	11
UK	2.7	0.3	3.0	11
Denmark	2.2	0.6	2.8	12
Portugal	2.7	n.a.	n.a.	n.a.

A very or at least rather high level of market entry regulation for accountants and auditors can be found in Austria, Belgium, France, Luxembourg, Germany and Greece. This fits exactly with our colour-coding in Tables 3-1 to 3-3. On the low end we find Denmark, Sweden and Spain. In respect of conduct we find again the high figures in Austria, Belgium and Germany and this time as well in Italy (whereas the entry regulation for Italy is of medium level). The figures for conduct regulation are lowest for UK, Ireland, Denmark and Sweden. Overall Belgium appears to be the most regulated country in respect of accountants, closely followed by Austria, Germany and France. England & Wales, Ireland, Denmark and Sweden are the least regulated.

## 3.2. Legal Services

### Lawyers

The main professions in legal services are lawyers and notaries. The following chapter at first deals with lawyers only as we only included this profession in our regulation index for legal professions. The reason for this is that it is in fact impossible to weigh the importance of regulations for notaries versus those for lawyers, whereas at the same time there are several countries in the European Community where the profession of a notary in form of the so-called “latin notary” is not existent. At the same time the market-share of the notaries (where they exist) is likely to be rather small compared to the lawyers. For this reason we can neglect the regulation in the field of notaries here: for our further analysis see chapter 4.

#### 3.2.1 Organisation and market entry regulation

Concerning market entry, even more differentiation than in the field of accountancy services can be observed in the field of legal services (lawyers). But the same does not occur in respect of organisation. In nearly all countries membership in a professional organisation is compulsory. However, in not all countries is such membership obligatory in respect to reserved tasks, but regarding the protection of a specific title only.

The most liberal regimes in this regard exist in Finland and Sweden (see Table 3-7 below). Lawyers or advocates do not have any (Finland), or only very narrow (Sweden), exclusive rights for offering services in these countries. Thus (nearly) anyone is allowed to give legal advice or even undertake legal representation of clients before courts. In countries coloured dark grey legal representation only is the exclusive right of specific professions, but not legal advice. In the countries coloured black legal representation and legal advice (and sometimes other additional tasks) may only be offered by one or more specific professions. The most regulated in this case are again Austria, France and Germany but – in contrast with the situation regarding accounting services – also Portugal and Spain. In the median position are Belgium, Denmark, Italy, the Netherlands and the United Kingdom.

The respective *categories* of tasks given in Table 3-7 are taken from OECD (1996)<sup>9</sup>. “XX” means that the relevant task is reserved to the relevant profession *or* that it is reserved to the relevant profession and other licensed professions. We do not distinguish between these two cases because the question of “shared exclusive tasks” is a very complicated one and a major potential source of error. It became evident during our research that in many cases not even the professional association has exact knowledge on this point. If an “X” is set in brackets here, this means that the relevant regulations apply under specific circumstances only.

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<sup>9</sup> All the information given in this table is revised and updated according to our own sources.

In respect to education (see Table 3-6 below) in most countries there exists only one “entry road” to the profession, whereby very often a university degree in law is a main precondition to become a lawyer/advocate. Additionally most countries require one or more professional exams and some time of professional practice. However, considerable differences occur in this respect: the spectrum in fact is very broad.

Table 3-5 Legal Services (Lawyers): General

Country	Profession	Level of regulation				Implementation of Regulation by		Disciplinary sanctions decided by		Membership in prof. assoc. compulsory?
		nat.	Subnat.	gov.	self-reg	Gov.	self-reg.	gov.	self-reg.	
Austria	Rechtsanwalt (Lawyer)	X		X	X	X	X	X	X	Y
Belgium	Advocaat (Advocate)	X		X	X	X	X		X	Y
Denmark	Advokat (Attorney at Law)	X		X	X	X	X		X	Y
Finland	Advocate	X		X	X		X		X	Y (only for title)
	Lawyer	X		X		X				N
France	Avocat	X		X	X	n.a.	n.a.	n.a.	n.a.	Y
Germany	Rechtsanwalt (Attorney at law)	X		X	X	X	X	X	X	Y
Greece	Dikigoros (Advocate)	X		X	X		X		X	Y
Italy	Accocato (Lawyer)	X		X	X	n.a.	n.a.	n.a.	n.a.	Y
Ireland	Barrister	X		X	X	X	X	X	X	Y
	Solicitor	X		X	X	X	X	X	X	N
Luxembourg	Acocat (Advocate)	X		X	X		X		X	Y
Netherlands	Advocaat (Agtorney at Law)	X		X	X	X	X	X		Y
Portugal	Advogado	X		X		n.a.	n.a.	n.a.	n.a.	Y
Spain	Abogado	X		X	X	n.a.	n.a.	n.a.	n.a.	Y.
	Precurador	X		X	X	n.a.	n.a.	n.a.	n.a.	Y
Sweden	Advokat (Advocate/avocat)	X		X	X	X	X	X	X	Y (only for title)
United Kingdom (Engl.&Wales)	Solicitor		X	X	X		X	X	X	N
	Barrister		X	X	X	X	X		X	Y

Table 3-6 Legal Services (Lawyers): Qualification Requirements

Country	Profession	University/higher education degree (years)	Practise (years)	Professional exam	Number of „entrance roads“ to profession
<b>Austria</b>	Rechtsanwalt (Lawyer)	U 4	5	Y (1)	1
<b>Belgium</b>	Advocaat (Advocate)	U 5	3	N	1
<b>Denmark</b>	Advokat (Attorney at Law)	U 5	3	Y (1)	1
<b>Finland</b>	Advocate	U 5	4	Y (1)	1
	Lawyer	U 5	0	N	1
<b>France</b>	Avocat	U 5	2	Y (2)	<i>n.a.</i>
<b>Germany</b>	Rechtsanwalt (Attorney at law)	U 3,5	2	Y (2)	1
<b>Greece</b>	Dikigoros (Advocate)	U 4	1.5	Y (1)	1
<b>Italy</b>	Accocato (Lawyer)	U 4	2+1	Y (1)	1
<b>Ireland</b>	Barrister	U or HE + course 2	1	Y (2)	2
	Solicitor	U or HE + course 2	2	Y (2)	3
<b>Luxembourg</b>	Acocat (Advocate)	U 4 + course	2	Y (2)	1
<b>Netherlands</b>	Advocaat (Agttorney at Law)	U 5	3	Y (1+)	1
<b>Portugal</b>	Advogado	U 4	1.5	Y (1)	1
<b>Spain</b>	Abogado	U5	N	Y (1)	1
	Precurador	U5	N	Y (1)	1
<b>Sweden</b>	Advokat (advocate/avocat)	U 4,5	5	Y (2004)	1
	Jurist	U 4,5	N	N	1
<b>United Kingdom (Engl.+Wales)</b>	Solicitor	U 3-4	2	see case study	3
	Barrister	U 3-4	1	see case study	2

Table 3-7 Legal Services (Lawyers): Scope of Activities

XX = Exercise reserved; X= Activity exercised, but not reserved											
Country	Profession	Advice domestic law	Advice international law	Advice foreign law	Conveyancing of title to real estate, wills and regulation of family matters such as marriage contracts	Representation before courts	Representation before administrative agencies (incl. tax matters)	Tax advice	Insolvency practise	Management consulting etc.	Advice and repr. patent law
Austria	Rechtsanwalt (Lawyer)	XX	XX	XX	X	XX	XX	XX	X	X	
Belgium	Advocaat /Advocate	X	X	X	-	XX	X	X	X	X	XX
Denmark	Advokat (Attorney at Law)	XX	XX	XX	XX	XX	X	X	XX	X	XX
Finland	Advocate	X	X	X	X	X	X	X	X	X	X
	Lawyer	X	X	X	X	X	X	X	X	X	X
France	Avocat	XX	XX	XX	-	XX	X	X	XX	-	XX
Germany	Rechtsanwalt (Attorney at law)	XX	XX	XX	-	XX	XX	XX	X(X)	-	XX
Greece	Dikigoros (Advocate)	XX	XX	XX	?	XX	?	?	?	?	?
Italy	Accoccatto (Lawyer)	X	X	X		XX	X	X	X		
Ireland	Barrister				XX	XX					
	Solicitor	X	X		XX	XX	X	X	X	X	X
Luxembourg	Acocat (Advocate)	XX	XX	XX	?	XX	?	?	?	?	?
Netherlands	Advocaat (Agttorney at Law)	X	X	X	?	XX	X	X	X	X	X
Portugal	Advogado	XX	XX	XX		XX	X	X	X	X	-
Spain	Abogado	XX	XX	XX		XX	X	X	XX	X	XX
	Precurador					XX	X		XX		XX
Sweden	Advokat (Advocate/avocat)	X	X	X	X	X (X)	X	X	X	X	X
United Kingdom	Solicitor	X	X	X	XX	XX	X	X	XX	X	XX
(Engl.+Wales)	Barrister	X	X	X	XX	XX	X	X			XX



### 3.2.2 Conduct regulation

Table 3-8 presents an overview on conduct regulation for lawyers<sup>10</sup>. Minimum prices apply in Italy, Greece, Germany and Austria, but for the latter two this is only true for specific services (see case study in Germany). In several countries reference prices exist. About half of all countries show rather rigid regulation in respect of advertising. Specific regulations on location (restrictions in offering services from a geographical point of view) are only imposed in the Netherlands, Greece and France.

Lawyers in Luxembourg, Greece, Belgium and Germany are not allowed to open branch offices, and lawyers in France and Austria may do so only after fulfilling specific pre-conditions. Incorporation is forbidden in several countries: this is true for Greece, Italy, Ireland, Germany, Belgium, Portugal, Spain as well as England & Wales (Barristers only). Additionally in several countries registered lawyers are not allowed to work together with other professions in a joint firm. In many cases they may not incorporate with members of other professions.

Overall – for example compared with technical professions (see below) – conduct regulation for lawyers in many countries appear to be very rigid. However, at the same time in many countries some liberalisation occurred in the last ten years – especially concerning prices and advertising. Only few countries like Denmark, Finland, Sweden – but now also England & Wales (solicitors only) show rather low degrees of conduct regulation.

In this context it is worth mentioning that it is especially the professional organisations of the lawyers, that oppose more liberal regulations concerning form of business and especially in respect to inter-professional co-operation (see case studies in chapter 3).

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<sup>10</sup> For further explanations of acronyms, etc., used in the table please refer to section 3.1.2. above.

Table 3-8 Legal Services (Lawyers): Conduct

Country	Profession	Regulation of prices			Advertising forbidden?			Reg. on location	Reg. on diversification	Incorp. forbidden?	Interprof. co-operation forbidden?				Comp. indemn. insurance?	Comp. cont. education?
		min. price	Max. price	Reference price	All	Most	Some				any	incorp. gen.	with non lib. prof.	incorp. w. non lib. prof.		
Austria	Rechtsanwalt (Lawyer)	(Y)	N	Y	N	Y	Y	N	(Y)	N	Y	Y	Y	Y	Y	
Belgium	Adcoaat /Advicate)	N	N	N	N	N	Y	N	Y	Y	N	Y	N	Y	Y	
Denmark	Advokat (Attorney at Law)	N	N	(Y)?	N	N	Y	N	N	N	Y	Y	Y	Y	N	
Finland	Advocate	N	N	N	N	N	Y	N	N	N	N	N	N	Y	Y	
France	Avocat	N	N	N	N	Y	Y	Y	(Y)	N	N	Y	N	n.a.	n.a.	
Germany	Rechtsanwalt (Attorney at law)	(Y)	N	N	N	N	Y	N	Y	N	N	N	Y	Y	Y	
Greece	Dikigoros (Adccocate)	Y	N	N	Y	Y	Y	Y	Y	Y	Y	Y	Y	N	Y	
Italy	Accocato (Lawyer)	Y	Y	N	N	Y	Y	N	N?	Y	Y?	N?	Y	Y?	N	
Ireland	Barrister	N	N	N	Y	Y	Y	N	N	Y	Y	Y	Y	n.a.	n.a.	
	Solicitor	N	N	N	N	Y	Y	N	N	Y	Y	Y	Y	Y	Y	
Luxembourg	Avocat (Advocate)	N	N	N	N	(Y)	Y	N	Y	N	Y	Y	Y	Y	Y	
Netherlands	Advocaat (Agttorney at Law)	N	N	N	N	N	Y	Y	N	N	N	Y	Y	Y	Y	
Portugal	Advogado	N	N	Y	Y	Y	Y	N	N	Y	N?	Y	Y	Y	n.a.	
Spain	Abogado	N	N	Y	N	Y	Y	N	N	Y	N	Y?	Y?	Y?	n.a.	
	Precurador	N	N	Y	N	Y	Y	N	N	Y	N	Y?	Y?	Y?	n.a.	
Sweden	Advokat (Advocate/avocat)	N	N	(Y)	N	N	(Y)	N	N	N	N	Y	N	Y	N	
United Kingdom	Solicitor	N	N	N	N	N	Y	N	N	N	N?	Y	N	Y	Y	
(Engl.+Wales)	Barrister	N	N	N	N	N	Y	N	N	Y	Y	Y	Y	Y	Y	

### 3.2.3 Regulation Indices

The table below summarises the market-entry, conduct and overall regulation index for lawyers in the Member States of the European Union.

A very high entry index applies for Austria, France, Luxembourg, Germany, Greece, Portugal und Spain. England & Wales (calculated by  $((\text{Barristers}+\text{Solicitors})/2)$ ), Italy, Belgium, the Netherlands and also Ireland are in the medium field. Of comparatively low level is market entry regulation for lawyers in Sweden and Denmark. No specific entry-regulation exists according to our definition in Finland. This exactly fits our colour-coding above.

In respect of conduct the most broad and rigid regulations are found in Greece, followed by Italy, Austria, Spain, Luxembourg, Germany and France. The least restrictive regulation models in respect of conduct exist in Finland, Sweden and Denmark. These are at the same time countries with rather low entry requirements. Only a little bit higher than for these countries is the conduct index for England & Wales (again the figure is given for  $((\text{Barristers}+\text{Solicitors})/2)$ ). Belgium, Ireland, the Netherlands and Portugal are positioned in the medium field.

#### Legal Services (Lawyers): IHS regulation indices

	Entry	Conduct	Total	Rank
Greece	3.5	6.0	9.5	1
Austria	4.1	3.3	7.3	2
France	3.9	2.7	6.6	3
Luxemburg	3.8	2.8	6.6	3
Germany	3.7	2.8	6.5	4
Spain	3.4	3.1	6.5	4
Italy	2.6	3.9	6.4	5
Portugal	3.5	2.2	5.7	6
Belgium	2.5	2.1	4.6	7
Ireland	2.4	2.1	4.5	8
England&Wales	2.9	1.2	4.0	9
Netherlands	2.1	1.8	3.9	10
Denmark	2.1	0.9	3.0	11
Sweden	2.0	0.4	2.4	12
Finland	0.0	0.3	0.3	13

The overall index is by far the highest for Greece. Then follow Austria, France, Germany, Spain and Italy. Finland, Sweden and Denmark show the lowest overall indices. Also the Netherlands, England & Wales and Ireland have overall regulation indices below the medium level. Overall regulation in Portugal lies in the middle.

## Notaries

The *Notary profession* is often analysed together with other liberal professions or professional services. However, they appear to represent a special case in certain countries as they fulfil – at least from their own point of view – a kind of public task or duty. This is an important and widely discussed question and which deserves some attention. What we can see from the following tables is that there are some countries in the EU where the profession of notaries in the sense of the so-called “latin notary” does not exist. The important difference between latin notaries and other professional descriptions of notary (e.g. “Notary Public” or “Scriveners”), is that the notarial deeds of the former are endowed (e.g. in the case of litigation) with the characteristic of representing special evidence guaranteed by public law. No ‘latin’ notary exists in England/Wales, Scotland, Northern Ireland, Ireland and the Scandinavian countries. This means that documents issued or authenticated by a notary do not have a special status before courts and other state offices there.

### 3.2.4 Organisation and market entry regulation

In countries where there is a Latin notary, the market entry regulations are always without exception relatively rigid. First, notaries have to fulfil extensive qualification requirements in those countries. A university degree in law is a mandatory precondition to enter the profession. Additionally, in most countries some professional practising is required. Further, special professional exams exist. From an internationally comparative point of view there is some differentiation in the education requirements, but what is even more important is the fact that in all countries with a Latin notary (due to recent liberalisation, with exception of the Netherlands<sup>11</sup>) the number of notaries or of notaries’ branch offices is structurally limited (via more or less objective economic needs tests etc.).

The main tasks fulfilled by notaries are the following: The notary draws up public and private documents, as well certificates and wills. At the same time notaries also give general legal advice and in some countries may represent clients before administrative agencies or even before courts.

In all countries regulations exist a question concerning the cases for which the consultation of a notary is mandatory and there appears to be a wide variety of more or less inclusive regulations in this point. Whereas, for example, in Italy even the buying of a used car has to be certified by a notary, the regulations in Austria are less restrictive. Here notarial form is required for more sensitive areas, such as for marriage contracts, donations, all legal transactions undertaken by blind, deaf or illiterate persons, medical artificial reproduction and for some cases in company law.

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<sup>11</sup> See <http://www.notaris.nl/knb/dutchnotaris/index.html>,



Table 3-10 Notaries: Qualification Requirements

Country	Profession	University/higher education degree (years)	Practise (years)	Professional Exam	Number of „entrance roads“ to Profession
<b>Austria</b>	Notar (Notary)	U 4	7	Y (1)	1
<b>Belgium</b>	Notaire (Notary)	U 5+1	3	Y (1)	1
<b>Denmark</b>	no Notaries in form of liberal profession				
<b>Finland</b>	no Notaries in form of liberal profession				
<b>France</b>	Notaire (Notary)	U 4 + 3 (course)	2 to 3	Y (2)	2
<b>Germany</b>	Notar (Notary)	U 3.5	5 to 7	(Y (2)) (Staatsexamen)	2
<b>Italy</b>	Notario	U 4	2	Y (1)	1
<b>Netherlands</b>	Notary	U 4	6	Y (1)	1
<b>Portugal</b>	<i>Notario (Notary Public)</i>	U 5	1	N	1?
<b>Spain</b>	Notario (Notary Public)	U 5	0	Y (1)	1
<b>Sweden</b>	No Notaries in form of liberal profession				
<b>England/Wales</b>	No Notaries in form of liberal profession				
<b>Greece</b>	<i>Notary</i>	U 4	3.5	Y (2)	1
<b>Luxemburg</b>	<i>Notaire</i>	U (4-5)	3	Y (1) 2 parts	1?
<b>Ireland</b>	No Notaries in form of liberal profession				



### 3.2.5. Conduct regulation

We may observe below (Table 3-12), that these systems of market entry are accompanied by a relatively high degree of regulation of market behaviour<sup>12</sup>. In most countries some kinds of minimum prices are in place (not in the Netherlands and due to recent liberalisation also not in Austria). Regulations on advertising are very restrictive e. g. in Italy, France and Spain, and to some degree more liberal in Austria, Belgium, Germany and especially the Netherlands. In comparison with other liberal professions furthermore there exist strict rules concerning form of business, diversification and inter-professional co-operation in as much as nearly all countries with a Latin notary.

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<sup>12</sup> For further explanations of acronyms etc. used in the table please refer to section 2.1.2. above.





### 3.2.6 Regulation Indices

There are still information deficits in the one or other field concerning notaries.

- We did not receive a questionnaire from the respective professional organisations in three countries (Greece, Luxembourg, Portugal).
- There is a lack of detailed knowledge on regulation concerning cases for which the consultation of a notary is mandatory in the respective countries.

Nevertheless, we calculated regulation indices for the profession of notaries according to the methodology already used for the other professions. As the figures given in the following table do not reflect variations concerning the obligation to consult a notary in different situations, they may underestimate the actual differences in regulations that occur for notaries from an international comparative perspective. Still, some nuances are evident. They mainly derive from differences in the market entry system regarding education and exclusive tasks (concerning legal advice) and the recently implemented absence of economic needs tests (Netherlands) as well as from some differences that appear in the field of conduct regulation. Here again the Netherlands shows the lowest degree of regulation, followed – at a distance - by Austria (where some liberalisation took place in recent years) and France. The level of conduct regulation in Spain may be slightly under-estimated (insecure information concerning the question of diversification/branch offices).

#### Notaries: IHS regulation indices

	Entry	Conduct	Total	Rank
Germany	5.5	5.6	11.0	1
Italy	4.8	5.9	10.7	2
France	5.3	4.7	10.0	3
Austria	5.4	4.2	9.6	4
Spain	4.6	4.8	9.4	5
Belgium	4.0	5.3	9.3	6
Netherlands	3.6	2.6	6.3	7
Greece	5.2	n.a.	n.a.	n.a.
Luxembourg	5.1	n.a.	n.a.	n.a.
Portugal	4.6	n.a.	n.a.	n.a.

### 3.3. Technical Services

#### Architects

##### 3.3.1 Organisation and market entry regulation

In architectural services, as well as in engineering services (see below 3.3.5.), the regulatory situation is more bipolar than in legal services. On the one hand, there are some countries in the EU where market entry regulations in this field are still relatively broad and rigid. This holds for Austria, Belgium, France, Germany, Italy, Spain, Portugal, Greece and Luxembourg. In these countries architects are – to a smaller or larger degree – holders of reserved rights to offer specific services on the market. The respective *categories* of tasks given in Table 3-15 are taken from OECD (1996)<sup>13</sup>. “XX” means that the relevant task is reserved to the relevant profession *or* that it is reserved to the relevant profession and other licensed professions. We do not distinguish between these two cases because the question of “shared exclusive tasks” is a very complicated one and a major potential source of error. It became evident during our research that in many cases not even the professional association has exact knowledge on this point. If a “X” is set in brackets here, this means that the relevant regulations apply under specific circumstances only.

At the same time in all the countries where reserved tasks for architects apply membership in a professional association is compulsory. As regards education, a university degree in all these countries is a basic requirement to enter the respective market, but a considerable degree of variation exists in regard to mandatory professional exams and required professional practice.

On the other hand, there are several countries, where the relevant regulations are comparatively liberal. The latter are once more the northern European countries (Sweden, Finland and here also Denmark) as well as the Netherlands, England/Wales and Ireland. In these countries for architects no or almost no (Finland) reserved tasks are existent. For this education requirements only apply in respect of certification, but not as a precondition for licensing.

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<sup>13</sup> All the information given in this table is revised and updated according to our own sources.

Table 3-13 Architectural Services: General

Country	Profession	Level of regulation				Implementation of regulation by		Disciplinary sanctions decided by		Membershi p in prof. assoc.
		Nat.	Subnat.	Gov.	self-reg	gov.	self-reg.	gov.	self-reg.	compulsory ?
<b>Austria</b>	Architekt (Architect)	X		X	X	X	X	X	X	Y
	Baumeister (not a Lib Prof)	X		X	X	X	X	X	X	Y
<b>Belgium</b>	Architect	X		X		<i>n.a.</i>	<i>n.a.</i>	<i>n.a.</i>	<i>n.a.</i>	Y
<b>Denmark</b>	Architect	X		X	X	X	X	-	-	N
<b>Finland</b>	Architect	X			X	<i>n.a.</i>	<i>n.a.</i>	<i>n.a.</i>	<i>n.a.</i>	N
<b>France</b>	Architects	X		X	X	X	X	X	X	Y
<b>Germany</b>	Freier Architekt (Architect)		X	X	X	X	X	X	X	Y
<b>Italy</b>	Architect	X		X		X	X	X	X	Y
<b>Netherlands</b>	Architect	X		X		X		X	X	N
<b>Portugal</b>	Arquitecto (Architect)	X		X	X		X		X	Y
<b>Spain</b>	Arquitecto (Architect)	X		X	X	X	X	X	X	Y
	<i>Arquitecto Tecnico (technical Architect)</i>	X		X		<i>n.a.</i>	<i>n.a.</i>	<i>n.a.</i>	<i>n.a.</i>	Y
<b>Sweden</b>	Arkitekt	X			X		X		X	N
<b>England/Wales</b>	Architect (RIBA)	X		X	X	X	X	X	X	N/Y (RIBA)
	<i>Chartered Surveyor</i>	X			X	<i>n.a.</i>	<i>n.a.</i>	<i>n.a.</i>	<i>n.a.</i>	N
	<i>Chartered Designer</i>	X			X	<i>n.a.</i>	<i>n.a.</i>	<i>n.a.</i>	<i>n.a.</i>	N
	<i>Chartered Building Services Engineer</i>	X			X	<i>n.a.</i>	<i>n.a.</i>	<i>n.a.</i>	<i>n.a.</i>	N
	<i>Chartered Builder</i>	X			X	<i>n.a.</i>	<i>n.a.</i>	<i>n.a.</i>	<i>n.a.</i>	N
	<i>Planner</i>	X			X	<i>n.a.</i>	<i>n.a.</i>	<i>n.a.</i>	<i>n.a.</i>	N
<b>Greece</b>	Architect	<i>n.a.</i>	<i>n.a.</i>	<i>n.a.</i>	<i>n.a.</i>	<i>n.a.</i>	<i>n.a.</i>	<i>n.a.</i>	<i>n.a.</i>	Y
<b>Luxembourg</b>	Architecte	X		X		X	X	X	X	Y
<b>Ireland</b>	Architect (RIAI)	X			X		X		X	N/Y (RIAI)

Table 3-14 Architects: Qualification Requirements

Country	Profession	University/higher education degree (years)	Practise (years)	Professional exam	Number of „entrance roads“ to profession
<b>Austria</b>	Architekt (Architect)	U 5	3	Y (1)	1
	Baumeister (not a Lib Prof)		6	Y	1
<b>Belgium</b>	Architect	U 5	2	N	1?
<b>Denmark</b>	Architect	(U 5)	0	N	several
<b>Finland</b>	Architect	U 4,5-5,5	0	N	several
<b>France</b>	Architects	U 6	0	N	1
<b>Germany</b>	Freier Architekt (Architect)	U 4	02.Apr	N	1
<b>Italy</b>	Architect	U 5	0	Y	1
<b>Netherlands</b>	Architect (BNA)	(U 4-5)	-2	N	2
<b>Portugal</b>	Arquitecto (Architect)	U 5-6	1	Y (1); not always	1
<b>Spain</b>	Arquitecto (Architect)	U 5	0	N	1
	Arquitecto Tecnico (technical Architect)	U 3	0	N	1
<b>Sweden</b>	Arkitekt (SAR)	U 4,5	0.5	N	1
<b>England/Wales</b>	Architect (RIBA)	U 5	2	Y (1)	1
	Chartered Surveyor	U 3-4	2	N	n.a.
	Chartered Designer	U 3	3	N	n.a.
	Chartered Building Services Engineer	U 3-4	6	N	n.a.
	Chartered Builder		3	N	n.a.
	Planner	U 4	2	N	n.a.
<b>Greece</b>	Architect	U 5	0	Y (1)	n.a.
<b>Luxembourg</b>	Architecte	U 4	1	N	Y
<b>Ireland</b>	Architect (RIAI)	U 5	2	2	N



### **3.3.2 Conduct regulation**

In contrast to the situation in legal or accounting services rather broad and rigid market entry regulation in technical professions does not always (or at least in most cases) correspond with respective conduct regulation (see table 3-16)<sup>14</sup>.

In most countries there does not exist any binding price or fee system (exceptions are Belgium, Germany, Italy and Luxembourg (for public works only)). Concerning advertising, in most countries only moderate regulations persist and regulations on forms of business and inter-professional co-operation are rarely found.

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<sup>14</sup> For further explanations of acronyms etc. used in the table please refer to section 2.1.2. above.





### 3.3.3 Regulation Indices

The table below summarises the market-entry, conduct and overall regulation index for architects in the member states of the European Union. Unfortunately, at the time of writing, due to lack of appropriate and secure information, for Greece we are able to provide neither an entry nor a conduct index. According to our basic knowledge of the system of technical professions in Greece this country belongs to the group with a high level of regulation in this field.

Entry regulation appears to be most restrictive in Austria, followed by Spain, Italy and Luxembourg. Portugal, France, Germany and Belgium are in the middle field. On the lower end (no or only very slight regulation) we find Denmark, Finland, Ireland, Sweden and the United Kingdom. So our colour-code fits well for the less regulated countries, whereas in the more regulated countries some further differentiation appears. The reason for this mainly lies in the different educational systems, whereby for example in Austria comparatively long times of educational practise are required.

#### Technical Services (Architects): IHS regulation indices

	Entry	Conduct	Total	Rank
Italy	3.2	3.0	6.2	1
Luxemburg	2.6	2.7	5.3	2
Austria	3.9	1.2	5.1	3
Germany	1.8	2.7	4.5	4
Spain	3.2	0.8	4.0	5
Belgium	2.4	1.6	3.9	6
France	2.2	0.9	3.1	7
Portugal	2.2	0.6	2.8	8
Finland	1.4	0.0	1.4	9
Denmark	0.0	0.0	0.0	10
Ireland	0.0	0.0	0.0	10
Netherlands	0.0	0.0	0.0	10
Sweden	0.0	0.0	0.0	10
United Kingdom	0.0	0.0	0.0	10
Greece	n.a.	n.a.	n.a.	n.a.

As regards conduct, for all countries the figures calculated are – compared to other professional groups – rather low. The only exceptions are Italy, Germany and Luxembourg.

The overall regulation index is highest for Italy (because of high figures for entry and conduct) followed by Austria (high figure especially for market entry) and Luxembourg. Above or around the medium level lie Portugal, Germany, France and Belgium.

## Engineers

### 3.3.4 Organisation and market entry regulation

In the field of engineering services even more countries show rather or very low entry restrictions compared to architectural services.

Countries with low regulation are Sweden, Finland, Denmark, the Netherlands, UK, Ireland, as well as France and Belgium (which count among the higher regulated systems in engineering). Relatively broad and restrictive regulation is found in Austria, Germany, Italy, Spain, Portugal, Luxembourg and probably in Greece (also there is a lack of information on this country at the time of writing). The respective *categories* of tasks given in Table 3-19 are taken from OECD (1996)<sup>15</sup>. “XX” means that the relevant task is reserved to the relevant profession *or* that it is reserved to the relevant profession and other licensed professions. We do not distinguish between these two cases because the question of “shared exclusive tasks” is a very complicated one and a major potential source of error. It became evident during our research that in many cases not even the professional association has exact knowledge on this point. If an “X” is set in brackets here, this means that the relevant regulations apply under specific circumstances only.

Again, as with architects, in all countries where some licensing applies, membership in a professional organisation is compulsory. Here again elements of self-regulation are found within a framework of licensing. In the other countries often one or more models of certification exists, but very often not even professional titles are protected by law.

In regards to educational requirements, in most countries with a licensing system a university degree or another higher educational degree is a precondition to entering the profession. Remarkable differences again are present concerning professional exams and the length of compulsory professional training. In this respect the regulations are most restrictive in Austria and Germany.

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<sup>15</sup> All the information given in this table is revised and updated according to our own sources.

Table 3-17 Engineering Services: General

Country	Profession	Level of regulation				Implementation of regulation by		Disciplinary sanctions decided by		Member-ship in prof. assoc. compul-sory?
		Nat.	subnat.	Gov.	self-reg	gov.	self-reg.	gov.	self-reg.	
Austria	Ingenieurkonsulenten (Consultant Engineer)	X		X		X	X	X	X	Y
	Technische Büros (Technical Office)	X		X		X		X		Y
Belgium	Burgerlijk Ingenieur, Industrieel Ingenieur	X		X		n.a.	n.a.	n.a.	n.a.	N
Denmark	Civilingenior	X		X		X		X		N
	Diplomingenior	X		X		X		X		N
Finland	Engineer	X		X		X		-	-	N
France	Engineer	X		X	(X)	X	(X)	X	(X)	N
	Consulting Engineer and Engineering Firms	X		X	(X)	X	(X)	X	(X)	N
Germany	Beratender Ingenieur (Advisory Engineer)		X	X		X		X	X	Y
Italy	Engineer	X		X	X	X	X		X	Y
Netherlands	University Engineer									N
	Polytechnic Engineer									N
	Architect				X					N
Portugal	Engenheiro (Engineer)	X		X		n.a.	n.a.	n.a.	n.a.	Y
Spain	Ingeniero de Caminos, Canales i Puertos	X		X		X		-	-	Y
	Ingeniero de Telecomunicaciones	X		X		X		-	-	Y
	Ingeniero Aeronautico	X		X		X		-	-	Y
	Ingeniero tecnico de Telecomunicaciones	X		X		X		-	-	Y
	Ingeniero tecnico Aeronautico	X		X		X		-	-	Y
	For other types of engineers: see case studies									
Sweden	Civilengenjör	X		X		n.a.	n.a.	n.a.	n.a.	N
	Höjskoleingenijör	X		X		n.a.	n.a.	n.a.	n.a.	N
United Kingdom	Chartered Engineer		X		X	X	X			Y
	Incorporated Engineer		X		X	X	X			Y
	Engineer Technician		X		X	X	X			Y
	Engineer		X		X	X				N
Greece	Diplomatouchos Michanicos	X		X	X	n.a.	n.a.	n.a.	n.a.	Y?
Luxembourg	Ingénieur-conseil	X		X		X	X	X	X	Y
Ireland	Chartered Engineer	X		X	X		X		X	Y
	Other types of engineers	X		X		X		-	-	N

Table 3-18 Engineers: Qualification Requirements

Country	Profession	University/higher education degree (years)	Practise (years)	Professional exam	Number of „entrance roads“ to profession
Austria	Ingenieurkonsulenten (Consultant Engineer)	U 5	3	Y (1)	1
	Technische Büros (Technical Office)	(U 5) or spec. HE	U: 3; HE: 6	Y (1)	2
Belgium	Burgerlijk Ingenieur, Industrieel Ingenieur	U 4,5-5	0	N	2
Denmark	Civilingenior	U 5	0	N	1
	Diplomingenior	U 3	0	N	1
Finland	Engineer	U 3-5	0	N	2
France	Engineer	(U 3-5)	0	N	Several
	Consulting Engineer and Engineering Firms	(U 3-5)	0	N	Several
Germany	Beratender Ingenieur (Advisory Engineer)	U/HE 4	02.Mai	N	1
Italy	Engineer	U 5	0	Y (1)	0
Netherlands	University Engineer	U 5	0	N	1
	Polytechnic Engineer	U 3 (4 incl. training)	1	N	1
Portugal	Engenheiro (Engineer)	U 4-5	2 (or 6 month)	N	1
Spain	Ingeniero de Caminos, Canales i Puertos	U 5-6	0	N	1
	Ingeniero de Telecomunicaciones	U 5-6	0	N	1
	Ingeniero Aeronautico	U 5-6	0	N	1
	Ingeniero tecnico de Telecomunicaciones	U 3	0	N	1
	Ingeniero tecnico Aeronautico	U 3	0	N	1
	For other types of engineers: see case studies				
Sweden	Civilingenjör	U 4,5	0	N	1?
	Höjskoleingenijör	U 2	0	N	1?
United Kingdom	Chartered Engineer	U 4	IPD (no spec.	Y (1)	several
	Incorporated Engineer	U 3	IPD (no spec.	Y (1)	several
	Engineering Technician	U 3	IPD (no spec.	Y (1)	several
	Engineer	U 3-4	0	0	several
Greece	Diplomatouchos Michanicos	U 5	0	Y (1)	1
Luxembourg	Ingénieur-conseil	U 3-5	1	N	1?
Ireland	Chartered Engineer	U 4	4	N	several
	Other types of engineers	HE sev./U 4	0	N	several



### 3.3.5 Conduct regulation

For engineers conduct regulation from an international comparative point of view is even more liberal than for architects. The only countries with a considerable degree of conduct regulation for this professional group are: Austria, Germany, Italy and Luxembourg (see Table 3-20)<sup>16</sup>. For Portugal and Greece we do not have enough relevant information. On our basic knowledge of these systems at least the one of Greece shows a considerable degree of conduct regulation as well.

In all the other countries, generally speaking no specific regulations exist. This, together with the findings in market entry regulation, suggests that the profession of engineers is the most market-driven of all the professions under consideration in this report.

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<sup>16</sup> For further explanations of acronyms etc. used in the table please refer to section 2.1.2. above.



### 3.3.6 Regulation Indices

The table below summarises the market-entry, conduct and overall regulation index for engineers in the Member States of the European Union. Unfortunately, at the time of writing, due to lack of appropriate and certain information, we are not able to provide an overall index for Greece and Portugal. For Portugal we only have been able to calculate an entry index, for Greece neither an entry nor a conduct index. According to our basic knowledge of the system of technical professions in Greece this country belongs to the group with a high level of regulation in this field.

#### Technical Services (Engineers): IHS regulation indices

	Entry	Conduct	Total	Rank
Germany	3.7	3.7	7.4	1
Italy	3.4	3.0	6.4	2
Luxemburg	2.7	2.6	5.3	3
Austria	3.8	1.2	5.0	4
Spain	3.2	0.0	3.2	5
Netherlands	1.5	0.0	1.5	6
Finland	1.3	0.0	1.3	7
Belgium	0.0	1.2	1.2	8
Denmark	0.0	0.0	0.0	9
France	0.0	0.0	0.0	9
Ireland	0.0	0.0	0.0	9
Sweden	0.0	0.0	0.0	9
United Kingdom	0.0	0.0	0.0	9
Greece	n.a.	n.a.	n.a.	n.a.
Portugal	3.4	n.a.	n.a.	n.a.

Austria is the country with the highest entry index, basically because of rather broad exclusive tasks reserved to the profession and because of relatively long mandatory professional practise. Austria is closely followed by Germany, Italy, Portugal, Spain and then – with some distance – Luxembourg. All the other countries regarding market entry show no or only very slight restrictions.

Concerning conduct the highest figure we calculated applies to Germany, which is followed by Italy and Luxembourg, and then, with remarkable distance, by Austria and Belgium. Rather interesting is the case of Spain, which shows a rather high figure for entry regulation but no conduct regulation.



### 3.3.7 Overall Regulation Indices for Technical Professions (Engineers + Architects)

For our further analysis in Chapter 5 we have to construct a joint regulation index for all technical professions, i.e. for architects and engineers together. For this we sum the respective indices for architects and engineers and then divide the respective number by two. The table below summarises the market-entry, conduct and overall regulation index for technical professions (Engineers + Architects) in the Member States of the European Union. It also once more shows the specific indices for engineers and architects as calculated above.

#### Technical Services (Engineers + Architects): IHS regulation indices

	Entry			Conduct			Total			Rank
	Eng.	Arch.	Total-E	Eng.	Arch.	Total-C	Eng.	Arch.	Total	Total
Italy	3.4	3.2	3.3	3	3	3	6.4	6.2	6.3	1
Germany	3.7	1.8	2.7	3.7	2.7	3.2	7.4	4.5	5.9	2
Luxembourg	2.7	2.6	2.7	2.7	2.7	2.7	5.3	5.3	5.3	3
Austria	3.8	3.9	3.8	1.2	1.2	1.2	5	5.1	5	4
Spain	3.2	3.2	3.2	0	0.8	0.4	3.2	4	3.6	5
Belgium	0	2.4	1.2	1.2	1.6	1.4	1.2	3.9	2.6	6
France	0	2.2	1.1	0	0.9	0.5	0	3.1	1.5	7
Finland	1.3	1.4	1.4	0	0	0	1.3	1.4	1.4	8
Netherlands	1.5	0	0.7	0	0	0	1.5	0	0.7	9
Denmark	0	0	0	0	0	0	0	0	0	10
Ireland	0	0	0	0	0	0	0	0	0	10
Sweden	0	0	0	0	0	0	0	0	0	10
UK	0	0	0	0	0	0	0	0	0	10
Portugal	3.4	2.2	2.8	n.a.	0.6	n.a.	n.a.	2.8	n.a.	n.a.
Greece	n.a.	n.a.	n.a.	n.a.	n.a.	0	n.a.	n.a.	n.a.	n.a.

Italy shows the highest overall regulation index, whereby the total Index for each the architects and the engineers is high. Italy is followed by Germany (very high index for engineers, lower for architects), by Luxembourg (same index for engineers and architects) and Austria (nearly the same overall index for engineers and architects). The total index for both professions in Belgium is 2,6 (whereas it has been 3,9 for the Architects and 1,2 for the engineers). All the other countries show a total overall index between 0 and 1,5.

## 3.4. Pharmacists

### 3.4.1 Organisation and market entry regulation

The profession of the pharmacist is, broadly speaking, organised as a licensing-model in all EU member states. But still there are significant differences. In Sweden pharmaceutical products are sold via a state-monopoly. There is only one state owned company carrying out services of pharmacies. Also in Austria, Belgium, Denmark, Finland, France, Italy, Portugal, Spain, Greece and Luxembourg the regulations are quite extensive. In all these countries the number of pharmacies is restricted (via economic needs tests etc.). Only in Germany, UK, Netherlands and Ireland are there, as far our present knowledge extends, no such regulations.

In regards to our colour-coding we marked all the countries, where the number of pharmacies is restricted, as “high regulation countries”. All the others have been marked as countries of medium regulation.

Although regulation is uniformly very high in most of the countries, the regulation indices at the end of this chapter still show some differences.

Table 3-21 Pharmacies/Pharmacists: General

Country	Profession	Level of regulation				Implementation of regulation by		Disciplinary sanctions decided by		Membershi p in prof. assoc. compulsory ?	Number of pharmacies restricted?
		nat.	subnat.	gov.	self-reg	gov.	self-reg.	gov.	self-reg.		
Austria	Apotheker	X		X	X	X	X	X	X	Y	Y
Belgium	Pharmacien	X		X	X	X	X	X	X	Y	Y
Denmark	Apoteker	X		X		X		X		N	(N)
Finland	Proviisori	X		X		X		X		N	Y
France	Pharmacien	X		X	X	n.a.	n.a.	n.a.	n.a.	Y	Y
Germany	Apotheker	X		X	X	X	X	X	X	Y	N
Italy	Farmacisti	X		X	X	X	X		X	Y	Y
Netherlands	Pharmacist	X		X		X		X		N	N
Portugal	Farmaceutico	X		X	X	X	X		X	Y	Y
Spain	Farmacéutico	X	X	X		n.a.	n.a.	n.a.	n.a.	Y?	Y
Sweden	Apotekare	X		X		X		X		N	Y (owned)
United Kingdom	Pharmacist	X		X	X	X	X	X	X	Y	(N)
Greece	Pharmacist	X		X		X		X		Y	Y
Luxembourg	Pharmacist	X		X	X	n.a.	n.a.	n.a.	n.a.	Y	Y
Ireland	Pharmacist	X		X		X	X	X	X	N	N

Table 3-22 Pharmacists: Qualification Requirements

Country	Profession	University/higher education degree (years)	Practise (years)	Professional exam	Number of „entrance roads“ to profession
<b>Austria</b>	<b>Apotheker</b>	<b>U 4,5</b>	<b>1</b>	<b>Y (1)</b>	<b>1</b>
<b>Belgium</b>	<b>Pharmacien / Apotheker</b>	<b>U 5</b>	<b>0</b>	<b>N</b>	<b>1</b>
<b>Denmark</b>	<b>Apoteker</b>	<b>U 5</b>	<b>0</b>	<b>Y (1)</b>	<b>1</b>
<b>Finland</b>	<b>Proviisori</b>	<b>U 5</b>	<b>0.5</b>	<b>N</b>	<b>1</b>
<b>France</b>	<b>Pharmacien</b>	<b>U 5</b>	<b>1</b>	<b>N</b>	<b>1</b>
<b>Germany</b>	<b>Apotheker</b>	<b>U 4</b>	<b>1</b>	<b>Y (1: 3 parts)</b>	<b>1</b>
<b>Italy</b>	<b>Farmacisti</b>	<b>U 5</b>	<b>2</b>	<b>Y (1)</b>	<b>1</b>
<b>Netherlands</b>	<b>Pharmacist</b>	<b>U 6</b>	<b>0</b>	<b>N</b>	<b>1</b>
<b>Portugal</b>	<b>Farmaceutico</b>	<b>U 5</b>	<b>0,5 (pre-graduate)</b>	<b>Y (1) as from 2003</b>	<b>1</b>
<b>Spain</b>	<b>Farmacéuticos</b>	<b>U 4,5</b>	<b>0,5 (pre-graduate)</b>	<b>N?</b>	<b>1</b>
<b>Sweden</b>	<b>Apotekare</b>	<b>U 5</b>	<b>0</b>	<b>N</b>	<b>1</b>
<b>United Kingdom</b>	<b>Pharmacist</b>	<b>U 4</b>	<b>1</b>	<b>Y (2)</b>	<b>1</b>
<b>Greece</b>	<b>Pharmacist</b>	<b>U 4</b>	<b>0.5</b>	<b>Y (1)</b>	<b>1</b>
<b>Luxembourg</b>	<b>Pharmacist</b>	<b>U 4,5</b>	<b>0.5</b>	<b>n.a.</b>	<b>1</b>
<b>Ireland</b>	<b>Pharmacist</b>	<b>U 4</b>	<b>1</b>	<b>Y (1)</b>	<b>1</b>

**Table 3-23 Pharmacists: Scope of Activity/Monopoly**

<b>A. Pharmacists have the monopoly of the retail sale of medicinal products.</b>				
<b>B. Members of other health professions may sell medicinal products (please specify).</b>				
<b>C. Medicinal products may also be sold in retail shops other than pharmacies.</b>				
	<b>A</b>	<b>B</b>	<b>C</b>	<b>Remarks</b>
<b>Austria</b>	X	X		For the treatment of patients, doctors may obtain permission to set up an "in? house" pharmacy if the surgery is more than 6 km from the nearest dispensary. Veterinary surgeons may keep a veterinary pharmacy at home without authorisation to serve the needs of the veterinary surgery. Certain pharmaceutical products (specified by regulation) may be sold in retail shops ("Drogerien").
<b>Belgium</b>		X		Medicinal products may be supplied only by dispensing pharmacists and by doctors and veterinary surgeons authorised to stock such products. Doctors and veterinary surgeons are required to buy them in a pharmacy which is open to the public. They may dispense such
<b>Denmark</b>		X	X	Veterinarians are allowed to sell veterinary medicines. Medicinal products from the group Vet. OTC drugs can be sold from retail shops which have special permission from the "Danish Medicine Agency".
<b>Finland</b>		X		In addition to pharmacists veterinarians are authorised to sell veterinary medicinal products.
<b>France</b>	X	X		Article L 512 of the Public Health Code (see Annex X). Derogation's are provided for in Articles L 594, L 610, L 612, L 659 and L 662 of the Code and in the Law of 28 December 1967 on birth control.
<b>Germany</b>		X	X	(1) By veterinarians for animals they are treating.
		-1	-2	(2) Medicines having only a slight effect.
<b>Italy</b>	X			
<b>Netherlands</b>	X	X	X	A+B: except in some rural areas, pharmacies have a monopoly.
				C: "druggists" may, under licence, sell a limited number of medicinal products.
				Veterinarians may supply medicinal products for an animal under their care.
<b>Portugal</b>	X			Only veterinary surgeons when carrying out emergency operations.
<b>Spain</b>	X	X		Medicinal products may be stocked, stored and supplied only by legally authorised pharmacies and by hospital, health-centre and first-aid unit pharmacies for internal use or where special monitoring, supervision and inspection of multidisciplinary health-care teams is
				Veterinary medicinal products may be supplied only by dispensing pharmacies or breeding establishments/ associations and authorised commercial undertakings and only under the supervision of the competent pharmaceutical authorities.
<b>Sweden</b>		X		OTC-pharmaceuticals can be sold in Apoteket AB (Nat. Corp. Swe. Pharm.) pharmacies by technicians.
<b>United Kingdom</b>		X	X	Doctors may sell medicines to their patients under the Medicines Act 1968 but under the National Health Service Acts only doctors in rural areas who are specifically permitted to dispense may supply medicines to their patients and they can sell only medicines which are not permitted to be dispensed on NHS prescriptions. Dentists may sell medicines for dental treatment but only to non? NHS patients. Medicinal products which are on the General Sale List (GSL) may be sold from any shop provided that the premises can be closed i.e. sales are not permitted from places such as stall in markets. GSL medicines are those which, in the opinion of the competent authorities can, with reasonable safety, be sold other than under the supervision of a pharmacist. Veterinary surgeons may sell medicines for the treatment of animals under their care. Certain medicines for horses may also be sold by saddlers and a specified range of medicines for animals may be sold by agricultural merchants.
<b>Greece</b>	X			
<b>Lux.</b>		X		Veterinary surgeons may supply medicinal products, which they must buy in a pharmacy open to the public.
<b>Ireland</b>			X	These are commonly described as "general sales list" medicines.

Source: PHARMACEUTICAL COMMITTEE (Free movement of pharmacists) (2001): CONDITIONS FOR THE OPERATION OF A COMMUNITY PHARMACY IN THE MEMBER STATES, Working Document, Brussels, XV/E/8115/4/97/EN.

### 3.4.2 Conduct regulation

Conduct regulation for pharmacists is in all countries rather restrictive. But still there is a remarkable degree of differentiation (see Table 3-24)<sup>17</sup>.

In all countries the one or other type of price regulation exists. Normally the prices for prescription only medicines are fixed (at least as a maximum price), but the prices for OTC-medicines can be set by wholesalers and pharmacists freely.

Regulations concerning advertising can be found in all countries, but there is some differentiation in the range and breadth and rigidity of these regulations (see for some examples the case studies in the second part of the report).

In many countries regulations on location, diversification (opening of branch offices) and inter-professional co-operation (with respect to ownership of pharmacies) also exist. The most liberal regimes can be found in this respect in Ireland and the United Kingdom. Denmark, Finland and Germany, among others, are examples of rather restrictive regulation in these fields.

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<sup>17</sup> For further explanations of acronyms etc. used in the table please refer to section 2.1.2. above.



### 3.4.3 Regulation Indices

For pharmacists we have changed the modus of the calculation of the entry index. The reason for this is that the main differences between the countries can be found in regards of the existence/non-existence of an economic needs test, whereas the regulations concerning licensing are *rather* similar. For this we changed the weighting of the respective categories of regulation as shown in the table below. ERLC has now a weight of 20% (instead of 40% for the other profession), ERED has a weight of 45% (instead of 40% for the other professions) and ERQT is weighted 35% (instead of 20% for the other professions).

#### Market Entry Regulation Index for Pharmacists

	Category/Variables	Coding	Scale	Weighting1	Wighting2
<b>ER</b>	<b>Entry regulation (general)</b>	<b>ERLC*0.20+ ERED*0.45+ ERQT*0.35</b>	<b>0 to 6</b>		
<b>ERLC</b>	<b>Licensing</b>	See separate table below	0 to 6		20%
<b>ERED</b>	<b>Requirements in education/does only apply in cases of licensing; if no licensing: "0"</b>	ERED1*0.30+ ERED2*0.40+ ERED3*0.20+ ERED4*0.10	0to6		45%
ERED1	Duration of special education/university or other higher degree	0 to ≥ 6 years	0 to 6	30%	
ERED2	Duration compulsory practising	0 to ≥ 6 years	0 to 6	40%	
ERED3	Number of professional exams	(0 to ≥ 3)*2	0 to 6	20%	
ERED4	Number of entry routes to profession (inv. scale)	(0 = 4 or more routes; 1=3 routes; 2=2 routes; 3=1 route)*2	0 to 6	10%	
<b>ERQT</b>	<b>Quotas/economic needs test</b>	0=no 6=yes	0 or 6		35%

Furthermore, the coding for Licensing (ERLC) has been changed. The methodology applied here is shown in the table below.



**Coding ERLC (Licensing) for Pharmacists**

Country	Pharmacists Monopoly	Selling of Medicinal Products			Index ERLC
		Doctors and Veterinarians		Others: Retail Shops	
		Doctors	Veterinarians		
Greece	X				6,0
Italy	X				6,0
Sweden	X				6,0
Luxembourg			X		4,5
Portugal			(X)		4,5
Finland			XX		4,5
Belgium		X	X		3,0
Spain	X	(X)			3,0
France	X	X	X		3,0
Denmark			X	X	1,5
Germany			X	X	1,5
Ireland				X	1,5
Netherlands	X	X	X	X	1,5
Austria		X	XX	X	1,5
UK		(X)	(X)	X	1,5

*Explanation of Indices:*

6: only pharmacies are allowed to sell medicinal products

4,5: under specific preconditions also veterinarians (no doctors) are allowed to sell medicinal products

3: under specific preconditions also doctors (and veterinarians) are allowed to sell medicinal products

1,5: under specific preconditions also retail shops are allowed to sell medicinal products

The table below summarises the market-entry, conduct and overall regulation index for Pharmacists in the Member States of the European Union.

**Pharmacists: IHS regulation indices**

Pharmacists	Entry	Conduct	Total	Rank
Sweden	6.0	6.0	12.0	1
Greece	4.4	4.5	8.9	2
Italy	4.8	3.6	8.4	3
Portugal	4.2	3.8	8.0	4
Luxemburg	4.0	3.9	7.9	5
Spain	3.6	3.9	7.5	6
Austria	3.6	3.7	7.3	7
France	3.8	3.5	7.3	7
Finland	4.0	3.0	7.0	8
Denmark	2.3	3.6	5.9	9
Germany	1.6	4.1	5.7	10
Belgium	3.6	1.8	5.4	11
United Kingdom	2.7	1.4	4.1	12
Netherlands	1.2	1.8	3.0	13
Ireland	1.5	1.2	2.7	14

According to our index entry regulation is strongest in Sweden (state monopoly), followed by Italy, Greece, Portugal, Finland and the group of Spain, Austria and Belgium. Even a little bit lower is the index for Denmark. However, the differences arising in this group may be

somewhat artificial, as in all these countries market entry tests in the form of economic needs tests apply, that may be of different nature but all have been coded the same way. The differences primarily apply because of different education systems and broader or less broad licensing. The lowest figures have been calculated for the Netherlands, Ireland, Germany and the UK. In these countries the maximum number of community pharmacies is not fixed (in Ireland since February 2002, see case study in chapter 3 below).

Conduct regulation, apart from Sweden (which is a special case again), is most restrictive in Greece, followed by Italy, Luxembourg, Spain, France, Austria and Finland. A little bit more on the liberal side are Belgium, Denmark and Germany. The most liberal systems exist in the UK, Netherlands, Ireland as well as Belgium.

Overall, the highest “total index” (entry+conduct) has been ascribed to Sweden (state monopoly). Very high figures show also Greece, Italy, Luxembourg, Spain, Austria, France, Portugal and Finland. Placed in the middle are Belgium, Denmark and Germany. The most liberal regimes overall can be found in the UK, the Netherlands and Ireland.

### 3.5 Summary of regulation across member states

If we take a look at our simplified structure of market entry regulations (i.e. the colour-coding) we get the following overall picture. In regard to the different countries we can state that Austria, Germany and Luxembourg show rather extensive regulations in all professional fields. The same is true - for most professions - for France, Spain, Portugal, Italy, Belgium (and as far as we know at this stage also for Greece). The less regulated markets in respect to market entry regulations are found in Sweden, Denmark, Finland, the Netherlands, the UK (in some professions only England/Wales has been analysed) and Ireland.

#### Summary Market Entry Regulations/Colour Coding

Accountancy Services Country	Legal Services Country	Notary Services Country	Architectural Services Country	Engineering Services Country	Pharmacies Country
Austria	Austria	Austria	Austria	Austria	Austria
Belgium	Belgium	Belgium	Belgium	Belgium	Belgium
Denmark	Denmark		Denmark	Denmark	Denmark
Finland	Finland		Finland	Finland	Finland
France	France	France	France	France	France
Germany	Germany	Germany	Germany	Germany	Germany
Italy	Italy	Italy	Italy	Italy	Italy
Netherlands	Netherlands	Netherlands	Netherlands	Netherlands	Netherlands
Portugal	Portugal	Portugal	Portugal		Portugal
Spain	Spain	Spain	Spain	Spain	Spain
Sweden	Sweden		Sweden	Sweden	Sweden
United Kingdom	United Kingdom		United Kingdom	United Kingdom	United Kingdom
Greece	Greece	Greece	Greece	Greece	Greece
Luxembourg	Luxembourg	Luxembourg	Luxembourg	Luxembourg	Luxembourg
Ireland	Ireland		Ireland	Ireland	Ireland

In respect of the various professional fields there is a rather bipolar situation in engineering and architectural services: some countries show rather rigid licensing models, in others certification is the standard model. In accountancy services all countries show a kind of certification model, but the scope of exclusive rights to offer services varies considerably. In legal services one can observe all degrees of market entry regulation, especially for lawyers: from very loose (Finland and Sweden) to very rigid (Austria, France, Germany and others). For notaries the situation is different: in all countries with a so-called “Latin notary” the market entry regulations are rather strict (number of notary branches restricted by economic needs tests etc.). As regards pharmacies/pharmacists we find a considerable degree of market entry regulation in most countries. In all countries there is some kind of licensing model, but in Ireland, Germany, the UK and the Netherlands the number of pharmacies are not restricted.

This colour-coding is very well reflected in our regulation indices. The following table gives the figures for the overall regulation indices, for all the professions/professional fields where one has been calculated (i.e. not the notaries), sorted by countries.

**Overview: Total IHS regulation indices for different professions**

	Accountants	Lawyers	Notaries	Architects	Engineers	Pharmacists
Austria	6.2	7.3	9.6	5.1	5.0	7.3
Belgium	6.3	4.6	9.3	3.9	1.2	5.4
Denmark	2.8	3.0		0.0	0.0	5.9
Finland	3.5	0.3		1.4	1.3	7.0
France	5.8	6.6	10.0	3.1	0.0	7.3
Germany	6.1	6.5	11.0	4.5	7.4	5.7
Greece	5.1	9.5	<i>n.a.</i>	<i>n.a.</i>	<i>n.a.</i>	8.9
Ireland	3.0	4.5		0.0	0.0	2.7
Italy	5.1	6.4	10.7	6.2	6.4	8.4
Luxembourg	5.0	6.6	<i>n.a.</i>	5.3	5.3	7.9
Netherlands	4.5	3.9	6.3	0.0	1.5	3.0
Portugal	<i>n.a.</i>	5.7	<i>n.a.</i>	2.8	<i>n.a.</i>	8.0
Spain	3.4	6.5	9.4	4.0	3.2	7.5
Sweden	3.3	2.4		0.0	0.0	12.0
UK	3.0	4.0		0.0	0.0	4.1

All the regulation indices with a value of 5 or higher have been coloured black. The indices with a value between 2.5 and 4.9 are coloured dark grey; those below 2.5 are light grey. It is obvious that the profession of pharmacists shows the most highly regulated systems in relative terms. It is followed by legal services and accounting services. Concerning engineers there exist only four countries with relatively high regulation, in regards to architects only three (whereas the two missing countries supposedly would count among the countries with high regulation indices). Most light grey fields (low regulation indices) can be found in engineering services, followed by architects and then legal services.

Countries with high indices for all professions are Austria, Italy, Luxembourg and with one exception Germany (and possibly Greece). Belgium, Portugal and Spain appear to be in the medium field, whereas The UK, Sweden (with the exception of pharmacists), the Netherlands, Ireland, Finland and Denmark (the latter again with the exception of pharmacists) show rather liberal regulatory regimes (from a *comparative* point of view).



## 4. Overview of the Case Studies

This report includes a special section (Part 2) that provides detailed information on the regulation – both for market entry and conduct – on a heterogeneous selection (subset) of member states, along with further detailed information on the economic characteristics of each branch of professional services. Cross-reference is also made to the overall degree of regulation, for market entry and conduct regulation, as described and calculated in Chapter 3.

The subset of member states is different for each profession. Within professional fields the following member states are studied:

- ***Legal profession (lawyers, notaries): 5 member states***

**Denmark, Italy, UK/England and Wales, Germany, France**

- ***Accountancy (+Tax advisers): 4 member states***

**Italy, Netherlands, Germany, France**

- ***Technical professions (engineers, architects): 4 member states***

**Austria, Finland, France, Spain**

- ***Pharmacists: 4 member states***

**Ireland, Portugal, Sweden, Germany**

The current chapter presents a brief comparative overview of the case studies in each professional field, focussing on recent trends in regulation changes.

### 4.1 Legal Services

In legal services, detailed analysis has been undertaken for Denmark, Italy, England&Wales, Germany and France. In Italy, Germany and France we find the typical continental model, where legal services are traditionally organised in two main professions: the lawyer and the (“latin”) notary, whereas in England&Wales as well as in Denmark the notary of the latin type is not known. The important difference between latin notaries and other professional descriptions of notary (e.g. “Notary Public” or “Scriveners”), which we do not include in the

analysis, is that the notarial deeds of the former are endowed (e.g. in the case of litigation) with the characteristic of representing special evidence guaranteed by public law.

In England&Wales, however, there is another division of the profession in existence: that between solicitors and barristers. According to the regulatory information encapsulated in our regulation indices (see the previous chapter 3), a relatively high degree of market entry regulation for lawyers exists in Germany and France, whereas it is considerably lower in Italy, England and Wales and Denmark. This is conditioned by the fact, notwithstanding other important differences (especially in the respective education systems), that legal advice is an exclusive task of selected professions in France and Germany, but not in the other three countries, where representation before courts (and some times other organisations) is the only important service field reserved for lawyers.

Conduct regulation for lawyers attains the highest level in our subset in Italy, followed by Germany and France. In England&Wales as well as in Denmark – after a series of liberalisation in the 1990s – conduct regulation now is rather liberal, with a certain higher degree of regulation remaining, however, concerning questions of business form and inter-professional co-operation. As indeed applies to all the member states of the European Union regarding trends in regulatory changes in legal professions, one cannot observe any far-reaching system changes that have taken place within the case study subset of countries. (An example of such would be a change from a licensing to a certification model or *vice-versa*). What we can observe, however, are gradual changes in the systems of market-entry, and even more so in respect of conduct-regulation.

In *Denmark* liberalisation concerning prices and advertising, and, to some extent forms of business etc., was combined with a certain complication of the process of market-entry. A new final admittance examination was introduced in 1996, exactly at the same time as some regulations concerning conduct were liberalised to a certain extent.

In *Italy*, According to the Law of 24 February 1997, the distinction between two groups of attorneys - *avvocati* and *procuratori legali* is no longer made. The profession of *Procuratore Legale* has been abolished. As has been the case for the accounting professions (see below), several attempts have been made in recent years to deregulate the legal professions in Italy. The system of market entry has been changed (and liberalised to some extent). The same is true for regulations on marketing and advertising, as well as for the system of fee setting and regulations concerning forms of business and inter-professional co-operation (although the last have not been implemented up to now).

The professional division between Solicitors and Barristers in *England&Wales* has been a subject for discussion in these countries for quite a while now. Whereas upon first consideration there may be no direct negative outcomes of this separation (as a monopoly for barristers in representation in the higher courts does not exist any more), to the external

observer it is rather unclear what, apart from tradition, the advantage of this separation is. Conduct regulation for legal professions in England&Wales is now rather liberal as far as prices fees/advertising are concerned. Somewhat rigid regulations are still applicable, however, concerning forms of business and inter-professional co-operation.

In *Germany* several regulatory changes have been implemented in recent years in various fields of lawyers' conduct regulation (advertising, business forms, location and diversification). However, the fees system and the rather high-level market entry regulation remain unchanged.

In *France*, following the reform of 1990, the differentiation between “*avocats*” and “*conseil juridiques*” has been eliminated. In contrast to the developments in many other countries, in France no far-reaching steps towards liberalisation of conduct-regulation have been made.

In overall general terms, for the profession of lawyers we notice certain trends towards liberalisation (especially in respect of conduct regulation) in most of our case study countries.

Concerning notaries, such tendencies are generally less common in the selected case study countries. However, there are some examples for liberalisation in this profession in other member states. Countries in this category are Austria (liberalised fee system, advertising) and especially the Netherlands (fees, advertising, inter-professional cooperation).

## 4.2 Accountancy Services

In relation to accountancy professions detailed analysis has been carried out for Italy, the Netherlands, Germany and France. According to our regulation indices, the highest degree of market-entry regulation of these countries exists in France and Germany, whereas it is considerably lower in the Netherlands and Italy. Apart from differences in the education systems, this is again conditional primarily on different exclusive tasks reserved to the professions: whereas tax-advising is a reserved task in Germany in France, it is not in Denmark and Italy. Conduct regulation is highest in Germany, followed by Italy, France and the Netherlands, where rather liberal regulations are in place.

As in the field of legal services, no truly system-changing developments have taken place in the regulatory systems of the relevant professions during the last ten years. However, several steps towards liberalisation can be observed. The regulatory system of accountants in *Italy* in the last ten years has undergone several changes. Some of them led to a higher degree of freedom for professionals. Regulatory changes of this kind primarily concerned prices and fees, forms of advertising and forms of business (although the last one has not effectively been implemented yet).



The regulatory systems for accountants in the *Netherlands* are a rather good example for a country where the market-entry regulations basically fulfil the minimum requirements of the EC 8th Directive on auditing, and where the conduct-regulations are rather liberal. This is especially true for regulation on fees and prices as well as advertising and, with some limitation, also for inter-professional co-operation. Both professional bodies (the NOvAA and the NIVRA) appear to be rather open-minded as regards further liberalisation, especially concerning inter-professional co-operation. However, this reform, up to now, has been strongly opposed by Dutch lawyers, who worry about a possible market dominating position of the big accounting firms also occurring in the legal services field.

In *Germany*, some steps towards liberalisation have been taken, mainly in respect of business forms and regulations concerning advertising.

Regulation for *French* auditors appears to be rather restrictive with respect to entry regulation and no changes in this respect have occurred during recent years. Conduct regulation, however, appears to be rather liberal. This is especially the case in respect of price regulation and partially as regards the form of firm and inter-professional co-operation. At the same time, the profession has adopted new measures in relation to professional quality management (peer reviews etc.) and continuing education.

### **4.3 Technical services**

In regard to technical professions (engineers and architects), detailed analysis has been undertaken for Austria, Finland, France and Spain. Finland is an example of a country, where almost no special regulation in the sense of rules concerning market entry and conduct applies to the technical professions. This means that no licensing system exists and that no special rules on prices, business forms, advertising etc. have to be followed. Neither engineers nor architects are obliged to become members of, or be registered with, a professional association. The associations of architects (SAFA), construction engineers and architects (RIA) as well as civil engineers (RIL) have been set up on a voluntary basis. Austria is one of the countries with a high degree of regulation concerning market entry, but with comparatively low conduct regulation. The same is true for Spain. In France, special market entry regulation (in the sense of licensing) only applies to architects, but not to engineers. In France, conduct regulation is non-existent (engineers), and of a very liberal character (architects). Taken altogether, the case studies show the considerable variations concerning different degrees of regulation in technical services that occur throughout the European Union.

As in the other professions, recent trends in regulation show no complete system changes but a gradual adaptation towards more liberal rules. In respect of our case studies, the latter is especially true for Austria and Spain.

In *Austria* since 1994, Civil Technicians may establish Civil Technician Corporations. The opening of local branch offices has been allowed since 1993/94: the formerly applicable restrictions have been abolished. The same is true for price regulation that established minimum prices, which was in place until 1993.

In *Spain* rather tight regulation of prices existed until 1997, but it was rescinded in that year. Regulations restricting which services may be offered in geographical terms were also abolished in 2000. However, the professional bodies are still organised on a territorial basis, but membership of one territorial body is now enough to practise anywhere in Spain.

In *France*, advertising for architects was liberalised to some degree in 1992. In respect of market entry, a reform is currently under discussion. The proposed reform does not show clear signs of liberalisation. On the one hand, if it were to be adopted, some facets of the reform would lead to a considerably higher degree in market entry regulation (by defining a broader range of cases where planning has to be performed by a licensed professional). On the other hand, the group of professions allowed to perform building and planning tasks would be enlarged (by licensing of professions other than architects in respect of these tasks).

#### **4.4 Pharmacy Services**

For pharmacists detailed analysis has been carried out for Ireland, Portugal, Sweden and Germany. The profession of the pharmacist is, broadly speaking, organised as a licensing model in all EU member states. Nevertheless, there are still significant differences between countries. In Sweden, pharmaceutical products are sold via a state-monopoly. There is only one state owned company carrying out the services of pharmacies. Portugal represents an example of a large group of countries (Austria, Belgium, Denmark, Finland, France, Italy, Spain, Greece, Luxembourg) that have quite extensive regulations. In all these countries the number of pharmacies is restricted (via economic needs tests etc.). Ireland is (together with Germany, the UK and the Netherlands) one of the countries where no such regulations apply.

Generally speaking, steps towards liberalisation have occurred less frequently in this professional group than in the other professional groups analysed in this report. One exception is Ireland, where in fact a “re-liberalisation” took place. Regulations came into force as from May 1996 that limited the number of General Medical Scheme (GMS) dispensing pharmacies, i.e. pharmacies which are reimbursed by the GMS for dispensing prescriptions to medical cardholders and other qualifying individuals. The requirements for opening a new pharmacy included several preconditions in regards to minimum population density in the local area and distance from already established pharmacies. The Minister for Health and Children announced on 31st January 2002 his revocation of these regulations. The effect of the revocation, in respect of the awarding of new Community Pharmacy

Contracts, is a return to the pre-1996 situation, whereby the applicant applies to the health board for a Community Pharmacy Contract, which may be granted providing the relevant educational preconditions are met.

In *Portugal*, some regulatory changes have occurred in recent years, but there are no signs of real liberalisation.

A similar lack of recent regulation can be stated for *Germany*. However, we should stress that Germany is one of the few countries in the European Union where the number of community pharmacies is not limited via economic needs tests etc.

#### **4.5 Summary**

All aspects considered together, a high degree of “system-stability” is evident for all professions analysed in the case studies of this report in respect of regulatory changes. In this context, we did not find any complete system change (from a licensing model to certification model or in the reverse direction) and it only rarely occurs that exclusive tasks which are reserved to one or more liberal professions are opened to other potential service providers in the market.

However, frequent changes in the regulatory framework can be observed in the field of *conduct regulations*. These changes in almost all cases have taken the form of liberalisation (e.g. in respect of price regulation, advertising, form of firm, inter-professional co-operation). Such liberalisation is seldom accompanied by the introduction of more restrictive regulation in the field of *market entry* (but an example of this indeed happening is the case of lawyers in Denmark).

Despite the continued existence of traditional, somewhat ‘defensive’ forms of regulation on market entry and conduct in a few countries, there is a trend to more pro-active forms of consumer protection and quality management, which implies a lower degree of anti-competitive effects. For several professions in several countries in recent years, for example, professional indemnity insurance has been made obligatory (or, if already in existence, broadened). Other examples are the introduction of obligatory continuing education, facilities for specialisation, or in some cases, specific voluntary certification and/or benchmarking systems.

## 5. A Benchmarking Survey of Professional Services

This section presents a comparative analysis of nearly all EU member states in terms of key economic variables and indicators. For a few countries and professions no comparable data has been found, and for this reason they are missing from the analysis.

Unfortunately from an analytical point of view, comparable data, i.e. statistical data collected for groups of services on an identical basis, exists only, and then again sparingly, at the 4-digit level of the NACE classification system. Thus our results are grouped into four professional service areas for analysis as follows, whereby aggregated data for certain professions are included (shown in brackets):

- Legal professional services (lawyers and notaries)
- Accountancy Services (accountants, statutory, but also book-keeping\*and tax advising\*
- Technical professions (consulting engineers (various sub-classifications) and architects)
- Pharmacists

The inclusion of economic activities like book-keeping and tax-advising (marked with \*) in a 4-digit category poses a problem for the analysis: these occupations, inasmuch as they may be carried out by persons who are not included as professionals in our scope of professional services as ‘liberal professions’ also contribute to the economic statistics. Due to lack of an alternative (which would filter out these activities) the analysis of ‘accounting services’ is carried out in the following pages *as if* the activities were within the scope of our professional definitions. The possible resulting contamination of the data and the corresponding analysis is mitigated by the observation that such activities as tax-advising are also within the domain of professional accountants. Due to the over-proportionate contribution to economic output of large and medium-sized accountancy firms, the possible distorting effect on turnover statistics is likely to be less than the effect on employment. Such observations will be true for all member states, sometimes to slightly varying degrees. Nevertheless, within the ‘broad-brush’ approach of our analysis the deleterious effects on consistency are assumed to be minimal.

### 5.1 Description of the Dataset

Basic data on the number of firms (F), turnover of the 4-digit branch (T) and employment (E) are presented for the year 2000, or alternatively, when this data was not available, for the nearest year to 2000. At the time of the study data for 2001 was only available in a few cases, so 2000 was chosen as the base year.

Employment figures include both paid employees and also 'unpaid persons', i.e. self-employed and assisting spouses. The definitions are based on EUROSTAT definitions<sup>1</sup>, which are unified for EU member states. Data definitions from national data which differ from the EUROSTAT definitions were taken into account: in some cases a correction to the data could be justified; in some few cases the data from the member state statistical office could not be used to augment the dataset because of incompatibility.

Key indicators are ratios that are calculated based on the variables F, T and E, and their relation to the population (Pop) and GDP of each member state in the survey. The following units are used:

- **F**: Number [Firms]
- **T**: Million EUR (or ECU as appropriate) [Turnover] (- **TS**: Turnover Share)
- **E**: Number [Employment]
- **Pop**: Millions [Population]
- **GDP**: Million EUR (or ECU as appropriate) [Gross Domestic Product]

A further key variable associated with each branch is the number of practising *professionals*.<sup>2</sup> The following definitions were used:

- Legal Professions: Total number of qualified registered lawyers, notaries in practice, excludes patent lawyers (relatively small in number)
- Accountancy Professions: Total number of professional accountants (for example registered in the 'Chamber' or 'Chartered'/'Certified' and equivalents) and statutory auditors in public practice (note: usually qualified with academic degree but with some exceptions), auditors, but excluding 'only tax advisors'
- Architects and Engineering Professions: Number of academic (university, polytechnic degree) practising consulting engineers and architects
- Pharmacy Profession: Academically qualified registered, non-clinical pharmacists

For each of the four branches there does not exist a unique single complete source of data on professionals. Our data has been constructed based on numerous sources, data from IHS questionnaires (where given), and many telephone enquiries to professional bodies in the member states. The resulting figures for professionals are the best estimates based on

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<sup>1</sup> New Cronos Database.

<sup>2</sup> see also *Note on terminology* in section 1.1.

this information<sup>3</sup>. The information on the number of practising professionals is important for the further analysis.

An additional variable, volume of services provided (V) has been derived from the turnover variable: it is expressed in units of millions POI-adjusted EUR (price and output adjusted euros), i.e. adjusted by price factors and the size of the GDP in each member state<sup>4</sup>. Volume expresses the branch turnover in a comparable unit: different effects of price levels and the total output of the economy are taken into account. The latter adjustment is considered necessary because professional business services derive their revenues in large part from the business sector. It can be expected *ceteris paribus* that the level of output of a professional service is dependent on the level of output on a per capita basis (or productivity) of the whole economy.<sup>5</sup>

Despite our best efforts, inaccuracies in data are possible. For this reason we have adopted lines of empirical analysis that are robust. That is to say that the observations made would withstand sensitivity analysis of variations in the data, to within any reasonably expected deviations.

Each indicator shows a spectrum of results, shown by the coefficient of variation<sup>6</sup>. The categorisation of member states, for each indicator on its own merits, into 'High', 'Medium' and 'Low' is based on the median values, not the mean, as the latter can be strongly biased by exceptional high or low values. Roughly speaking, in each case about one third of member states are classified in each category: but this is not a fixed rule – if, for example 6 states show values close together near the median value, then these will all be classified as 'Medium'. See the charts 'Distribution of Key Ratios in EU Member States' in each of the benchmarking sections for legal, accountancy, technical, and pharmacy services respectively.

Altogether there are data for 13 member states used in the benchmarking of legal services (Portugal and Greece missing), 12 member states for accountancy services (Belgium, Portugal and Greece missing), 13 member states for technical services (Portugal and Greece missing), and 14 member states for pharmacies' services (Greece missing).

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<sup>3</sup> See Annexes D for sources.

<sup>4</sup> POI – price and output indices - were constructed as the product of Purchasing Power Parities (PPPs) deflators, which remove the effect of price level differences between countries, and GDP per capita in Purchasing Power Standards (PPS) obtained from EUROSTAT. One PPS – a 'standardised euro' based on an EU average - buys the same given average volume of goods and services in all countries. See Annexes C for these indices.

<sup>5</sup> The POI adjustment in any year has the same effect as comparing the ratio of branch turnover with GDP for each member state (the indicator *T in % of GDP*), which also takes into account differences in prices and outputs, but has the disadvantage of being a dimensionless coefficient.

<sup>6</sup> The coefficient of variation (CV%) is the intrasubject standard deviation divided by the mean, expressed as a percentage.

## 5.2 Results of Benchmarking

Reference in the following is made to the branch Overview-tables which appear before each benchmarking analysis i.e. for each of legal, accountancy, technical, and pharmacy services. The sequence of appearance of member states in the overview-tables is from left to right, in decreasing order of the overall regulation index (the sum of entry and conduct regulation indices) which was presented in Chapter 3, i.e. most highly regulated to least regulated.

The intention of the benchmarking exercise is to determine whether there are any indications of causality between the performance of individual EU member states in each of the four professional services areas, and the degree of regulation as expressed in the indices of regulation. Whereas the construction of the regulation indices involves a weighting of factors, which inevitably involves an element of subjectivity, the choices made have been explained in section 2 and the calculation methodology has been made explicit. The data used to calculate key indicators has been obtained from published statistics, so that there is no *a priori* linkage between these two sets of data.

Interpretation of the relationship between indicators and regulation indices is, however, a delicate matter. This is not chiefly conditioned by remaining uncertainties in the data on professional services at the 4-digit level, nor by the construction of the regulation index, but by the inherent aggregated level of the data, and the not entirely one-to-one correspondence between the 4-digit level and the professions studied. Furthermore, regulation of the professions is surely not the only factor that can influence outcomes in member states, even when care is taken to analyse the results on an equitable comparative basis. Other systemic variables that can affect results, such as the distribution of demand for services, including the 'product mix' of services, patterns of education and employment, or efficiencies of production, among others, may all serve to mask the effects of regulation. Nevertheless, we can detect certain patterns that do not appear to be random effects, inasmuch as we can explain the data using the knowledge gathered about the differences between member states in their regulation systems. Some trends are only apparent in a group of countries: contradictions in trends are noted where of importance, but some effects may be uncommented. A case in point is Luxembourg, which is considered a special case of its own, due to its size and concomitant specialised business and industrial structure.

In examining a ratio, it is simple arithmetic that it will be, for example, relatively high if either the numerator is also relatively high in international comparison to the denominator, or the denominator is relatively low in international comparison to the numerator. So the fact (of being, say a relatively high value) is not in itself necessarily conclusive. The importance of a relationship (or lack of it) lies in the interplay of several characteristics simultaneously, and interpreting these is the aim of the following sub-sections. Care is taken not to fall into the trap of casuistic explanations.

### 5.2.1 Legal Services

All the comparisons in this section refer to data in Overview Table 5-1, and to the relative classification shown by the 'colour coding' as high, medium or low in relation to member states in the survey.

Austria and France<sup>7</sup> are medium producers of legal services (in terms of turnover as a percentage of GDP or volume per capita Austria is slightly less than median, whereas France is above the median of the countries surveyed). The 'professional density', i.e. the relative number of legal professionals as defined in the previous section, is however low in both countries, which results in high turnover per professional (and volume per professional) relative to the group of member states surveyed. Employment is low in Austria, and somewhat below the median value in France, and the number of firms is relatively low in Austria, medium in France, in relative terms, respectively.

Interestingly, Austria and France have the highest regulation indices, 7.34 and 6.61 respectively (excepting Luxembourg). These countries also show the highest index on entry regulations, which would offer an explanation for the low number of professionals, and high volumes generated in comparison to this number.

The other country with an (enormously) high volume to professional ratio is Belgium, which appears to be an extreme outlier in terms of per capita volume, has a medium number of professionals for its size.

A group of countries with low regulation index scores, Netherlands, Denmark, Finland and Sweden have relatively low numbers of professionals, but unlike Austria and France the overall volume per professional in these countries is in the middle bracket.

Netherlands and Denmark are also the only countries with low number of firms and relatively high employment per firm and high or medium turnover per firm (this last indicator is high for Netherlands, just above median value for Denmark), indicative of a higher degree of concentration in the market. This points to an association between 'market shake-out' or concentration processes and low degrees of regulation, especially in the area of conduct regulation, and seems to be a clear result of firms having the scope to merge. This process is, however, not associated with high market power, as the volume of legal services per capita in both these countries is below the median (and low in Denmark).

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<sup>7</sup> Note that there is some uncertainty concerning data for France – c.f. Case Studies in Part 2. In this analysis we use extrapolated Eurostat data for France (see corresponding Case Study in Chapter 7). Even if the INSEE data were used, the sense of the analysis above for accountancy services does not change: in this case the volume per capita for France is over twice the median value, but the volume per professional is over four times the median value.



In contrast, Spain and Italy exhibit a high degree of de-concentration, with relatively high numbers of firms and also a high density of professionals, so fairly high degrees of (entry) regulation do not seem to act as a barrier to entry in these countries. The level of overall employment in relation to the number of professionals in Spain and Italy is also the lowest in our survey sample, so it seems possible that there is a different division of labour between professionals and other employees, including trainees, applying, compared to other countries.

UK and Ireland are high volume countries for legal services, also on a per employed person basis, which can be related to systemic differences in legal practice, but in both cases the volume per professional does not rise out of the middle category. In both member states the degree of regulation takes on medium to low values. They are also characterised by having large firms, whether measured by the number of professionals per firm or employment per firm, as do two countries with lower overall degree of regulation, namely Netherlands and Denmark. It is noticeable that all four countries have low indices of entry regulation, but this trend is not continued in the case of Sweden and Finland.

Germany appears as an exception to one of the trends described above. Despite having a high regulation index the volume per professional is not high. However the volume of business compared to the level of employment is low despite a medium per capita volume, i.e. relatively low productivity, in common with Luxembourg, which also has a high regulation index. The relative number of firms and the associated employment per firm are both in the 'average' bracket for German legal services. Since data is only available for Germany for the year 2000, there is a question as to whether the effects of reunification in 1991, and the subsequent combination of two legal systems from different models of society, are still of major influence.

Table 5-1 Overview – Legal Services 2000

Legal Services (k7411)	AUT	LUX	FRA <sup>2</sup>	GER	ESP <sup>1</sup>	ITA	BEL	IRL <sup>1</sup>	UK	NLD <sup>1</sup>	DNK	SWE	FIN
<b>Key Variables:</b>													
F in units	2 792	494	30 340	31 195	79 565	87 608	27 196	1 525	24 416	2 675	1 658	4 344	1 557
T in Mio EUR	1 234	130	13 352	11 863	5 041	11 273	14 744	971	25 062	2 565	876	1 388	384
E in units	16 456	1 395	146 018	200 461	127 812	148 665	85 787	11 065	272 000	36 700	14 507	15 881	3 334
Professionals in units <sup>3</sup>	4 592	830	39 940	105 724	105 296	139 500	14 888	7 476	111 772	13 222	4 359	8 480	2 120
	(2001)	(2001)	(2001)	(2000)	(2001)	(2001)	(2001)	(2001)	(2001)	(2001)	(2000)	(2000)	(2002)
Population in Mio.	8.10	0.44	59.23	82.16	39.39	57.68	10.24	3.73	59.62	15.76	5.33	8.86	5.17
GDP in Bil. EUR	205	21	1 405	2 026	565	1 166	248	89	1 548	374	176	247	132
<b>Key Indicators:</b>													
T per Firm in 1000 EUR	442	263	440	380	63	129	542	637	1 026	959	528	319	247
E per 1000 firms	5 894	2 824	4 813	6 426	1 606	1 697	3 154	7 256	11 140	13 720	8 750	3 656	2 141
T per E in 1000 EUR	75	93	91	59	39	76	172	88	92	70	60	87	115
E per Mio. of Pop	2 031	3 200	2 465	2 440	3 244	2 577	8 378	2 963	4 562	2 329	2 722	1 792	645
F per Mio. of Pop	345	1 133	512	380	2 020	1 519	2 656	408	410	170	311	490	301
Prof per 1000 F	1 645	1 680	1 316	3 389	1 323	1 592	547	4 902	4 578	4 943	2 629	1 952	1 362
T per Prof in 1000 EUR	269	157	334	112	48	81	990	130	224	194	201	164	181
E per 1000 Prof	3 584	1 681	3 656	1 896	1 214	1 066	5 762	1 480	2 434	2 776	3 328	1 873	1 573
Prof Density (per Mio. Pop)	567	1 904	674	1 287	2 673	2 419	1 454	2 002	1 875	839	818	957	410
T per cap. in EUR	152	298	225	144	128	195	1 440	260	420	163	164	157	74
T in % of GDP	0.60	0.62	0.95	0.59	0.89	0.97	5.94	1.09	1.62	0.69	0.50	0.56	0.29
Vol in POI-adjusted Mio. EUR*	1 101	61	12 947	10 849	7 472	12 577	13 715	868	21 584	2 309	597	1 125	340
Vol per cap. in EUR*	136	139	219	132	190	218	1 339	232	362	147	112	127	66
Vol per firm in 1000 EUR*	394	123	427	348	94	144	504	569	884	863	360	259	219
Vol per E in 1000 EUR*	67	43	89	54	58	85	160	78	79	63	41	71	102
Vol per Prof in 1000 EUR*	240	73	324	103	71	90	921	116	193	175	137	133	161
<b>Entry Index</b>	4.1	3.8	3.9	3.7	3.4	2.6	2.5	2.4	3.3	2.1	2.1	2.0	0.0
<b>Conduct Index</b>	3.3	2.8	2.7	2.8	3.1	3.9	2.1	2.1	1.2	1.8	0.9	0.4	0.3
<b>REGULATION INDEX</b>	7.3	6.6	6.6	6.5	6.5	6.4	4.6	4.5	4.5	3.9	3.0	2.4	0.3

\* adjusted for relative prices and national output - NB. not shown as high, medium or low (absolute, not relative values)

Sources: Eurostat, IHS, national statistics

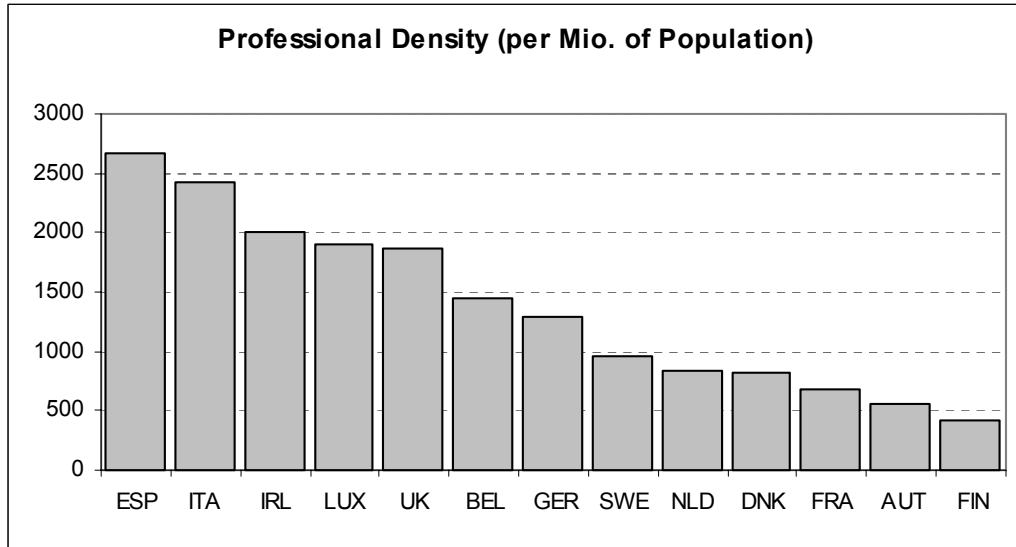
Colour code:

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medium	relative to median
low	relative to median

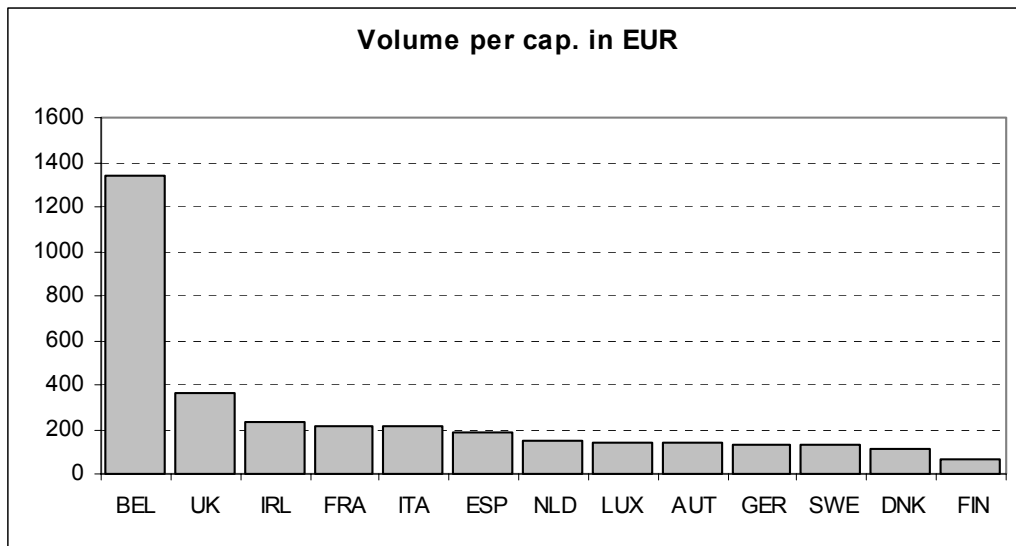
<sup>1</sup>1999<sup>2</sup>based on extrapolated values<sup>3</sup>reference year see row below

Summary statistics	Median	Mean	Standard deviation	Coeff. of variation	Median	Mean	Standard deviation	Coeff. of variation	
<b>Key Variables:</b>					<b>Key Indicators:</b>				
F in units	4 344	22 720	29 673	131%	T per Firm in 1000 EUR	440	460	287	62%
T in Mio EUR	2 565	6 837	7 752	113%	E per 1000 firms	4 813	5 621	3 778	67%
E in units	36 700	83 083	88 396	106%	T per E in 1000 EUR	87	86	32	37%
Professionals in units	13 222	42 938	51 973	121%	E per Mio. of Pop	2 577	3 027	1 842	61%
Population in Mio.	10.2	27.4	28.2	103%	F per Mio. of Pop	410	820	780	95%
GDP in Bil. EUR	248	631	667	106%	Prof per 1000 F	1 680	2 451	1 507	61%
					T per Prof in 1000 EUR	181	237	239	101%
					E per 1000 Prof	1 896	2 486	1 322	53%
					Prof Density (per Mio. Pop)	1 287	1 375	739	54%
					T per cap. in EUR	164	294	355	121%
					T in % of GDP	0.69	1.18	1.47	125%
					Vol in POI-adjusted Mio. EUR*	2 309	6 580	7 068	107%
					Vol per cap. in EUR*	147	263	332	126%
<b>Regulation Indices:</b>					Vol per firm in 1000 EUR*	360	399	255	64%
<b>Entry Index</b>	2.6	2.8	1.1	41%	Vol per E in 1000 EUR*	71	76	31	40%
<b>Conduct Index</b>	2.1	2.1	1.1	53%	Vol per Prof in 1000 EUR*	137	210	225	107%
<b>REG. INDEX</b>	4.6	4.9	2.1	43%					

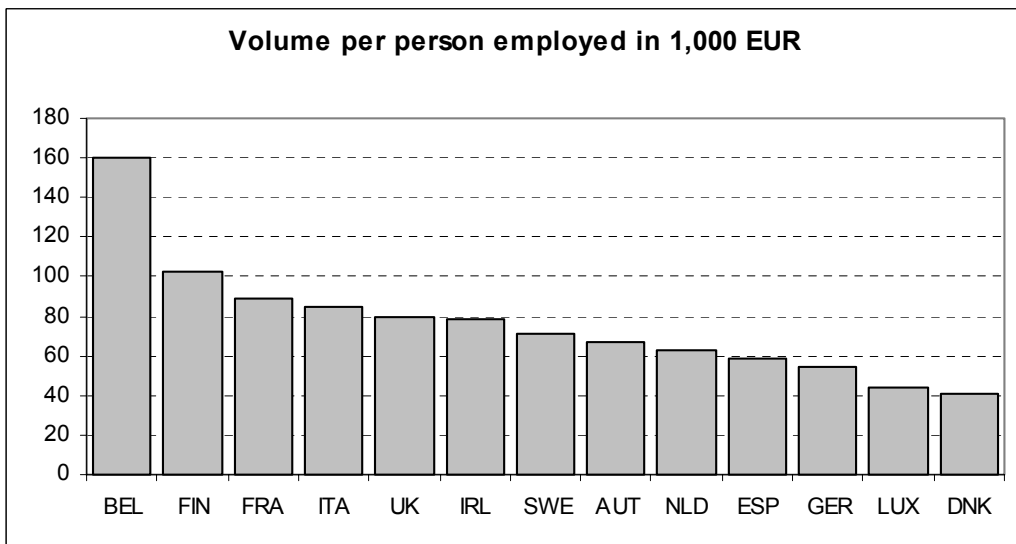
**Chart 5-1 Distribution of Key Ratios in EU Member States - Legal Services**



Sources: EUROSTAT, national statistics, IHS



Sources: EUROSTAT, national statistics, IHS



Sources: EUROSTAT, national statistics, IHS

### 5.2.2 Accountancy Services

All the comparisons in this section refer to data in Overview Table 5-2, and to the relative classification shown by the 'colour coding' as high, medium or low in relation to member states in the survey.

Austria and France<sup>8</sup> are below median producers of accountancy services (in terms of turnover as a percentage of GDP or volume per capita) whereas the branch in Germany may be classed as being of medium size. The 'professional density', i.e. the relative number of accountancy professionals per head of population, is however low in all three member states. As a result the turnover per professional (and volume per professional) is in a higher category than the output volume on its own, i.e. in the case of France and Austria, volume per capita is relatively low, but volume per professional is medium; in the case of Germany volume is medium, but volume per professional is high. Employment is also low in Austria as in France, relatively, and at a medium level in Germany: exactly the same holds for the number of firms in each country.

In our data, Spain, a medium volume producer, is the same as Germany in terms of all the variables mentioned in last paragraph. The number of professionals recorded for Spain is however, certainly much lower than the figure needed for a fair comparison, because it is restricted to the number of registered auditors in practice *without* the number of accountants. Since accountants do not require registration, we were unable to obtain a valid estimate for the number of accountants.<sup>9</sup>

Interestingly, Austria has the highest regulation index (6.19), and Germany and France have the third and fourth highest regulation indices, 6.08 and 5.83 respectively. In terms of the entry index alone, Austria ranks first, France second, and Germany third, which would offer an explanation for the low number of professionals, and high volumes generated in comparison to this number.

As is the case for legal services, Italy exhibits a high degree of de-concentration, with relatively high numbers of firms and also a high density of professionals, so the high degree of (entry) regulation (second highest overall index, and fifth highest index in terms of entry) does not seem to act as a barrier to entry. The level of overall employment in relation to the number of professionals in Italy is also the lowest in our survey sample, so it seems possible that there is a different division of labour between professionals and other employees, including trainees, applying, compared to other countries.

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<sup>8</sup> Note that there is some uncertainty concerning data for France – c.f. Case Studies in Part 2. In this analysis we use extrapolated Eurostat data for France (see corresponding Case Study in Chapter 8). Even if the INSEE data were used, the sense of the analysis above for accountancy services does not change: in this case the volume per capita for France is classed as medium, but the volume per professional is high.

<sup>9</sup> Communication with Asociación Española de Asesores Fiscales.

In contrast, the three countries with the lowest regulation indices, Denmark, UK and Ireland have each a density of professionals in a higher category than the associated indicator, volume per professional (medium/low, high/medium and high/low respectively), so that the opposite effect from that applying to Austria, France and Germany is in evidence. Sweden and Finland are respectively medium and low suppliers of accountancy services, that are at least 'neutral' in terms of the categories relative number of professionals and volume per capita (medium/medium and medium/low respectively).

Netherlands has a smaller number of professionals (medium category) than the associated volume generated per professional (high), but it is also high volume per capita producer of accountancy services so there are no clear trends that would mark it out in our analysis. Interestingly, it shares middle position in terms of regulation index along with Finland among 12 member states surveyed.

A higher degree of market concentration i.e. a low number of firms compared to the country's size (population) combined with relatively high employment per firm and volume per firm, is present in UK, Ireland, and France, and to a slightly lesser extent in Germany. The first two of these member states exhibit a low degree of regulation (as summarised by the regulation index) whereas the latter two countries are high up on the scale of overall regulation. The degree of conduct regulation is in cross-professional examination, lower, however (c.f. legal services). In accountancy services, therefore, the existence of relatively higher numbers of larger firms, employing higher numbers of persons, most likely is a result of firms having the scope to merge. This process is, however, associated with high market power, as the volume of services per accounting firm in these countries is without exception high. This finding is unique among the four professional services areas covered in this survey.

Table 5-2 Overview – Accountancy Services 2000

Accounting (k7412)	AUT	ITA	GER	FRA <sup>2</sup>	LUX	NLD <sup>1</sup>	FIN	ESP <sup>1</sup>	SWE	IRL <sup>1</sup>	UK	DNK
<b>Key Variables:</b>												
F in units	3 530	90 216	35 070	15 800	780	13 680	4 239	37 064	13 212	1 416	27 350	4 104
T in Mio EUR	1 377	9 460	17 038	9 023	424	5 310	595	5 041	2 306	687	19 674	1 376
E in units	22 663	182 211	283 087	135 476	4 164	82 400	9 924	128 490	20 561	11 559	231 000	17 024
Professionals in units <sup>3</sup>	3 068 (2000)	88 421 (2001)	14 078 (2000)	14 800 (2002)	346 (2001)	6 359 (2001)	3 126 (2001)	5 162 (2001)	4 100 (2001)	2 696 (2001)	51 675 (2001)	5 077 (2001)
Population in Mio.	8.10	57.68	82.16	59.23	0.44	15.76	5.17	39.39	8.86	3.73	59.62	5.33
GDP in Bil. EUR	205	1 166	2 026	1 405	21	374	132	565	247	89	1 548	176
<b>Key Indicators:</b>												
T per Firm in 1000 EUR	390	105	486	571	544	388	140	136	175	485	719	335
E per 1000 firms	6 420	2 020	8 072	8 574	5 338	6 023	2 341	3 467	1 556	8 163	8 446	4 148
T per E in 1000 EUR	61	52	60	67	102	64	60	39	112	59	85	81
E per Mio. of Pop	2 797	3 159	3 445	2 287	9 550	5 228	1 919	3 262	2 320	3 095	3 874	3 194
F per Mio. of Pop	436	1 564	427	267	1 789	868	820	941	1 491	379	459	770
Prof per 1000 F	869	980	401	937	444	465	737	139	310	1 904	1 889	1 237
T per Prof in 1000 EUR	449	107	1 210	610	1 226	835	190	977	562	255	381	271
E per 1000 Prof	7 387	2 061	20 108	9 154	12 035	12 958	3 175	24 892	5 015	4 287	4 470	3 353
Prof Density (per Mio. Pop)	379	1 533	171	250	794	403	605	131	463	722	867	953
T per cap. in EUR	170	164	207	152	973	337	115	128	260	184	330	258
T in % of GDP	0.67	0.81	0.84	0.64	2.03	1.42	0.45	0.89	0.93	0.77	1.27	0.78
Vol in POI-adjusted Mio. EUR*	1 229	10 554	15 581	8 749	198	4 780	528	7 472	1 868	614	16 943	938
Vol per cap. in EUR*	152	183	190	148	454	303	102	190	211	165	284	176
Vol per firm in 1000 EUR*	348	117	444	554	254	349	124	202	141	434	619	229
Vol per E in 1000 EUR*	54	58	55	65	48	58	53	58	91	53	73	55
Vol per Prof in 1000 EUR*	401	119	1 107	591	572	752	169	1 447	456	228	328	185
<b>Entry Index</b>	4.2	3.2	3.6	4.0	3.8	3.1	2.6	1.9	2.4	2.7	2.7	2.2
<b>Conduct Index</b>	2.0	2.9	2.5	1.8	1.2	1.4	0.9	1.5	0.9	0.3	0.3	0.6
<b>REGULATION INDEX</b>	6.2	6.1	6.1	5.8	5.1	4.5	3.6	3.4	3.3	3.0	3.0	2.8

\* adjusted for relative prices and national output - NB. not shown as high, medium or low (absolute, not relative values)

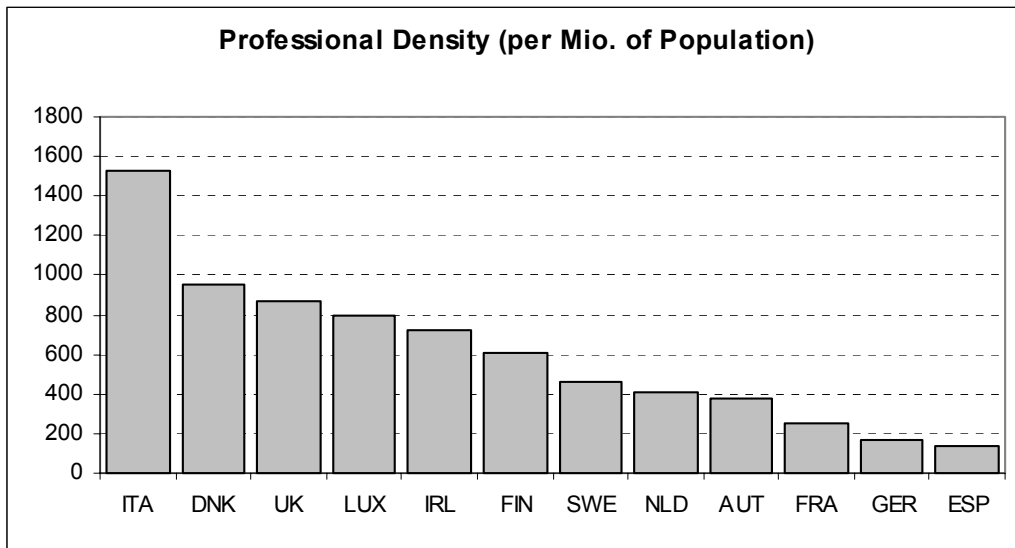
Sources: Eurostat, IHS,  
national statisticsColour code:  

high	relative to median
medium	relative to median
low	relative to median

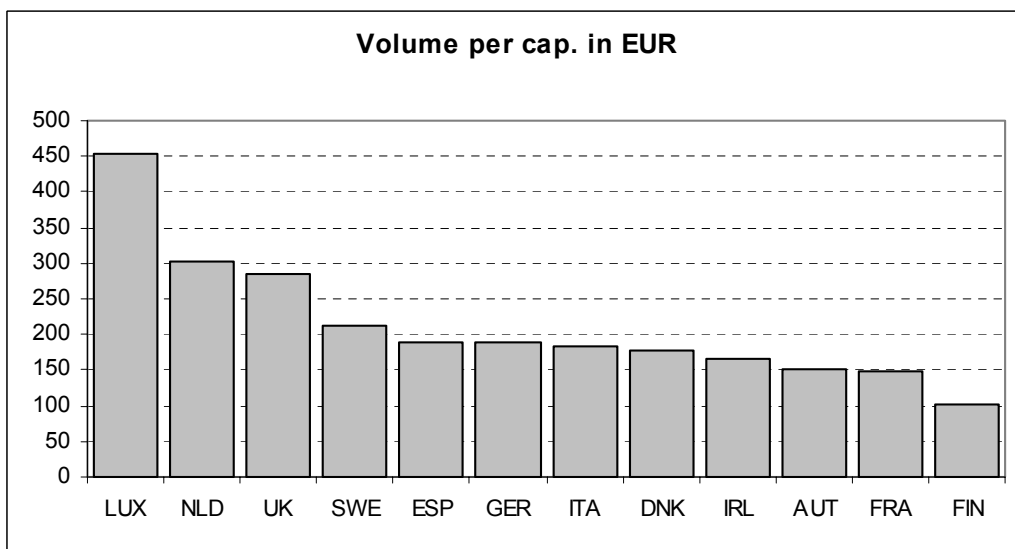
<sup>1</sup>1999<sup>2</sup>based on extrapolated values<sup>3</sup>reference year see row below

Summary statistics	Median	Mean	Standard deviation	Coeff. of variation	Median	Mean	Standard deviation	Coeff. of variation
<b>Key Variables:</b>								
T per Firm in 1000 EUR	389	373	199	53%				
E per 1000 firms	5 681	5 381	2 636	49%				
T per E in 1000 EUR	63	70	21	30%				
E per Mio. of Pop	3 176	3 678	2 037	55%				
F per Mio. of Pop	795	851	512	60%				
Prof per 1000 F	803	859	579	67%				
T per Prof in 1000 EUR	506	589	390	66%				
E per 1000 Prof	6 201	9 075	7 236	80%				
Prof Density (per Mio. Pop)	534	606	399	66%				
T per cap. in EUR	196	273	232	85%				
T in % of GDP	0.83	0.96	0.43	44%				
Vol in POI-adjusted Mio. EUR*	3 324	5 788	6 038	104%				
Vol per cap. in EUR*	186	213	94	44%				
Vol per firm in 1000 EUR*	301	318	169	53%				
Vol per E in 1000 EUR*	57	60	12	19%				
Vol per Prof in 1000 EUR*	428	530	405	76%				
<b>Regulation Indices:</b>								
Entry Index	2.9	3.0	0.7	24%				
Conduct Index	1.3	1.4	0.8	61%				
REG. INDEX	4.0	4.4	1.4	31%				

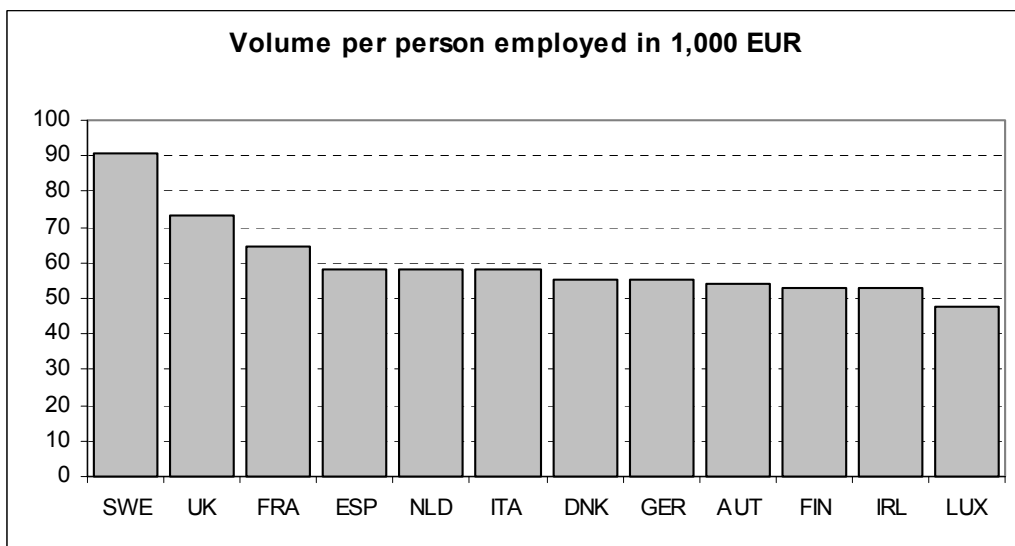
**Chart 5-2 Distribution of Key Ratios in EU Member States - Accountancy**



Sources: EUROSTAT, national statistics, IHS



Sources: EUROSTAT, national statistics, IHS



Sources: EUROSTAT, national statistics, IHS

### 5.2.3 Technical Services

All the comparisons in this section refer to data in Overview Table 5-3, and to the relative classification shown by the 'colour coding' as high, medium or low in relation to member states in the survey.

Austria and Spain are, compared to respective size, medium producers in the technical services branch (in terms of turnover as a percentage of GDP or volume per capita). The 'professional density', i.e. the number of architecture and consulting engineering professionals per head of population, as defined in the previous section, takes on, however, the lowest values of all member states in the survey. Correspondingly, the volume of services supplied per professional is in the highest of these 13 countries.

A similar situation, albeit in a less pronounced form, exists in the market for technical services in Germany. Germany is also, in relative (but not absolute) terms, a medium producer of technical services, with an output per capita volume about 10% under the median in our survey. Its above median volume per professional coefficient is therefore rather to be explained in terms of a professional density more than 10% beneath its respective median position. In yet weaker form, these observations also hold for the Belgian technical services market. A certain contrast should be noted between the data for Germany and Belgium and those of Denmark. Although all three countries have been banded in our classification in terms of the three indicators discussed here as medium, the latter has generated a volume per capita that is about 20% above median, with professional numbers also about 20% higher than median, which results in a volume per professional that takes a value exactly in the middle of the countries in our survey.

Interestingly, of the countries thus far discussed, only Denmark has a low (actually, zero) regulation index. In contrast, Germany and Austria have high degrees of regulation, and the regulation index for Spain and Belgium takes on above-median values. In terms of the entry index alone, Austria ranks first, Spain third, Germany fourth, and Belgium fifth, which offers an explanation for the low number of professionals, and high volumes generated in comparison to this number.

As is the case for legal services and accountancy services, Italy exhibits a high degree of de-concentration, with relatively high numbers of firms and also a high density of professionals, so the high degree of (entry) regulation (the highest overall index, and second highest index in terms of entry) does not seem to act as a barrier to entry. The level of overall employment in relation to the number of technical professionals in Italy is also the third lowest in our survey sample, so it seems possible that there is a different division of labour between professionals and other employees, including trainees, applying, compared to other countries.



In contrast, UK, Ireland and Netherlands have each a density of technical professionals in a higher category than the associated indicator, volume per professional (high/low, medium/low, and high/low, respectively), and these countries have very low scores on the scale of regulation index (zero for UK, zero for Ireland, and zero for conduct regulation in Netherlands) so that the opposite effect from that applying to many of the highly regulated technical services of countries discussed above.

Sweden exhibits a high volume per professional but this is due to it being the highest per capita producer of technical services in our survey group of member states, rather than being conditioned by the number of professionals, which is somewhat above median level. Finland may be classed along with Spain in terms of the key indicators examined in the overview table, but this would otherwise go against the grain of our general findings. (This assumes, however, that the number of professionals for Finland is in fact not an underestimate.<sup>10</sup>)

A higher degree of market concentration i.e. a low or medium number of firms compared to the country's size (population) combined with high employment per firm and volume per firm well above the median, is found in UK, Ireland, and Netherlands, all three very low regulated countries for technical services. France<sup>11</sup> fits into this general pattern also, and to a much lesser extent in Denmark and Germany. Germany is thus the only exception in the above list, having a high index of regulation. In technical services, therefore, the existence of relatively higher numbers of larger firms, employing higher numbers of persons, is clearly associated with a low degree of regulation, and seems to be a clear result of firms having the scope to merge. This process is not associated with high market power, as the volume of technical services per capita in these countries is medium or low (an exception being UK).

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<sup>10</sup> Data for Finland: 3000 practising graduated civil engineers; SAFA estimates the number of architects at 3500.

<sup>11</sup> Note that there is some uncertainty concerning data for France – c.f. Case Studies in Part 2.

Table 5-3 Overview – Technical Services 2000

Technical Services (k7420)	ITA	GER	LUX	AUT	ESP	BEL	FRA <sup>2</sup>	FIN	NLD <sup>1</sup>	DNK	IRL <sup>1</sup>	SWE	UK
<b>Key Variables:</b>													
F in units	195 754	69 880	809	7 932	79 679	14 824	50 376	6 337	14 780	5 719	1 663	24 369	56 097
T in Mio EUR	15 848	32 490	310	4 517	11 911	4 428	29 662	2 784	7 242	3 795	869	7 393	39 619
E in units	278 437	360 269	3 449	37 385	184 682	39 598	287 698	26 355	93 100	29 742	10 928	53 450	341 000
Professionals in units <sup>3</sup>	131 448	130 148	789	7 673	48 723	16 992	80 300	6 500	39 000	11 595	7 189	17 850	199 039
	(2001)	(2001)	(2001)	(2000)	(2001)	(2001)	(2000)	(2001)	(2001)	(2000)	(2001)	(2001)	(2000)
Population in Mio.	57.68	82.16	0.44	8.10	39.44	10.24	59.23	5.17	15.76	5.33	3.73	8.86	59.62
GDP in Bil. EUR	1 166	2 026	21	205	609	248	1 405	132	374	176	89	247	1 548
<b>Key Indicators:</b>													
T per Firm in 1000 EUR	81	465	383	569	149	299	589	439	490	664	522	303	706
E per 1000 firms	1 422	5 156	4 263	4 713	2 318	2 671	5 711	4 159	6 299	5 201	6 571	2 193	6 079
T per E in 1000 EUR	57	90	90	121	64	112	103	106	78	128	80	138	116
E per Mio. of Pop	4 827	4 385	7 911	4 614	4 682	3 867	4 858	5 097	5 907	5 580	2 926	6 032	5 719
F per Mio. of Pop	3 394	850	1 856	979	2 020	1 448	851	1 225	938	1 073	445	2 750	941
Prof per 1000 F	671	1 862	975	967	611	1 146	1 594	1 026	2 639	2 027	4 323	732	3 548
T per Prof in 1000 EUR	121	250	392	589	244	261	369	428	186	327	121	414	199
E per 1000 Prof	2 118	2 768	4 371	4 872	3 790	2 330	3 583	4 055	2 387	2 565	1 520	2 994	1 713
Prof Density (per Mio. Pop)	2 279	1 584	1 810	947	1 235	1 660	1 356	1 257	2 475	2 175	1 925	2 014	3 338
T per cap. in EUR	275	395	710	557	302	432	501	538	460	712	233	834	664
T in % of GDP	1.36	1.60	1.48	2.20	1.96	1.78	2.11	2.11	1.94	2.15	0.98	3.00	2.56
Vol in POI-adjusted Mio. EUR*	17 681	29 711	144	4 031	17 392	4 119	28 762	2 467	6 519	2 587	777	5 991	34 120
Vol per cap. in EUR*	307	362	331	497	441	402	486	477	414	485	208	676	572
Vol per firm in 1000 EUR*	90	425	178	508	218	278	571	389	441	452	467	246	608
Vol per E in 1000 EUR*	64	82	42	108	94	104	100	94	70	87	71	112	100
Vol per Prof in 1000 EUR*	135	228	183	525	357	242	358	380	167	223	108	336	171
<b>Entry Index</b>	3.3	2.7	2.7	3.8	3.2	1.2	1.1	1.4	0.7	0.0	0.0	0.0	0.0
<b>Conduct Index</b>	3.0	3.2	2.7	1.2	0.0	1.4	0.5	0.0	0.0	0.0	0.0	0.0	0.0
<b>REGULATION INDEX</b>	6.3	5.9	5.3	5.0	3.2	2.6	1.5	1.4	0.7	0.0	0.0	0.0	0.0

\* adjusted for relative prices and national output - NB. not shown as high, medium or low (absolute, not relative values)

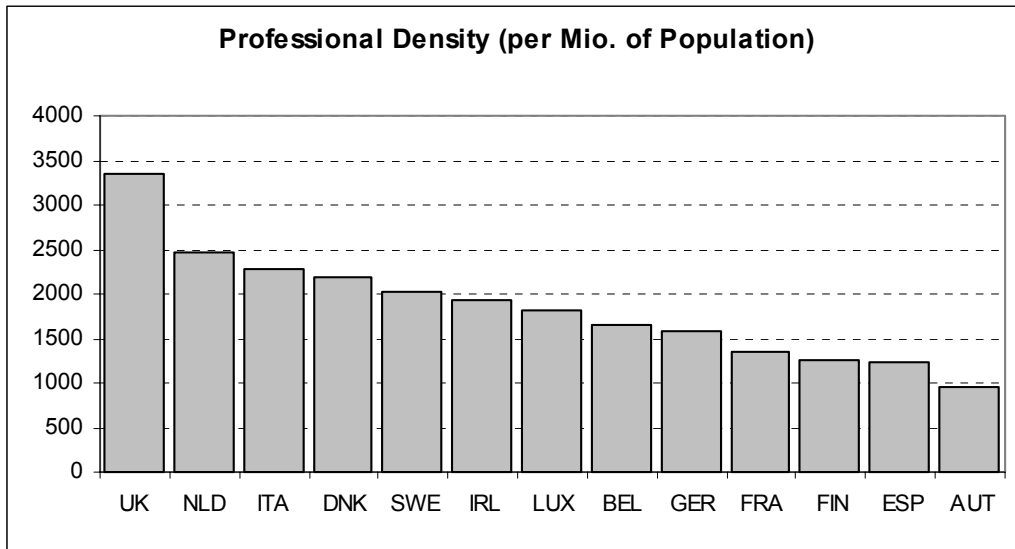
Sources: Eurostat, IHS,  
national statisticsColour code:  

high	relative to median
medium	relative to median
low	relative to median

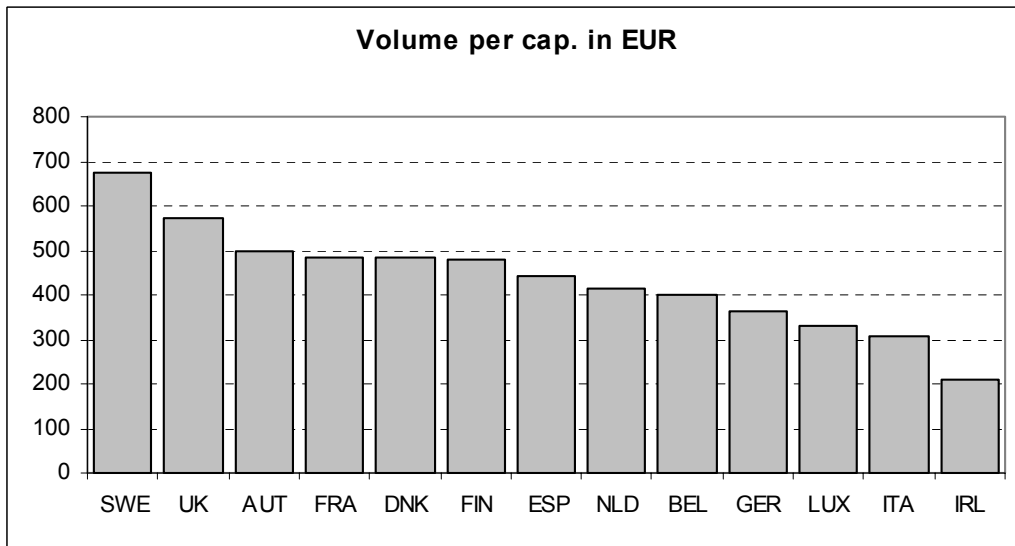
<sup>1</sup>1999<sup>2</sup>based on extrapolated values<sup>3</sup>reference year see row below

Summary statistics	Median	Mean	Standard deviation	Coeff. of variation		Median	Mean	Standard deviation	Coeff. of variation
<b>Key Variables:</b>					<b>Key Indicators:</b>				
F in units	14 824	40 632	53 964	133%	T per Firm in 1000 EUR	465	435	188	43%
T in Mio EUR	7 242	12 374	13 158	106%	E per 1000 firms	4 713	4 366	1 715	39%
E in units	53 450	134 315	136 062	101%	T per E in 1000 EUR	103	99	25	25%
Professionals in units	17 850	53 634	63 031	118%	E per Mio. of Pop	4 858	5 108	1 202	24%
Population in Mio.	10.2	27.4	28.2	103%	F per Mio. of Pop	1 073	1 444	848	59%
GDP in Bil. EUR	248	634	667	105%	Prof per 1000 F	1 146	1 702	1 166	69%
					T per Prof in 1000 EUR	261	300	136	45%
					E per 1000 Prof	2 768	3 005	1 047	35%
					Prof Density (per Mio. Pop)	1 810	1 850	634	34%
					T per cap. in EUR	501	509	185	36%
					T in % of GDP	1.96	1.94	0.52	27%
					Vol in POI-adjusted Mio. EUR*	5 991	11 869	12 189	103%
					Vol per cap. in EUR*	441	435	120	28%
					Vol per firm in 1000 EUR*	425	375	159	42%
					Vol per E in 1000 EUR*	94	87	20	23%
					Vol per Prof in 1000 EUR*	228	263	120	46%
<b>Regulation Indices:</b>									
<b>Entry Index</b>	1.1	1.4	1.4	99%					
<b>Conduct Index</b>	0.0	0.7	1.1	154%					
<b>REG. INDEX</b>	1.4	2.1	2.2	105%					

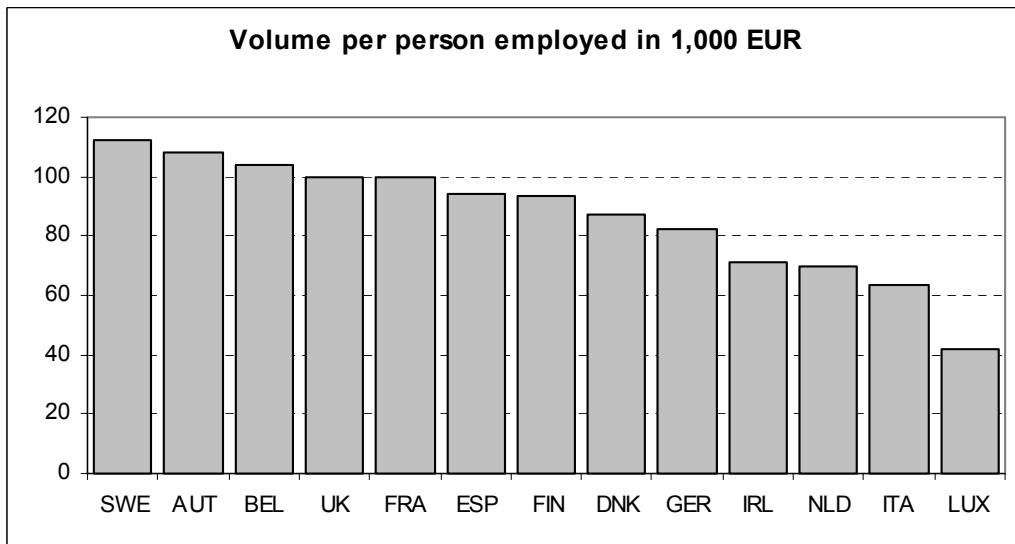
**Chart 5-3 Distribution of Key Ratios in EU Member States - Technical Services**



Sources: EUROSTAT, national statistics, IHS



Sources: EUROSTAT, national statistics, IHS



Sources: EUROSTAT, national statistics, IHS

#### 5.2.4 Pharmacy Services

All the comparisons in this section refer to data in Overview Table 5-4, and to the relative classification shown by the 'colour coding' as high, medium or low in relation to member states in the survey.

Compared to the three other professional services studied, all countries excepting Netherlands and Ireland exhibit a high degree of regulation in pharmacy services, as may be shown by comparison of index values.

Both Denmark and especially Portugal have low number of professional pharmacists; whereas Denmark also exhibits a high volume per professional, the corresponding value for Portugal is a medium value. Both countries have high overall indices (in terms of absolute value, not the median value<sup>12</sup>). This is not the case for Netherlands' pharmacy services, on the other hand, which meet the same criteria, but which are not particularly highly regulated, especially in terms of barriers to entry.

The foregoing discussion would seem to indicate a certain weaker relationship between a low number of professionals and high volumes per professional than was found for the other three professions, exemplified in pharmacy services by the cases of Denmark and especially Portugal, as this finding is shared by the case of Netherlands, which is less restrictively regulated (whereas Italy is regarded as a special case, see below).

It is in fact quite noticeable that the 'spread' of values in many of the indicators in pharmacy services differs from that found in the other three professions: the number of exceptional 'high' and 'low' deviations from the median value is correspondingly fewer. Also the coefficients of variation are generally smaller than for legal and accountancy professions (especially when the 'outlier' case of Sweden is disregarded).

The inverse relationship between the relative number of professionals and corresponding volume (turnover share) of pharmacy business on a per professional basis is, however, more clearly in evidence: of the five countries for which the former indicator is in a higher classification category than the latter, Ireland, UK and Belgium have the first, third, and fourth least regulated pharmacy professions according to the regulation index (whereas Finland and France occupy middle positions on our scale).

Italy is the only country meeting extreme opposite criteria, i.e. a high density of professionals combined with a low volume per professional, which in the other professions studied has often been associated with less regulated professions. Italy, however, has a high degree of

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<sup>12</sup> This is a fair comparison: the regulation index assesses restrictive criteria on an equal basis across the professions; the key indicators in a branch of the professional services may, however, only have comparative value within the profession itself.

regulation pertaining. As in the case of the legal, accountancy and technical services, Italy exhibits a high degree of de-concentration, with relatively high numbers of firms and also a high density of professionals (as do France, Belgium and Ireland), so the high degree of Italian (entry) regulation (highest overall index after the exceptional case of Sweden), does not seem to act as a barrier to entry. Outstandingly, the level of overall employment in relation to the number of pharmacy professionals in Italy is also the lowest in our survey sample of 14 countries, so it seems that there is possibly a different division of labour between professionals and other employees applying, compared to other countries.

A higher degree of market concentration i.e. a low or medium number of firms compared to the country's size (population) combined with high employment per firm and volume per firm well above the median, is found in UK, Denmark and Finland, all three very low or less regulated countries for pharmacy services. Therefore, the existence of relatively higher numbers of larger firms, employing higher numbers of persons, is clearly associated with a low degree of regulation, and seems to be a clear result of firms having the scope to merge. This process is not associated with abuse of market power, as the volume of pharmacy services per capita in these countries is around the median value (even low in the case of UK). Sweden, of course, with 2 firms in the year 2000 (!), satisfies this criterion; in this case it is the result of complete state regulation, not concentration driven by the market.

Table 5-4 Overview – Pharmacies 2000

Pharmacies (g5231)	SWE	ITA	PRT	LUX	ESP	FRA	AUT	FIN	DNK	GER <sup>1</sup>	BEL <sup>1</sup>	UK	NLD <sup>2</sup>	IRL <sup>1</sup>
<b>Key Variables:</b>														
Pharmacists Share in %	20,0	22,4	20,0	31,8	27,9	27,6	28,9	28,8	29,3	31,7	31,0	17,3	21,4	33,0
EUROSTAT T in Mio EUR	3 300	13 184	2 311	171	8 978	24 048	1 870	1 413	1 178	22 638	3 367	11 531	2 909	946
F in units	2	15 602	2 832	80	18 855	23 527	1 055	591	288	19 491	4 594	5 744	1 525	1 173
TS in Mio EUR	660	2 953	462	54	2 505	6 637	540	406	345	7 176	1 044	1 995	622	312
E in units	11 150	53 169	14 227	708	57 751	124 842	11 060	7 184	5 273	160 081	17 280	67 878	16 324	7 136
Professionals in units <sup>3</sup>	5 000	64 000	9 498	292	19 641	57 650	4 581	4 200	1 008	46 078	8 000	31 000	2 528	2 966
	(2001)	(2000)	(2001)	(1998)	(2000)	(2002)	(2001)	(2002)	(2001)	(2000)	(2001)	(2001)	(1999)	(2000)
Population in Mio.	8,86	57,68	10,00	0,44	39,44	59,23	8,10	5,17	5,33	82,04	10,21	59,62	15,65	3,73
GDP in Bil. EUR	247	1 166	115	21	609	1 405	205	132	176	1 974	236	1 548	352	89
<b>Key Indicators:</b>														
TS per Firm in 1000 EUR	330 030	189	163	678	133	282	512	687	1 196	368	227	347	408	266
E per 1000 firms	5 575 000	3 408	5 024	8 850	3 063	5 306	10 483	12 156	18 309	8 213	3 761	11 817	10 704	6 084
TS per E in 1000 EUR	59	56	32	77	43	53	49	57	65	45	60	29	38	44
E per Mio. of Pop	1 258	922	1 423	1 624	1 464	2 108	1 365	1 389	989	1 951	1 692	1 138	1 043	1 911
F per Mio. of Pop	0,23	270	283	183	478	397	130	114	54	238	450	96	97	314
Prof per 1000 F	2 500 000	4 102	3 354	3 650	1 042	2 450	4 342	7 107	3 500	2 364	1 741	5 397	1 658	2 529
TS per Prof in 1000 EUR	132	46	49	186	128	115	118	97	342	156	130	64	246	105
E per 1000 Prof	2 230	831	1 498	2 425	2 940	2 166	2 414	1 710	5 231	3 474	2 160	2 190	6 457	2 406
Prof Density (per Mio. Pop)	564	1 110	95	670	498	973	565	812	189	562	783	520	161	794
TS per cap. in EUR	74	51	46	124	64	112	67	79	65	87	102	33	40	84
TS in % of GDP	0,27	0,25	0,40	0,26	0,41	0,47	0,26	0,31	0,20	0,36	0,44	0,13	0,18	0,35
Vol in POI-adjusted Mio. EUR*	535	3 295	904	25	3 658	6 436	482	360	235	6 342	963	1 718	564	279
Vol per cap. in EUR*	60	57	90	58	93	109	60	70	44	77	94	29	36	75
Vol per firm in 1000 EUR*	267 449	211	319	316	194	274	457	609	816	325	210	299	370	238
Vol per E in 1000 EUR*	48	62	64	36	63	52	44	50	45	40	56	25	35	39
Vol per Prof in 1000 EUR*	107	51	95	87	186	112	105	86	233	138	120	55	223	94
<b>Entry Index</b>	6,0	4,8	4,2	4,0	3,6	3,8	3,6	4,0	2,3	1,6	3,6	2,7	1,2	1,5
<b>Conduct Index</b>	6,0	3,6	3,8	3,9	3,9	3,5	3,7	3,0	3,6	4,1	1,8	1,4	1,8	1,2
<b>REGULATION INDEX</b>	12,0	8,4	8,0	7,9	7,5	7,3	7,3	7,0	5,9	5,7	5,4	4,1	3,0	2,7

\* adjusted for relative prices and national output - NB. not shown as high, medium or low (absolute, not relative values)

Sources: Eurostat, IHS, national statistics

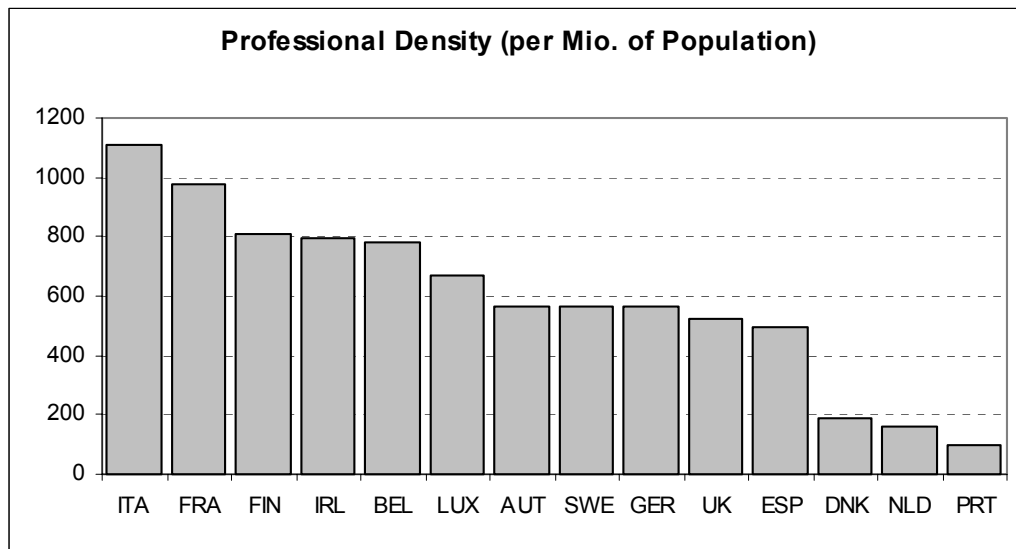
Colour code:

high relative to median  
medium relative to median  
low relative to median

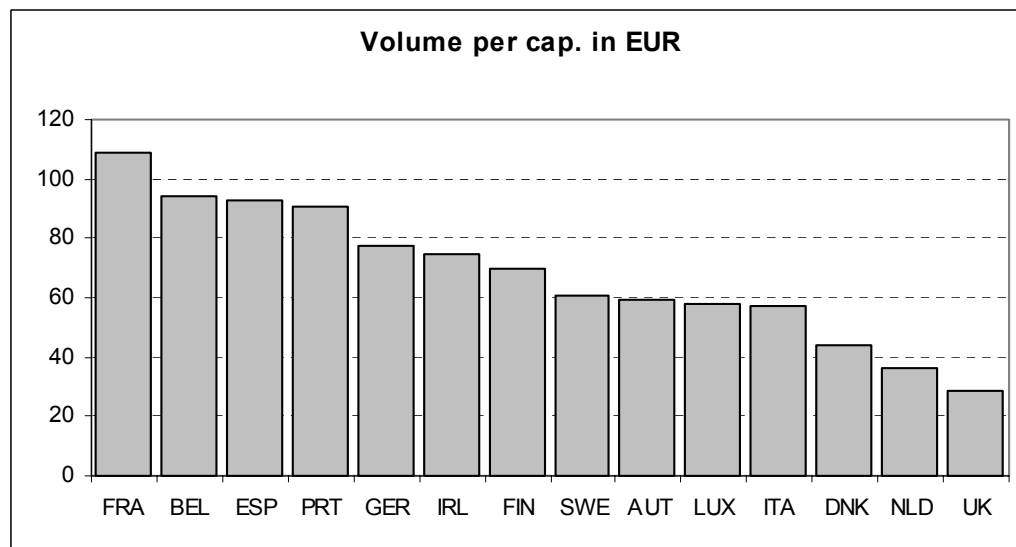
<sup>1</sup>1999<sup>2</sup>1998<sup>3</sup>reference year see row below

Summary statistics	Median	Mean	Standard deviation	Coeff. of variation	Key Indicators:	Median	Mean	Standard deviation	Coeff. of variation
<b>Key Variables:</b>									
Pharmacists Share in %	28325.0	26.5	5.2	20%	TS per Firm in 1000 EUR	358	23 963	88 092	368%
EUROSTAT T in Mio EUR	3 104	6 989	8 030	115%	E per 1000 firms	8 532	405 870	1 487 784	367%
F in units	2 179	6 811	8 549	126%	TS per E in 1000 EUR	51	51	13	26%
TS in Mio EUR	641	1 837	2 322	126%	E per Mio. of Pop	1 406	1 448	371	26%
E in units	15 276	39 576	48 989	124%	F per Mio. of Pop	211	222	150	68%
Professionals in units	6 500	18 317	22 234	121%	Prof per 1000 F	3 427	181 660	667 266	367%
Population in Mio.	10	26	27	105%	TS per Prof in 1000 EUR	123	137	79	58%
GDP in Bil. EUR	241	591	648	110%	E per 1000 Prof	2 318	2 724	1 478	54%
					Prof Density (per Mio. Pop)	565	593	298	50%
					TS per cap. in EUR	71	73	27	37%
					TS in % of GDP	0.29	0.31	0.10	34%
					Vol in POI-adjusted Mio. EUR*	734	1 843	2 221	121%
					Vol per cap. in EUR*	65	68	23	34%
					Vol per firm in 1000 EUR*	318	19 435	71 383	367%
					Vol per E in 1000 EUR*	46	47	12	25%
					Vol per Prof in 1000 EUR*	106	121	56	46%
<b>Regulation Indices:</b>									
<b>Entry Index</b>	3.6	3.4	1.4	41%					
<b>Conduct Index</b>	3.6	3.2	1.3	40%					
<b>REG. INDEX</b>	7.2	6.6	2.4	37%					

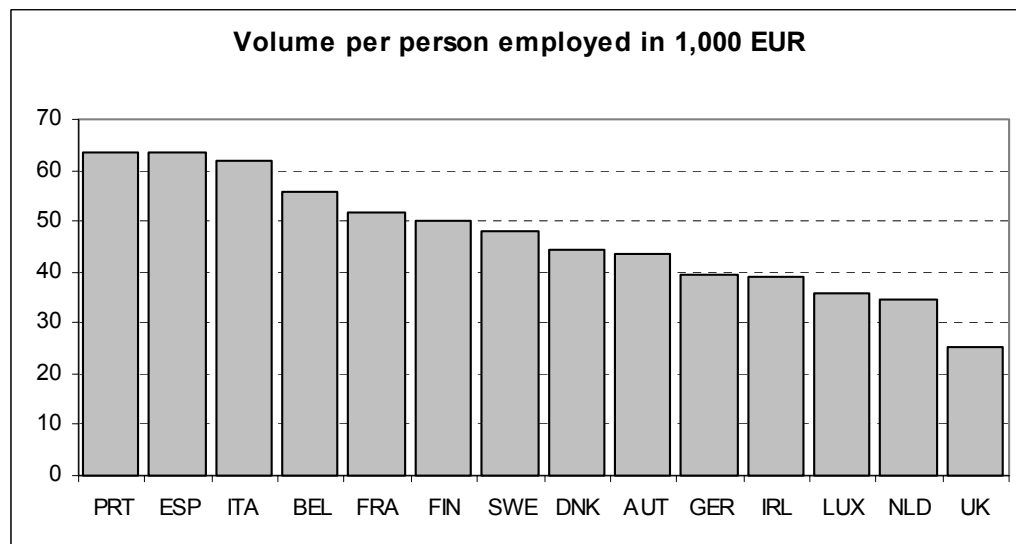
**Chart 5-4 Distribution of Key Ratios in EU Member States – Pharmacies**



Sources: EUROSTAT, national statistics, IHS



Sources: EUROSTAT, national statistics, IHS



Sources: EUROSTAT, national statistics, IHS

### 5.3 Hypotheses derived from the analysis

The type and extent of analysis is limited by the level of aggregation of the data available for comparison purposes and the heterogeneity of specific characteristics of individual member states' professional services. For example, the high volume of legal service in UK, in per capita as well as absolute terms, may to a greater or less extent be conditional on the types and degree of regulation (which is less than the median in the survey). However, the roots of this development lie almost certainly in the particular legal systems of England and Wales (and the legal system of Scotland). It is not surprising in the light of this comment, therefore, that there appears to be no pattern of linkage in our data between the relative volume of business and our assessment of regulation restrictiveness. Some caution has thus to be exercised in interpreting the data.

#### *Raising output potential by means of less regulation*

It is of interest here to consider the effects of regulation on the economic performance of professional services in member states. In the following we highlight links that appear to exist between output indicators and corresponding values of our calculated regulation index for the country – whereby attention is restricted to the business professional services, i.e. legal, accounting and technical. In a later step we will examine these possible links after filtering the data to take account of different conditions in member states.

**Table 5-5 Output measures and degree of regulation**

<b>Correlations:</b>	<b>Professional Services</b>			<b>Legal + Accountancy + Technical grouped</b>
	<b>Legal</b>	<b>Accountancy</b>	<b>Technical</b>	
<b>Vol per Firm vs. Regulation Index</b>	-0.14	0.09	-0.49	
<b>Vol per Employment vs. Regulation Index</b>	-0.21	-0.28	-0.37	-0.36

Source: IHS

The link between output on a per firm basis and regulation shows only one correlation coefficient meriting further attention: in *technical services*, the value of  $-0.49$  (significant at the 5% level) indicating higher values of regulation index being associated with lower values of volume per firm, or more saliently, that firm size, i.e. expressed as volume of business, is higher in less regulated countries. This relationship conforms with the findings on enterprise size and organisational forms described in the case studies in Part 2.

It is interesting that we find for *legal services*, *accounting services* and *technical services* a negative correlation between regulation and volume per employed person. Whereas each sample size on its own is too small for the values to be statistically significant, other tests show that differences between each of the three groups in volume per employee and

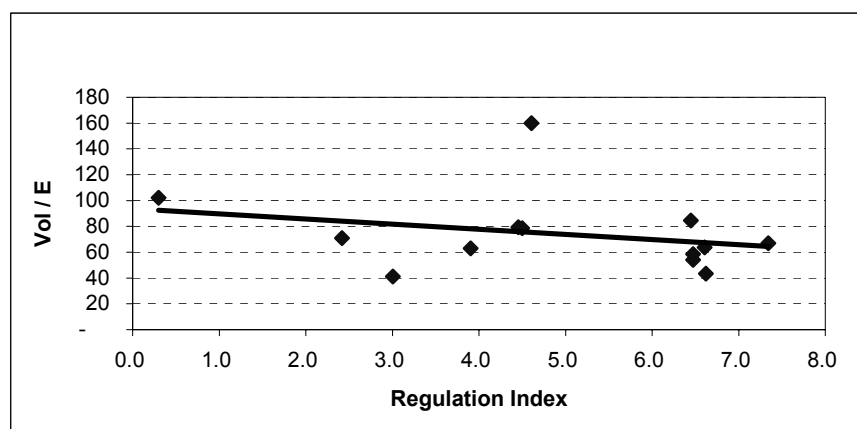


regulation index are complementary.<sup>13</sup> So, when the data for these three professions are grouped together, the sample size is 38 and the correlation between productivity and degree of regulation is -0.356, which is highly significant, even at a 2% level. A similar methodology for analysing (un/employment) data with respect to its bivariate association with a constructed index (strictness of employment protection legislation) has been reported in OECD (1999). We return to this discussion in a following section ('GAP' Analysis').

Leaving aside pharmacy services (which is set apart from the other three professional fields by conducting business in retail trading) this points in the first analysis to lower productivity in higher regulated countries. (See corresponding charts below, where the trend line is shown).

If we take as a starting point an assumption that the technology used in producing legal services is the same in each member state in the survey (and make similar assumptions for technical services, and for accounting services, separately), then there would be no reason to expect any such trend in productivity differences. It should be noted here, once more, that the measure of volume already factors out differences in price levels and general (overall) output levels of the economies. Thus these negative correlations can indicate a shortfall in potential output. That is to say, we can hypothesise that a reduction in regulation for a currently highly regulated profession would lead to an increase in branch volume, and therefore (*ceteris paribus* – without affecting employment levels) a productivity increase will be recorded. This hypothesis that 'regulation stifles development' has often been referred to in the theory of professional services (c.f. following chapter).

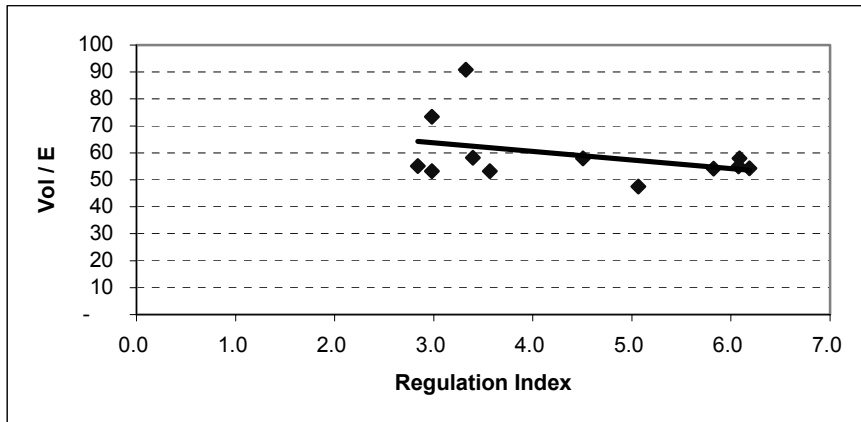
**Chart 5-5 Productivity vs. Regulation Index - Legal Services**



Source: IHS

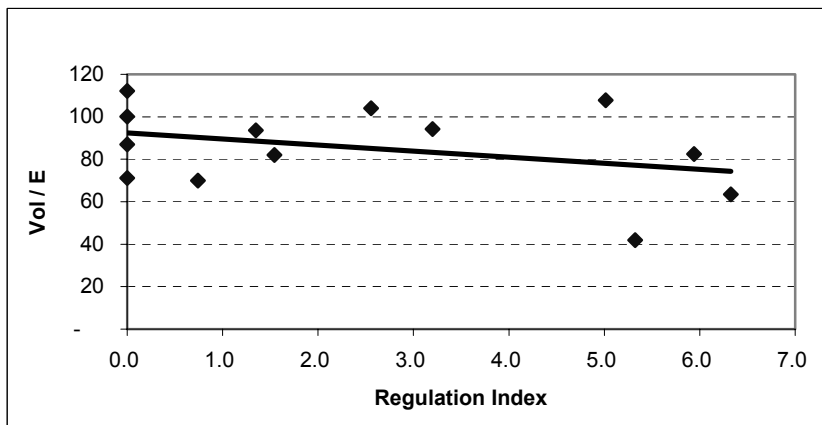
<sup>13</sup> Kruskal-Wallis test and non-parametric median test, which do not assume Normal distribution.

**Chart 5-6 Productivity vs. Regulation Index - Accountancy Services**



Source: IHS

**Chart 5-7 Productivity vs. Regulation Index - Technical Services**



Source: IHS

**Example: Spain**

The case of Spain, where certain reforms liberalising (conduct) regulation were carried out during the 1990s, may be illustrative of the hypothesised connection between deregulation and increases in productivity and output.

The table below shows that in the legal, accounting and technical professional services steady annual gains in productivity - the level of volume per employment – were achieved, and, especially, that even higher rates of per annum compound growth were achieved in terms of volume per capita.

**Table 5-6 Productivity and Volume per capita growth in Spain**

	1992	1993	1994	1995	1996	1997	1998	1999	2000	growth (p.a. compound)	Range*
<b>Legal services</b>											
F in units					71 802			79 565		3,5	1996-99
T in Mio EUR					3 998			5 041		8,0	1996-99
E in units					119 832			127 812		2,2	1996-99
Vol per cap. in EUR*					154			190		7,2	1996-99
Vol per E in 1000 EUR*					50			58		5,0	1996-99
<b>Accountancy</b>											
F in units								37 064			
T in Mio EUR		2 522						5 041		12,2	1993-99
E in units		79 408						128 490		8,4	1993-99
Vol per cap. in EUR*		96						190		12,0	1993-99
Vol per E in 1000 EUR*		47						58		3,6	1993-99
<b>Technical services</b>											
F in units	57 634		61 020			70 841		77 378	79 679	4,1	1992-2000
T in Mio EUR	6 644					7 824		10 457	11 911	7,6	1992-2000
E in units	124 491					151 195		170 232	184 682	5,1	1992-2000
Vol per cap. in EUR*	231					307		393	441	8,4	1992-2000
Vol per E in 1000 EUR*	72					80		91	94	3,4	1992-2000

\* relevant start and end years for which compound growth applies

Sources: EUROSTAT, Instituto Nacional de Estadística, IHS

There are indeed considerable annual gains in productivity and per capita volume, matched or exceeded during (parts of) the 1990s in our sample only: for legal services - in Italy and UK, in Sweden (volume only), and in France (productivity only); for accountancy services - (productivity only) in Netherlands, Denmark and Sweden; and for technical services over the second half of the 1990s - in UK (productivity only) and Austria (volume only). The lack of complete data in our survey for the period 1990 to 2000 means that no comparisons with Germany, Ireland, Belgium and Luxembourg are possible.

More specifically, our data allows a comparison of the architects and consulting engineering branch for two periods, before and after 1997, in which year fixed tariffs were eliminated (c.f. chapter on case studies in Part 2 for technical services). The table below shows that growth rates in productivity (turnover per employment) accelerated after 1997, almost entirely due to an enormous growth in turnover, far in excess of the improvement in the general economic situation alone, while employment in the branch almost kept pace with GDP.

**Table 5-7 Spain, Technical Services**

Growth p.a. (compound)	Technical Services	
	1992-97	1997-2000
GDP	1,3	7,1
T per E in 1000 EURO	-0,6	7,6
E per Mio. of Pop	3,8	6,8
T per cap. in EURO	3,1	14,9

Whereas we cannot conclude that tariff liberalisation in Spain is the only factor that led to performance growth in Spain in the late 1990s, the example certainly lends credence to the hypothesis that suitable deregulation can induce productivity increases and result in an overall faster growth in business volume.

## 5.4 Findings revisited using GAP-Analysis

### *Introduction*

We take the analysis of the previous section a step further with what we call GAP-analysis. In this phase, we control for the presence of specific characteristics that apply to the data at the member state level.

The values for key indicators and variables used in our analysis are based either on 4-digit or 3-digit level data of the Eurostat's NACE classification (Rev.1). Legal services (K7411), accountancy (K7412) as well as architectural and engineering activities (K742) are located within the 2-digit K74-sector together with other branches supplying business services. The k74 sector includes the business and management consulting branch, which like legal, accountancy and technical services employs many highly qualified persons, but which is in general not subject to similar restrictions regarding competition; k74 also includes many trade services not subject to the same degree of self- and/or government regulation as professional services (although specific branch regulation may exist). All branches in the k74 sector have in common that they are business services subject to common business conditions, social systems and commercial law of the particular member state in question.

The 'Other business activities' classification of k74 is the lowest statistical level that includes the three professional business services in this study. The values for the variables F, T, and E on the 2-digit level equal the sum of the appropriate values for the branches within the K74-sector as indicated in the following diagram

**Table 5-8 Embedding of surveyed professions within the K74-sector**

<b>2-digit level</b>	<b>3-digit level</b>	<b>4-digit level</b>
K74 Other business activities	K741 Legal, accounting, book-keeping and auditing activities; tax consultancy; market research and public opinion polling; business and management consultancy; holdings	<b>K7411 Legal activities</b> <b>K7412 Accounting, book-keeping and auditing activities; tax consultancy</b> K7413 Market research and public opinion polling K7414 Business and management consultancy activities K7415 Management activities of holding companies
	<b>K742 Architectural and engineering activities and related technical consultancy</b>	
	K743 Technical testing and analysis	
	K744 Advertising	
	K745 Labour recruitment and provision of personnel	
	K746 Investigation and security activities	
	K747 Industrial cleaning	
	K748 Miscellaneous business activities n.e.c.	K7481 Photographic activities K7482 Packaging activities K7483 Secretarial and translation activities K7484 Other business activities n.e.c.

Thus, it is possible to relate the values for the surveyed branches to the totality of the K74-sector and to put this into a comparative context. In other words: For a subset of key indicators and key variables<sup>14</sup> and for all the countries that took part in the benchmarking survey we calculated the proportion of 4-digit and 2-digit-values:

$$X^{\text{GAP}} = (X^{4\text{-digit}} / X^{2\text{-digit}}) * 100$$

This procedure aims to correct for influences that result from different market or production conditions (and macroeconomic conditions) as well as from general regulations like fiscal or labour legislation. All these factors lead to differences between countries that cannot be attributed to the branch-specific regulation of market-entry and market-behaviour. Comparative values for key variables are potentially distorted by such influences. With regard to the intervening variables like those mentioned above, it is assumed that the branches within the K74-sector are generally subject to equal treatment. The new comparison of key variables thus obtained differs from that of the previous analysis of the legal, accountancy and technical services respectively on their own, by instead being based on ratios between 2-digit and 4-digit values. All of the values discussed in this section are relative to the appropriate values on the K74-level.

By this method, we can measure the extent of any 'gap' between the structural meso- or microeconomic variables of each professional service and the k74 class of other business services. For variables taking on absolute values (e.g. number of firms, turnover, employment) or ratios with a common denominator<sup>15</sup> (e.g. employment per million of population) the gap figures in each country represents the percentage of the k74 sector ascribed to the 2-digit category in question. Regardless of how these vary from country to country, each value is always less than 100; for all other ratios (e.g. volume per firm), on the other hand, the greater the deviation of the gap value from 100 (smaller or larger) the more the professional service is differentiated from the general class members within the particular country under scrutiny. For example, the volume per (1000) firms in the accountancy branch is generally less than the overall level in the k74 sector (i.e. the gap value is less than 100), except in Luxembourg where the gap value is 119.7, reflecting the exceptionally high level of accountancy business there (see Gap Analysis table).

Evaluation of the calculated gap ratios across member states now enables a cross-country comparison of the relative 'strength' that the professional services exhibit within their 'own' k74 sector economy.

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<sup>14</sup> Number of firms, turnover in Mio. EUR, number of persons employed, turnover per firm in Mio. EUR, employment per 1000 firms, turnover per person employed in 1000 EUR, employment per Mio. of population, firms per Mio. of population, turnover per cap. in EUR, turnover in % of GDP, volume per cap. in EUR, volume per 1000 firms in Mio. EUR, volume per person employed in 1000 EUR;

<sup>15</sup> For this reason, there are only 6 different sets of gap values for each profession in the GAP analysis tables.

Table 5-9 GAP-Analysis Table

Legal Serv. (k7411)	Aut 2000	Lux 2000	Fr 2000 <sup>2</sup>	Sp 1999	Ger 2000	It 2000	Bel 2000	Irl 1999	UK 2000	Ni 1999	Dk 2000	Swe 2000	Fin 2000	Median	corr. with reg. ind. <sup>1</sup>
F in units	9.31	12.12	9.86	26.51	13.12	15.30	42.29	17.99	8.05	2.99	5.40	4.13	5.62	9.86	0.56 *
T in Mio EUR	7.45	7.02	7.18	10.00	6.91	12.37	44.90	16.69	9.88	4.69	5.83	4.29	4.48	7.18	
E in units	8.11	6.06	7.54	9.78	8.38	10.28	23.03	14.19	8.97	3.56	7.14	4.61	2.59	8.11	
T per Firm in 1000 EURO	79.95	57.88	72.77	37.71	52.66	80.89	106.17	92.79	122.84	156.86	108.02	103.87	79.66	80.89	-0.47 *
E per 1000 firms	87.08	49.97	76.43	36.88	63.89	67.20	54.46	78.90	111.51	119.04	132.39	111.59	46.02	76.43	
T per E in 1000 EURO	91.81	115.85	95.21	102.24	82.43	120.37	194.96	117.60	110.16	131.77	81.59	93.08	173.11	110.16	
E per Mio. of Pop	8.11	6.06	7.54	9.78	8.38	10.28	23.03	14.19	8.97	3.56	7.14	4.61	2.59	8.11	
F per Mio. of Pop	9.31	12.12	9.86	26.51	13.12	15.30	42.29	17.99	8.05	2.99	5.40	4.13	5.62	9.86	
T per cap. in EURO	7.45	7.02	7.18	10.00	6.91	12.37	44.90	16.69	9.88	4.69	5.83	4.29	4.48	7.18	
T in % of GDP	7.45	7.02	7.18	10.00	6.91	12.37	44.90	16.69	9.88	4.69	5.83	4.29	4.48	7.18	
Vol in PPI-adjusted Mio. EUR*	7.45	7.02	7.18	10.00	6.91	12.37	44.90	16.69	9.88	4.69	5.83	4.29	4.48	7.18	
Vol per cap. in EUR*	7.45	7.02	7.18	10.00	6.91	12.37	44.90	16.69	9.88	4.69	5.83	4.29	4.48	7.18	
Vol per firm in 1000 EUR*	79.95	57.88	72.77	37.71	52.66	80.89	106.17	92.79	122.84	156.86	108.02	103.87	79.66	80.89	-0.47 *
Vol per E in 1000 EUR*	91.81	115.85	95.21	102.24	82.43	120.37	194.96	117.60	110.16	131.77	81.59	93.08	173.11	110.16	-0.53 *
<b>Entry Index</b>	<b>4.08</b>	<b>3.82</b>	<b>3.88</b>	<b>3.40</b>	<b>3.70</b>	<b>2.56</b>	<b>2.52</b>	<b>2.40</b>	<b>3.28</b>	<b>2.08</b>	<b>2.08</b>	<b>1.98</b>	<b>0.00</b>	<b>2.56</b>	
<b>Conduct Index</b>	<b>3.26</b>	<b>2.80</b>	<b>2.73</b>	<b>3.08</b>	<b>2.78</b>	<b>3.89</b>	<b>2.09</b>	<b>2.10</b>	<b>1.18</b>	<b>1.83</b>	<b>0.93</b>	<b>0.44</b>	<b>0.30</b>	<b>2.10</b>	
<b>REGULATION INDEX</b>	<b>7.34</b>	<b>6.62</b>	<b>6.61</b>	<b>6.48</b>	<b>6.48</b>	<b>6.45</b>	<b>4.61</b>	<b>4.50</b>	<b>4.46</b>	<b>3.91</b>	<b>3.01</b>	<b>2.42</b>	<b>0.30</b>	<b>4.61</b>	
Accounting (k7412)	Aut 2000	It 2000	Ger 2000	Fr 2000 <sup>2</sup>	Lux 2000	Ni 1999	Fin 2000	Sp 1999	Swe 2000	UK 2000	Irl 1999	Dk 2000	Median	corr. with reg. index	
F in units	11.78	15.75	14.75	5.14	19.14	15.29	15.31	12.35	12.55	9.01	16.70	13.36	14.05	-0.04	
T in Mio EUR	8.31	10.38	9.83	4.85	22.90	9.71	6.94	10.00	7.12	7.76	11.81	9.16	9.43		
E in units	11.17	12.60	11.84	6.99	18.08	7.99	7.70	9.83	5.96	7.62	14.83	8.56	9.19		
T per Firm in 1000 EURO	70.57	65.92	66.61	94.43	119.65	63.50	45.35	80.94	56.74	86.09	70.72	68.58	69.58	0.20	
E per 1000 firms	94.85	79.98	80.25	136.17	94.46	52.26	50.31	79.59	47.50	84.54	88.77	64.07	80.12		
T per E in 1000 EURO	74.40	82.41	83.00	69.35	126.67	121.50	90.13	101.70	119.45	101.83	79.66	107.04	95.92		
E per Mio. of Pop	11.17	12.60	11.84	6.99	18.08	7.99	7.70	9.83	5.96	7.62	14.83	8.56	9.19		
F per Mio. of Pop	11.78	15.75	14.75	5.14	19.14	15.29	15.31	12.35	12.55	9.01	16.70	13.36	14.05		
T per cap. in EURO	8.31	10.38	9.83	4.85	22.90	9.71	6.94	10.00	7.12	7.76	11.81	9.16	9.43		
T in % of GDP	8.31	10.38	9.83	4.85	22.90	9.71	6.94	10.00	7.12	7.76	11.81	9.16	9.43		
Vol in PPI-adjusted Mio. EUR*	8.31	10.38	9.83	4.85	22.90	9.71	6.94	10.00	7.12	7.76	11.81	9.16	9.43		
Vol per cap. in EUR*	8.31	10.38	9.83	4.85	22.90	9.71	6.94	10.00	7.12	7.76	11.81	9.16	9.43		
Vol per firm in 1000 EUR*	70.57	65.92	66.61	94.43	119.65	63.50	45.35	80.94	56.74	86.09	70.72	68.58	69.58	0.35	
Vol per E in 1000 EUR*	74.40	82.41	83.00	69.35	126.67	121.50	90.13	101.70	119.45	101.83	79.66	107.04	95.92	-0.43	
<b>Entry Index</b>	<b>4.16</b>	<b>3.16</b>	<b>3.60</b>	<b>4.00</b>	<b>3.84</b>	<b>3.08</b>	<b>2.64</b>	<b>1.92</b>	<b>2.40</b>	<b>2.68</b>	<b>2.68</b>	<b>2.24</b>	<b>2.88</b>		
<b>Conduct Index</b>	<b>2.03</b>	<b>2.93</b>	<b>2.48</b>	<b>1.83</b>	<b>1.23</b>	<b>1.43</b>	<b>0.93</b>	<b>1.48</b>	<b>0.93</b>	<b>0.30</b>	<b>0.30</b>	<b>0.60</b>	<b>1.33</b>		
<b>REGULATION INDEX</b>	<b>6.19</b>	<b>6.09</b>	<b>6.08</b>	<b>5.83</b>	<b>5.07</b>	<b>4.51</b>	<b>3.57</b>	<b>3.40</b>	<b>3.33</b>	<b>2.98</b>	<b>2.98</b>	<b>2.84</b>	<b>4.04</b>		
Techn. Serv. (k7420)	It 2000	Ger 2000	Lux 2000	Aut 2000	Sp 1999	Bel 2000	Fr 2000 <sup>2</sup>	Fin 2000	Ni 1999	Dk 2000	Swe 2000	UK 2000	Irl 1999	Median	corr. with reg. index
F in units	34.18	29.40	19.85	26.46	25.78	23.05	16.37	22.88	16.52	18.61	23.15	18.49	19.62	22.88	0.75 **
T in Mio EUR	17.40	18.74	16.71	27.25	20.74	13.49	15.94	32.46	13.24	25.25	22.84	15.62	14.94	17.40	
E in units	19.25	15.07	14.98	18.43	13.02	10.63	14.85	20.45	9.03	14.95	15.50	11.25	14.02	14.95	
T per Firm in 1000 EURO	50.89	63.74	84.15	102.99	80.43	58.50	97.36	141.84	80.16	135.68	98.64	84.52	76.16	84.15	-0.47 *
E per 1000 firms	56.33	51.25	75.44	69.63	50.51	46.11	90.69	89.38	54.65	80.32	66.95	60.84	71.46	66.95	
T per E in 1000 EURO	90.35	124.37	111.55	147.90	159.24	126.86	107.35	158.70	146.66	168.92	147.34	138.91	106.57	138.91	
E per Mio. of Pop	19.25	15.07	14.98	18.43	13.02	10.63	14.85	20.45	9.03	14.95	15.50	11.25	14.02	14.95	
F per Mio. of Pop	34.18	29.40	19.85	26.46	25.78	23.05	16.37	22.88	16.52	18.61	23.15	18.49	19.62	22.88	
T per cap. in EURO	17.40	18.74	16.71	27.25	20.74	13.49	15.94	32.46	13.24	25.25	22.84	15.62	14.94	17.40	
T in % of GDP	17.40	18.74	16.71	27.25	20.74	13.49	15.94	32.46	13.24	25.25	22.84	15.62	14.94	17.40	
Vol in PPI-adjusted Mio. EUR*	17.40	18.74	16.71	27.25	20.74	13.49	15.94	32.46	13.24	25.25	22.84	15.62	14.94	17.40	
Vol per cap. in EUR*	17.40	18.74	16.71	27.25	20.74	13.49	15.94	32.46	13.24	25.25	22.84	15.62	14.94	17.40	
Vol per firm in 1000 EUR*	50.89	63.74	84.15	102.99	80.43	58.50	97.36	141.84	80.16	135.68	98.64	84.52	76.16	84.15	-0.47 *
Vol per E in 1000 EUR*	90.35	124.37	111.55	147.90	159.24	126.86	107.35	158.70	146.66	168.92	147.34	138.91	106.57	138.91	-0.42 *
<b>Entry Index</b>	<b>3.30</b>	<b>2.74</b>	<b>2.66</b>	<b>3.84</b>	<b>3.20</b>	<b>1.18</b>	<b>1.08</b>	<b>1.35</b>	<b>0.74</b>	<b>0.00</b>	<b>0.00</b>	<b>0.00</b>	<b>0.00</b>	<b>1.18</b>	
<b>Conduct Index</b>	<b>3.03</b>	<b>3.20</b>	<b>2.66</b>	<b>1.18</b>	<b>0.00</b>	<b>1.38</b>	<b>0.46</b>	<b>0.00</b>	<b>0.00</b>	<b>0.00</b>	<b>0.00</b>	<b>0.00</b>	<b>0.00</b>	<b>0.00</b>	
<b>REGULATION INDEX</b>	<b>6.33</b>	<b>5.94</b>	<b>5.32</b>	<b>5.02</b>	<b>3.20</b>	<b>2.56</b>	<b>1.54</b>	<b>1.35</b>	<b>0.74</b>	<b>0.00</b>	<b>0.00</b>	<b>0.00</b>	<b>0.00</b>	<b>1.54</b>	

<sup>1</sup>correlations for legal services excluding Belgium

\* Correlation is significant at the 0.05 level (1-tailed)

<sup>2</sup>based on extrapolated values (see Part 2)

\*\* Correlation is significant at the 0.05 level (2-tailed)

Source: EUROSTAT, national statistics, IHS

**Check of previous findings**

*Productivity:* Gap analysis is used first to test the inverse relationship between the level of regulation and the productivity (volume per employment) indicated by the preceding analysis of the original data. The results not only corroborate the previous analysis, but also show the existence of the relationship more clearly.

Productivity in the surveyed member states is negatively correlated with regulation in legal, accountancy and technical services: the correlation coefficients are -0.53, -0.43, and -0.42, respectively, whereby the figures for technical and legal are both (1-tailed) statistically significant .

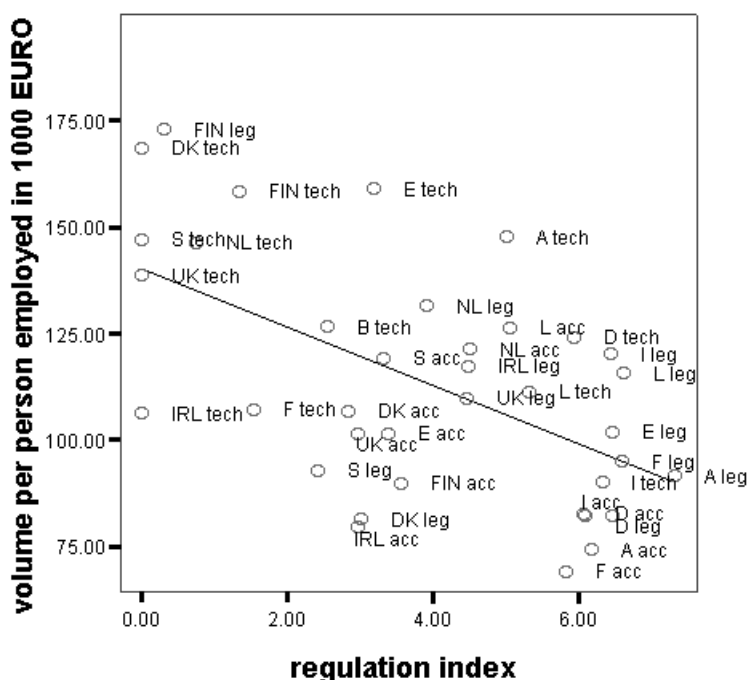
When the data for legal, accountancy and technical services are grouped together, the corresponding trend is corroborated (which is not an automatic result of grouping, but instead a confirmation of the effect). A highly significant correlation between productivity and regulation index of -0.5 exists for the totality of all 38 cases (see below), independent of the affiliation to one of the three surveyed branches (and this correlation rises further, to -0.6 if the outlier case of Belgium, legal services, is excluded).

<b>Correlations</b>		regulation index
volume per person employed (in 1000 euro)	Pearson Correlation	-0.485 **
	Sig. (2-tailed)	0.002
	N	38
volume per person employed (in 1000 euro)	Nonparametric test	
	Spearman's rho	-0.427 **
	Sig. (2-tailed)	0.007
	N	38

\*\* Correlation is significant at the 0.01 level (2-tailed).

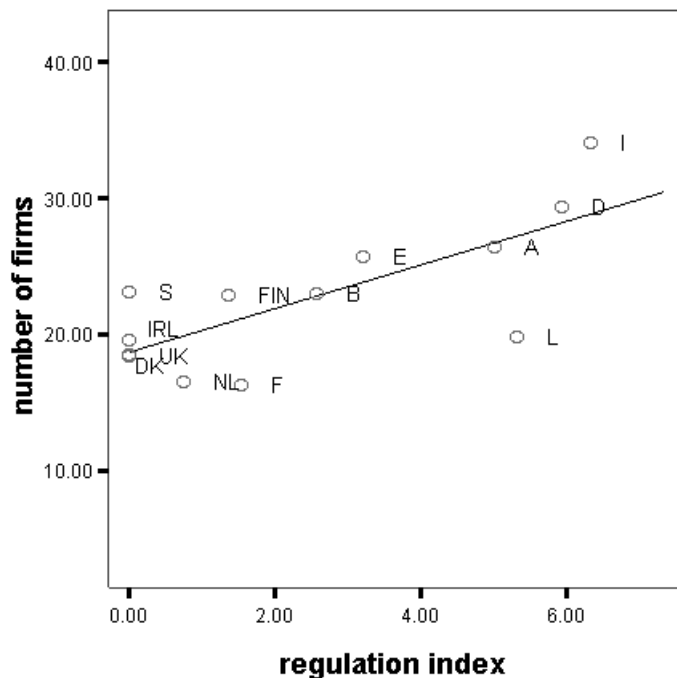
Note: Belgium, (legal services) is omitted from the scatter plot below.)

**Chart 5-8 Productivity vs. Regulation index (legal+accountancy+technical)**



*Concentration effects:* With regard to legal<sup>16</sup> and technical services (shown in the graphic below) there seems to be a linkage between the number of firms and the level of regulation. Correlation coefficients of +0,56 and +0,75 (both significant), respectively, indicate that the number of firms - relative to the number of firms at the K74-level - increases with the value of the regulation index.<sup>17</sup> In countries with more restrictive branch-specific regulation in the fields of legal and technical services, the number of firms within the K74-sector from the K7411- and K742-branches is generally greater than in countries with less regulation.

**Chart 5-9 Relative number of firms vs. Regulation Index – Technical services**



These relationships lead to the hypothesis that advantages which would result from an optimal size of firms (economies of scale) are not utilized fully in more regulated branches on account of missing incentives - with less competition there is less incentive to exploit a potential increase of productivity.<sup>18</sup> This hypothesis is also supported by the fact that the volume (turnover) per firm is negatively correlated with the index of regulation in the legal and technical services branches (significant), i.e. the average size of firms (by turnover) is smaller in markets that are more restrictive (see charts below).

There are no statistically significant results of the kind discussed here for accountancy services, which is not surprising. Due to the presence of a few very large accounting firms ('big four'), this branch already exhibits a very high degree of concentration, whereas

<sup>16</sup> The exceptional case of Belgium (where according to our data 42% of enterprises in the k74 sector are legal firms) has been left out for the following analysis

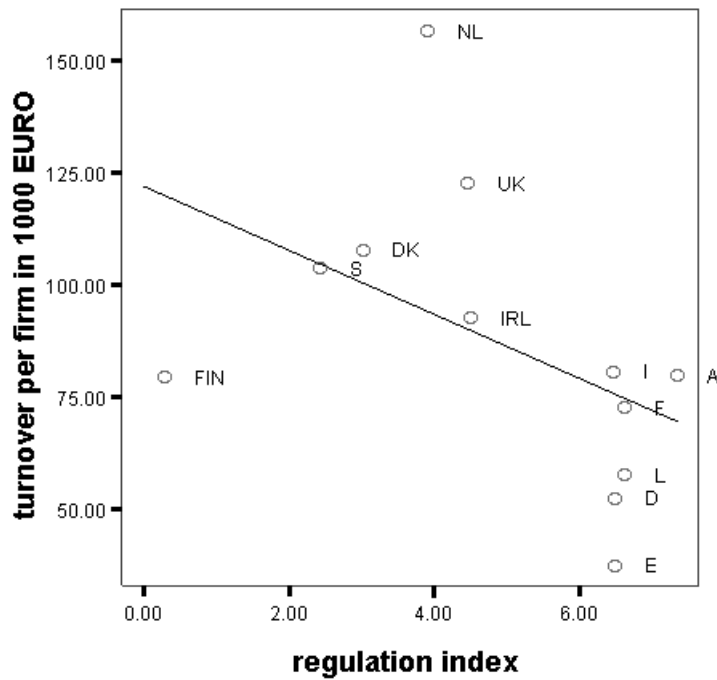
<sup>17</sup> An examination of number of firms per million of population leads to similar results.

<sup>18</sup> c.f.: Felderer et al. (1998); Part II, page: 38;

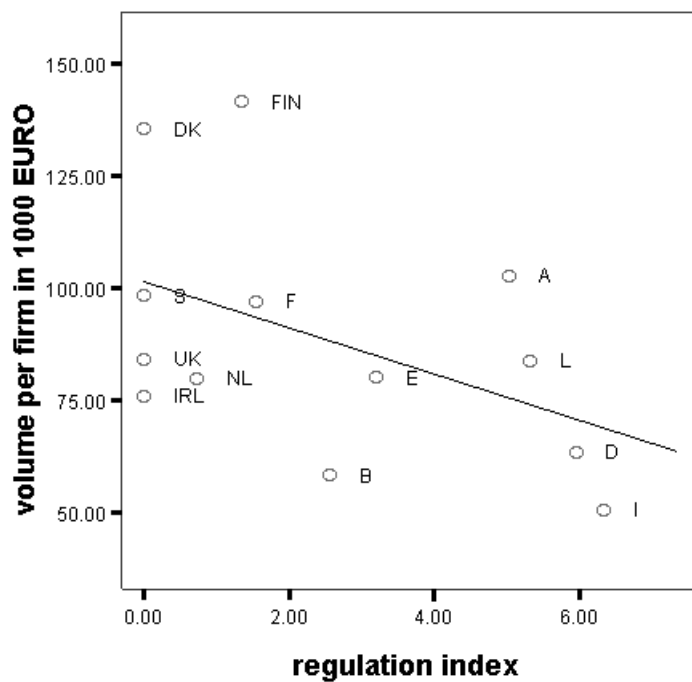


concentration levels are much lower in legal technical services, even in member states where the degree of regulation is low.

**Chart 5-10 Volume per firm in 1000 EUR vs. Regulation index – Legal services**



**Chart 5-11 Volume per firm in 1000 EUR vs. Regulation index – Technical services**

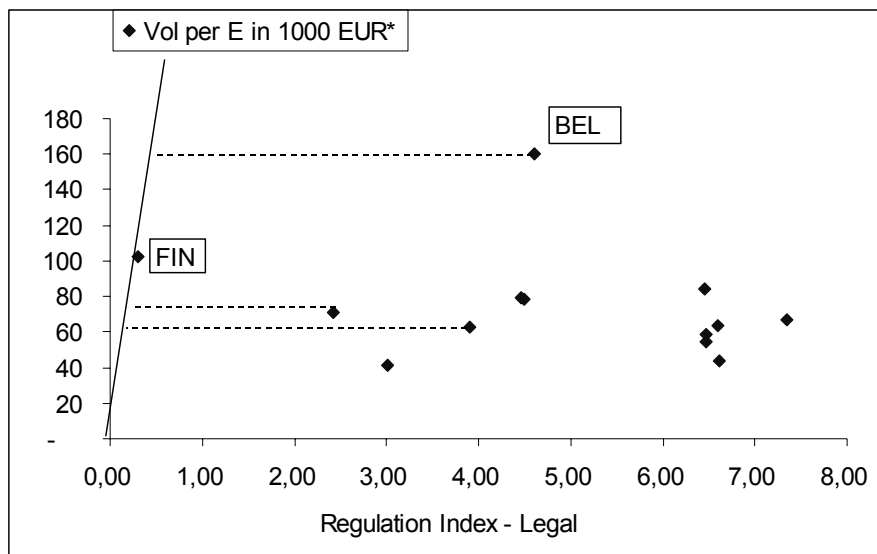


*Other findings:* Due to the lack of comparator at the k74 level equivalent to the number of professionals, an investigation of the relationship between volume per professional and degree of regulation examined in the benchmark analysis cannot be repeated with the GAP methodology.

### 5.5 Excursus: Scope for liberalisation by comparison with peers

The following chart shows once again the distribution of volume per employee (or productivity) for legal services. The purpose here is illustrative of a line of reasoning, so the choice of legal services is arbitrary, and the following arguments could apply equally to accountancy, technical and pharmacy professional services. Likewise the situation shown can be repeated for other variables e.g. volume per capita, volume per professional etc.

**Chart 5-12 Scope for reducing regulation – assuming constant returns-to-scales (legal services, illustrative)**



As the starting point we make here the assumption that no major ‘market breakdown’<sup>19</sup> has been reported in any of the countries examined in the survey. There is thus no reason to expect that lower regulation strategies which work in one member state could not be made to work in another. The highest ratio of volume per employee to degree of regulation in the sample is exhibited by Finland<sup>20</sup>, which is the most ‘efficient’ in this sense and thus the benchmarking peer in this case. Allowing now, that the positive effects of regulation may in part account for the current state, we can imagine that a liberalisation strategy that results in

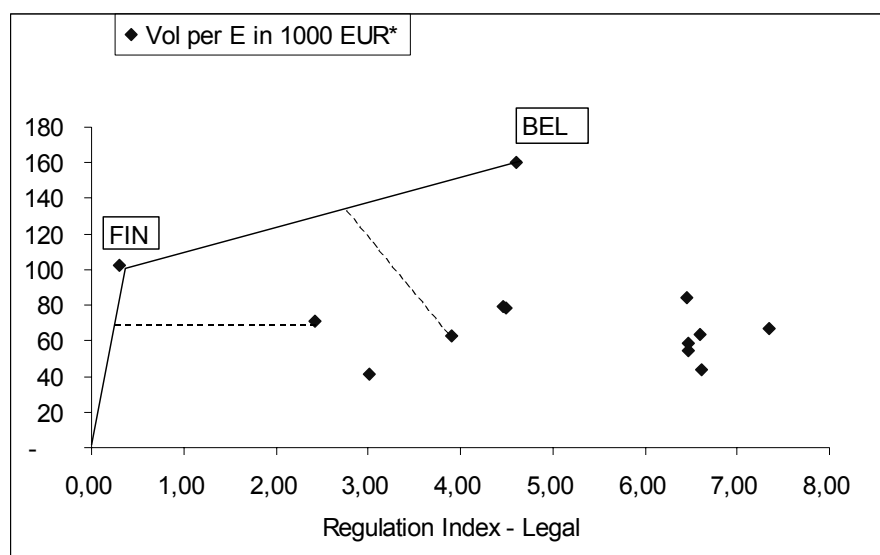
<sup>19</sup> ‘Market breakdown’ is used here in a general sense, not in the narrower technical sense of ‘market failure’ -see Chapter 2 on Theory.

<sup>20</sup> Corresponding to the line through the origin with the highest gradient.

a reduction in the degree of regulation could be implemented, at least up to the limit of being comparable with the peer(s). The chart 5-12 indicates, for example, that the volume per employee takes on its highest value in Belgium, but that this high level could still be attained in conjunction with a sizeable reduction in regulation, to the extent indicated by the relation between productivity and degree of regulation of the benchmark peer, in this case Finland. Obviously in this case, unless there are contravening factors, each other member state could likewise reduce its degree of regulation in legal services, at least to match on a pro-rata basis the benchmark set by the peer.

We could conjecture, on the other hand, there are effects resulting from some regulations which actually enable certain results to be achieved. Perhaps, following this reasoning, certain high levels of volume per employee are, hypothetically, in part a product of the existence of higher degrees of regulation. In this case we would not assume that the (producer) benefits of less regulation are constantly scalable. The new situation under this assumption is shown in the chart 5-13 – Belgium exhibits a higher degree of regulation than Finland, but also has a higher volume per employee. In this case both Belgium and Finland would be benchmark peers<sup>21</sup>, and together they delimit a ‘benchmark boundary’ with respect to productivity in the sample of countries surveyed.

**Chart 5-13 Scope for reducing regulation – assuming decreasing returns-to-scales (legal services, illustrative)**



<sup>21</sup> N.B.: the discussion in this *excursus* is intended as being illustrative, and the arguments hypothetical. No overall assessment of performance is implied. In the case of legal services in Belgium, there is also uncertainty concerning the accuracy of the data.

By similar reasoning we can surmise that the degree of regulation in any other member state can *still* be reduced by any 'leftwards' and/or 'upwards' movement up to a point on a 'boundary' delimited by the peers. Thus it may be supposed that a reduction in the degree of regulation in other countries can still result in an equal performance in productivity as exists at present, at least, once again based on comparison with the situation of 'peers'.

While the arguments presented here are illustrative and no exact calculation of the benefits or appropriate extent of 'regulation reduction' is being claimed, due to situational differences between countries, the diagrams highlight the scope for liberalisation, *ceteris paribus*, as suggested by peer comparison, which lies at the root of the approach taken throughout this study.

For the kinds of comparisons with peers indicated here, it is indeed not germane to the argument whether or not the negative correlations between productivity and degree of regulation for legal, accountancy and technical services, as calculated in the previous section, are statistically significant. The existence of a peer or peers having comparable or superior performance, in terms of key outcomes like productivity and volume per capita at least, is by itself the starting point for questioning whether suitable liberalisation strategies that improve economic outcomes without detriment to professional values and quality of service can be found for other, more restrictively regulated, member states.



## 6. Summary and Conclusions

This study has been based on a survey of the rules, regulations and statutory laws governing the practise of professional services in the legal, accountancy, technical and pharmacy fields in EU member states. Most of the information concerning the regulations themselves, and their interpretation within a unified framework was enhanced by the results of a Survey Questionnaire sent out to over 200 professional bodies in 15 member states.

The return of questionnaires varied by country, profession, and organisation. In the Annexes E are included a list of returning and non-returning bodies, and a summary of the sections completed, as well as the actual questionnaire itself.

The information on regulations has been gathered into a 'compendium' which summarises the rules governing the range of services provided, regulations on entry to the profession, and regulations in respect of conduct in the profession. Summary tables of these regulations have been compiled.

The detail of regulation may to a certain extent be slightly obscured in the tabular summary (without distorting the basic facts). For this reason detailed information concerning regulation has been provided for a subset of member states in each professional field; in parallel, economic data concerning the 'subset countries' have been presented, in order to gain insights into the actual performance of the professions. In addition to a common denominator of basic data on total branch output, employment and enterprises of each professional field, the dynamics of each branch were investigated. Together with other available economic data, and information sourced from professional bodies via the Survey Questionnaire, these are juxtaposed to the findings on the state of regulation in each case study.

Arising out of the compendium of regulations, which has been completed to the maximum extent possible within the resources of this project, indices of regulation have been calculated for each profession and each professional field. As well as an overall index, separate indices in respect of entry regulations, and of conduct regulations, have been compiled. There is wide divergence in the state of regulation of professional services in the European Union, and the extent of this variance is reflected succinctly, and we intend, fairly, in the numerical value of the indices.

Independently of the formation of regulation indices, comparable basic economic data has been gathered for each country. The resulting dataset covers between 12 to 14 of the 15 member states. As with the data on regulations, a maximum coverage was sought. Missing data is due to non-availability. In the study we would have preferred to be able to draw on a wider range of economic performance statistics, but these are simply not available on a

general basis. A serious comparison of country data has, however, to be based on comparable data definitions. The absence of more detailed information implies that comparison has to be made at the lowest level of aggregation possible. Fortunately, some such data has in recent years been made available at the level of professional field (4-digit NACE classification).

A "snapshot" comparison of the branch structure of each of the four professional fields studied in or near to the year 2000 was interpreted in conjunction with the respective indices of regulation. Because data are aggregated over (related) professions, and because of existing differences in systems (and in business, governmental and professional culture) between different countries, the effects of regulation cannot be expected to be regular throughout the EU. Nevertheless it has been possible to distinguish basic trends associated with highly regulated professions in member states, and trends associated with professions in countries that are subject to a low degree of regulation.

Overall the spectrum of regulation intensity is broad in all four professional fields. In general regulations on conduct are less restrictive than those concerning entry, and it is this former area that the most significant moves towards liberalisation have taken place in recent years. Nearly half of the member states in the EU can be said to have very restrictive regulations governing entry and conduct to the legal professions. Accountancy services are only slightly less restrictive regarding entry in a similar number of countries, the level of conduct regulation being at a general lower level.

The general level of regulation in the technical services is lower than in legal services and accounting services, but a relatively high level still exists in nearly half of all states. In absolute terms, the pharmacy professional services are the most highly regulated of the professions covered in this study, many regulations stemming from rules made at state governmental level. Correspondingly, this profession is to a lesser extent self-regulated.

### ***The Results of the Study in the context of Economic Theory***

As outlined in Section 5 in the case studies of Part 2, the study concentrated on the cross-member-state analysis of basic economic outcomes, and associated indicators and ratios. These data were cross-analysed against our regulation indices. Four overall indices have been produced, composed of indices of entry and conduct for each of the professions, combined into an index relating to one of the four professional fields.

The literature has long bemoaned the scarcity of empirical studies of professional services. This lack of studies is perhaps not surprising, given the difficulty of gathering data on this subject. The most valuable economic data for testing hypotheses derived from the theories outlined above, would involve prices, costs, and earnings. Obtaining data for even one

country on these variables is fraught with difficulties, including non-availability as a time-series (or in most cases, at all) and non-disclosure policies. Nevertheless, the study has been able to demonstrate the existence of trends in the data:

- The study shows that there is a tendency for highly regulated professions to be associated with relatively low numbers of professionals, and that in those member states where this obtains, the volumes of output in the branch attributable per professional tend to be higher than would be expected given the economic strength of the branch in that country. Equally the reverse tendencies were noted in lowly regulated professions. This effect was noticed in all four professional areas studied – legal, accounting, technical and pharmacy, but was least observable in the pharmacy branch.

This result supports the hypothesis arising out of contra-regulation theories, namely that economic benefits are being gained by highly regulated professions at the expense of consumer welfare. Whereas no direct information on earnings is available, higher fees will, *ceteris paribus*, lead to higher turnover (volume). In this connection, it was often noted that countries associated with high levels of volume per professional seldom corresponded to the countries where volume per employed person was classed as high, etc.

The most dynamic branches, in terms of growth and market consolidation, have been found in member states where professions are less regulated. Furthermore, there is a negative correlation between the degree of regulation and the productivity of the branch, measured by volume per employee..

The relationship between higher productivity and less restrictively regulated professional services was also found to hold after filtering the data to control for specific country effects (GAP analysis). The relationship was shown to be statistically significant for legal, accountancy and technical services of the surveyed member states grouped together, and separately for legal services and technical services.. Indeed the economic data linked with the degree of regulation indices are ratios of volume to employment, firms and professionals. This finding also lends credence to theoretical predictions that output could be increased in some countries and professions, on account of higher productivity levels, if regulation intensity were to be reduced.

It seems fair to point out that the study does not deal with the quality and range of services provided in member states – no information is available – so this is assumed homogeneous enough for a fair comparison of economic outcomes to be made.

In the absence of evidence to the contrary, it is assumed that none of the markets for professional services has experienced the dire consequences of market breakdown predicted by theories based on the presence of conditions known as ‘market failure’. Indeed, since the economic outcomes of professional services in those member states where they



are subject to lower degrees of regulation are comparable with professional services in more highly regulated member states, the predictions of public interest theory seem wide of the mark, and that, on the contrary, regulation could be reduced - at least to the level of their peers in other member states of the EU.

Research Report

# **Economic impact of regulation in the field of liberal professions in different Member States**

Regulation of Professional Services

**Iain Paterson, Marcel Fink, Anthony Ogus**

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**Final Report – Part 2**

Study for the European Commission, DG Competition\*\*

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\* (Case Studies: Germany, France)

\*\*The contents of the study do not necessarily reflect the opinion  
or position of the European Commission.

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## Part 2 - Case Studies



## Part 2 - Case Studies

The following chapters give detailed information on the regulation – both for market entry and conduct – on a heterogeneous selection (subset) of member states, along with further detailed information on the economic characteristics of each branch of professional services.

Part 2 is divided into five sections: one for each of the four professional services fields covered by the study (Chapters 7,8,9 and 11), and a section outlining the special retail trade background of pharmacy services (Chapter 10).

The subset of member states is different for each profession. Within professional fields the following member states are studied:

- ***Legal profession (lawyers, notaries): 5 member states***

**Denmark, Italy, UK/England and Wales, Germany, France**

- ***Accountancy (+Tax advisers): 4 member states***

**Italy, Netherlands, Germany, France**

- ***Technical professions (engineers, architects): 4 member states***

**Austria, Finland, France, Spain,**

- ***Pharmacists: 4 member states***

**Ireland, Portugal, Sweden, Germany.**





## 7. Case Studies Legal Services

### 7.1 Legal professions in Denmark: an overview

The legal profession in Denmark is, apart from judges, the *Advokat* (lawyer). There are no notaries in form of a liberal profession, i.e. in the form of the so-called “latin notaries system”, whereby deeds certified by notaries have absolute probative force.

*Advokats* in Denmark have the exclusive right to represent parties before courts. But in most cases the representation by an *Advokat* is not obligatory: With certain narrow exceptions there is, in civil cases, no necessity for individuals to employ *Advokats* to plead the case in Court, as they have the right to plead the case themselves. In criminal cases the court will appoint a counsel for the defence if the defendant does not engage one himself. Should parties decide not to represent themselves before the civil courts, they may only be represented by a lawyer (*Advokat*). Accordingly, lawyers (*Advokats*) have a monopoly where representation of clients in court is concerned.

In Denmark there does not exist a monopoly for lawyers for legal advice (given for reward). This subject-field is not regulated and legal advice may be provided by other professions as well.

Denmark is one of the countries for which we calculated are relatively low over-all regulation index for legal professions (3,005). The entry index counts 2.08 (only Sweden, Finland and Ireland have lower ones). The conduct index with 0.925 is – together with the ones of Finland and Sweden – one of the lowest in the European Community. All in all the conduct-regulations for Lawyers in Denmark appear – at least from an international comparative point of view – to be of rather liberal character. Concerning market entry there are some basic regulations that are more rigid than for example in Finland. However, there are not many tasks which by law are reserved to *Advokats* and the regulations for education are not of excessive nature.

The Danish Bar and Law Society (*Advokatsamfundet*) has a membership of lawyers holding the Danish title “*Advokat*” authorised to practice law whether conducted in Denmark or abroad. The membership of the Society is mandatory and the Society today comprises approximately 4,000 lawyers. The Society was established in 1919. By law it is vested in the Society to supervise that lawyers adhere to the legal and ethical rules regulating the legal profession. The Board of the Society has in that capacity adopted a professional Code of Conduct with guidelines stating the rights and duties of lawyers.

Within the Society, the Council has founded the “*Advokaternes Serviceselskab*”, a company offering services and information to the members on a subscription basis, with seminars and

educational courses on legal subjects as the primary services. Further, the company conducts the mandatory pre-lawyer education and the bar exam.

Separated from the Society is The Disciplinary Board which handles complaints lodged against lawyers. The Disciplinary Board is chaired by a Supreme Court Judge and the members are representatives of the public and the legal profession. The chairman and the vice-chairmen are appointed by the Ministry of Justice on the request and the nomination of private organisations. Complaints regarding fees chartered by lawyers are handled by the local complaints boards of the 11 constituencies, the decisions of which may be appealed to The Disciplinary Board.

## **Market Entry**

### ***Tasks and exclusive tasks provided by legal professions in Denmark***

As already mentioned above, the only important exclusive task performed by Danish lawyers is the representation of clients before courts, whereby in most cases one has the right to plead the case oneself. Two other fields reserved to *Advokats* are, according to information by the *Advokatsamfundet*, real estate sales (may as well be done by estate agents and debt collection (may as well be done by Debt-collecting offices with public authorisation).

Notwithstanding the situation in some other countries of the European Community legal advice (for reward) in Denmark is not a monopoly of lawyers or other professions. – any profession may perform this task.

The profession of *Advokat* is unified, with no distinction being made between attorneys operating in different legal areas. While any qualified attorney has a right of audience before City Courts, attorneys must pass an additional examination in order to obtain rights of audience before the High Courts. Rights of audience before the Supreme Court are granted to any attorney, who has been admitted to the High Courts for at least five years and holds a certificate stating same from the High Court.

### ***Education and Entry to the Profession***

There are several requirements to become an *Advokat* in Denmark.

First, an attorney must hold a university law degree. There are only two universities that provide Law Degrees, the University of Copenhagen and the University of Aarhus. The law degree is divided into two parts. The first, three year, "basic" part (*grunduddannelsen*) consists of all compulsory courses. The major examinations are taken at the end of the first and third years (BA Law). The second part (*candidatus (candidata) juris or cand.jur.*) has 12

courses including two obligatory elements (Tax Law and Economics). The Law Faculty will typically offer between fifty and fifty-five courses to choose from. These are examined at the end of each semester in the fourth and fifth years.

Once the individual has the *cand. jur.* law degree there follows a three year period of post-graduate training which consists of practical training with an advocate, including going to court.

The Administration of Justice Act Section 119(3) specifies:

"The training in practising law referred to in paragraph 4) of sub-section (2) above shall consist of participating in general legal practice, including conducting (Note: broad interpretation, t. a.) cases as an Articled Clerk of an advocate practising law, or through employment in a legal position with the courts, the Director of Public Prosecutions, or the police, provided that conducting cases forms a substantial part of such employment."

The Minister of Justice is empowered to decide that work in legal positions other than those mentioned in Article 119(3) can be included in the time required by Article 119(2)(4), provided that such work does not account for more than two years. Article 119(5) allows the Ministry of Justice to certify a person as trained "in practising law at a level fully comparable with that referred to in sub-section (3) above".

Before the end of 1996, once one had fulfilled this three year post-graduate legal training (more or less equivalent to traineeship) the individual could get his practising certificate from the Ministry of Justice. Since Jan. 1 1997 the rules require that the series of professional training courses are taken and a professional law exam is passed, unless specially exempted by the Minister of Justice. The course lasts for 36 days over 4 terms.

Regarding the professional examination it is the Minister of Justice who appoints an examination committee.

As mentioned above a special test in advocacy must be passed for the right of audience before the High Court (*Landsret*) and Maritime and Commercial Court of Copenhagen (*Soe-og Handelsretten*). The right of audience before the Supreme Court (*Højesteret*) is granted to those with at least five years experience of practice as advocates having a right to appear before the High Court (*Landsret*).

## **Conduct Regulation**

### ***Prices and Fees***

In determining the fee, *Advokats* have, until recently, followed the guidelines on fee calculation set out by the *Advokatsamfundet*. However, these guidelines were revoked (as of 1 August 1996) by a decision of the Danish Board of Competition and, consequently, the calculation of attorneys' fees is now regulated solely by the Administration of Justice Act. This means that the only criterion for determining a fee is that it must be reasonable. It must be assumed, however, that the factors for fee calculation mentioned in the old guidelines, such as the value of the case, the amount of time needed, and the outcome of the case, can probably be used as a basis for assessing a reasonable fee. Complaints concerning attorneys' fees are dealt with by the law society's regional boards. Appeals are lodged with the disciplinary tribunal.

Generally a lawyer is not entitled to make a "*pactum de quota litis*" agreement, i.e. an agreement whereby the lawyer is to receive a share of the result regardless of whether this is represented by a sum of money or by any other benefit achieved by the client upon the conclusion of the matter.

### ***Advertising***

Until the mid-1990s there existed rather broad regulations on advertising by lawyers. Major changes have been set in order as from 1 July 1995. Together with later changes this lead to a situation, whereby now, according to the Code of Good Conduct, only is stated, that advertising and personal publicity must not contain incorrect, misleading or unreasonably faulty information. The regulation is similar to the regulations contained in the Marketing Act.

### ***Forms of Business, Inter--professional Co-operation, Location and Diversification***

Danish law firms may be organised as individual law practices or partnerships of two or more sole practitioners. However, since 1990, law firms can be set up as limited companies. Both forms of incorporated forms (A/S or ApS) are public limited companies, but with different requirements as to capital invested. As a general rule law firms shall have no other purpose than to practise as lawyers. This means that partnerships as well as incorporated firms may only be owned by lawyers being members of the bar, and the only business to be carried out in these companies is legal counselling. As a consequence inter-professional co-operation in a joint firm is forbidden ( c.f. *Retsplejeloven* Article 124 and Ethic Rules of the Danish Bar, Article 2.4.1.).

According to information provided by the *Advokatsamfundet* the question of business structures at the moment is under consideration for re-regulation.

### ***Continuing Education***

Continuing education is not an obligation for members of the profession, as there is no specific regulation concerning this.

### ***Specialisation in the Profession***

Concerning specialisation in the profession there are separately organised groupings in the profession, e.g. concerning handling of real estate and mediation. This kind of specialisation may be advertised.

### ***Compulsory Indemnity Insurance***

Every attorney is required to have professional indemnity insurance with a coverage of EUR 190,000 per case in order to cover any financial losses caused to a client or to a third party. Most firms hold policies with much higher coverage.

## **Economic Characteristics**

### ***Denmark – Structure and dynamics (NACE 7411)***

*Enterprises, Turnover, Employment*<sup>1</sup>: The nominal turnover of legal services enterprises in the Denmark reached a level of nearly 900 million Euro in 2000, equivalent to exactly 0.5% of GDP, the second lowest share after Finland. Although the median value is only 0.69% in the member states surveyed (c.f. corresponding Overview-table in Chapter 5). Output of the sector rose however at a yearly average of 5.7% during the 1990's, exactly the same rate of annual growth in GDP per annum over the same period 1992-2000). This represents a real growth in legal services of just 2.3% per annum, narrowly behind the growth in employment which has been calculated to be 2.4% over the period 1992-2000; so productivity has been virtually stagnant. In fact, the real turnover per employed person was slightly down by just 1.4% over the whole period.

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<sup>1</sup> EUROSTAT; Danmarks Statistik (Statistics Denmark)

**Table 7-1 Firms, Turnover and Employment; Denmark 7411**

	Number of Firms	Turnover in Mio. EUR	Employment	No. of Professionals
<b>1992</b>	2 051	561	11 963	
<b>1993</b>	2 147	590	11 873	
<b>1999</b>	1 673	782	14 035	
<b>2000</b>	1 658	876	14 507	4 359

Source: EUROSTAT, Danmarks Statistik, IHS

The exact development of employment in this branch in Denmark is unclear, however, due to it being “practically impossible to produce time series which are reliable and coherent from 1990 and onwards, due to a lot of changes in methods, sources, definitions, etc. during this period”.<sup>2</sup> Our estimate of employment figures for 2000 shows a rise of 3.4% over 1999. This estimate is based on data for employees measured in full-time-equivalents,<sup>3</sup> which increased by 5.4% from 1999 to 2000.

The number of legal firms in Denmark decreased remarkably in the 1990s from a number around 2000 in 1992 to about 1650 in 2000, an average yearly rate of decrease of 2.6% (see Table), which is to be compared with the corresponding yearly growth rate for employment over the period 1995-2000 of 2.4%. The decline in the number of enterprises and simultaneous increase in employment means that a concentration has taken place in legal services such that fewer, but larger, firms exist at the start of 2000 than a decade earlier: indeed the average firm gave employment to 8.8 persons in 2002, up by an average of 3 from 5.8 persons in 1992. The relative number of enterprises, at 311 per million of population, is the third lowest in our surveyed countries, being ahead only of the Netherlands and Finland.

The average turnover (2000) per legal services firm in Denmark of 528,000 Euro is higher than the correspondingly value for accountancy services firms (335,000 Euro) but considerably less than the corresponding value for technical services (664,000 Euro). The growth rate in the 1990s (a nominal yearly average of 8.6%) was less than for accountancy services (11.3%), but much lower than for technical services (16%). However the level of business of Danish legal enterprises is the fifth highest of the 13 member states surveyed here, behind UK, Netherlands, Ireland and Belgium, but considerably higher than the median value of 387,000 Euro.

<sup>2</sup> Communication with Danmarks Statistik

<sup>3</sup> IHS estimate of employment for 1999 and 2000 converts full-time-equivalent data to an employment figure in line with the EUROSTAT data used in the study and takes into account studies of the empirical relationship between these variables and also the general decline in the number of self-employed and assisting spouses in Denmark since 1995 (Denmark Statistics Yearbook 2002.) The full-time-equivalent employees figures are 8796 in 1999 and 9272 in 2000.

The level of employment, at approximately 2.7 in 1000 of the population in 2000, is just above the median and the turnover per employed person of 60,000 Euro is the third lowest after Germany and Spain in nominal terms, and indeed the lowest in our survey after adjusting for relative prices and economic output.

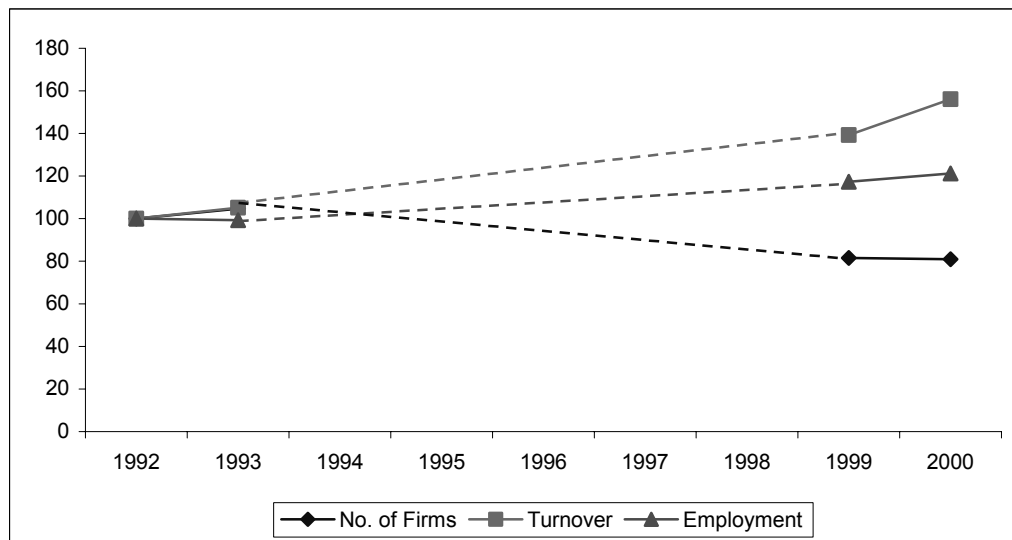
**Table 7-2 Key Statistics, Legal Services; Denmark 7411**

	Turnover per Firm 1000 EURO	Employment per 1000 firms	Turnover per person employed 1000 EURO	Employment per Mio. of Pop	Firms per Mio. of Population
1992	274	5 833	47	2 317	397
1993	275	5 530	50	2 292	414
1999	467	8 389	56	2 641	315
2000	528	8 750	60	2 722	311

Source: EUROSTAT, Danmarks Statistik, IHS

The differential rates of growth in enterprises, turnover and employment are illustrated in the chart below, with the 1992 values indexed at 100.

**Chart 7-1 Relative Growth Rates, Denmark 7411**



Source: EUROSTAT, Danmarks Statistik, IHS

*Profit Ratios:*<sup>4</sup> Despite the low turnover per employed person relative to other member states referred to above, the legal services branch in Denmark appears to be in a healthy state: this can be seen in the profit ratios in the table, where the Danish legal services are compared to the other branches studied in this report, namely pharmacies, accountancy services, and architecture and consulting engineering services.

<sup>4</sup> Source: Danmarks Statistik; IHS.



**Table 7-3 Profit Ratios in Professional Services, Denmark**

Year 2000	5231 Pharmacy	7411 Legal services	7412 Accounting services	7420 Architecture/ engineering
Turnover in mio. EUR	876	651	1 024	2 822
Profit or loss before tax in mio. EUR	28	211	210	248
PLBT as % of turnover	3.2%	32.4%	20.6%	8.8%
Number of firms	288	1 658	4 104	5 719
PLBT per firm in 1000 €	98.4	127.4	51.3	43.4
Employed persons (full time equivalent)	4 262	9 272	17 024	29 742
PLBT per person employed in 1000 €	6.6	22.8	12.4	8.3

Source: EUROSTAT, Danmarks Statistik, IHS

The profit before tax in legal services, over 30% of turnover in 2000, went beyond the 20% achieved by accountancy services, the next most profitable branch. The profit per Danish legal firm was in fact more than twice that of accounting firms, the profit per person employed in Danish legal practices not quite twice that of that for Danish accounting firms.

*Legal Form of Companies*<sup>4</sup>: The legal form structure of legal services enterprises is shown here in conjunction with the other professional services for Denmark. The concentration referred to above is clearly evident in the trend away from sole proprietorship in all four branches during the 1990s, as well as by a decline in partnerships, and is marked by a corresponding increase in the prevalence of private companies and joint-stock companies throughout the 1990s (see table on next page).

Single professional practices are evidently least common among legal firms compared with the other services studied; the rate of partnerships, while declining, is still higher, while the trend towards private and stock companies has been strongest.

*Professionals*: The Danish Bar and Law Society, *Advokatsamfund*, reports a membership of 4,359 in 2000/01, 63% of whom work in their own single-professional firm. At the other end of the scale as regards firm size, there are over 20 firms employing over 30 professionals<sup>5</sup>.

<sup>5</sup> Source: IHS Questionnaire from *Advokatsamfund*..

Table 7-4 Legal Form of enterprises, Professional Services, Denmark

		Business units registered for VAT purposes									% in 1999
		% in 1999	1992	1993	1994	1995	1996	1997	1998	1999	
<b>5231 Pharmacy</b>	Ordinary joint-stock company	0%	0	0	0	0	0	0	0	0	0%
	Other	2%	6	5	6	12	16	17	16	16	5%
	Sole proprietorship	97%	321	313	311	311	308	292	295	289	95%
	Partnership	0%	1	1	0	0	0	0	0	0	0%
	Private (close) company	1%	3	1	0	0	0	0	0	0	0%
	Co-operative society	0%	0	0	0	0	0	0	0	0	0%
<b>7411 Legal services</b>	Ordinary joint-stock company	3%	59	92	94	95	91	89	98	98	5%
	Other	2%	39	35	31	27	30	43	32	25	1%
	Sole proprietorship	64%	1 177	1 165	1 139	1 137	1 124	1 126	1 105	1 079	61%
	Partnership	24%	444	400	378	357	350	339	345	334	19%
	Private (close) company	6%	112	192	225	230	231	239	242	246	14%
	Co-operative society	0%	0	0	1	0	1	0	0	0	0%
<b>7412 Accounting etc.</b>	Ordinary joint-stock company	5%	363	383	400	414	410	386	364	363	6%
	Other	2%	118	108	46	45	42	37	35	28	0%
	Sole proprietorship	72%	4 804	4 845	4 895	4 896	4 691	4 704	4 686	4 688	75%
	Partnership	6%	380	374	349	340	308	288	272	261	4%
	Private (close) company	15%	1 023	1 092	1 077	1 045	986	967	940	941	15%
	Co-operative society	0%	14	11	7	3	4	7	5	4	0%
<b>7420 Architecture/ engineering</b>	Ordinary joint-stock company	7%	735	737	743	776	784	746	750	785	8%
	Other	3%	265	260	181	177	174	175	167	165	2%
	Sole proprietorship	71%	7 183	7 055	7 055	7 075	6 717	6 797	6 743	6 825	71%
	Partnership	5%	506	484	456	430	420	413	390	389	4%
	Private (close) company	14%	1 471	1 425	1 408	1 361	1 370	1 313	1 357	1 414	15%
	Co-operative society	0%	28	25	20	20	15	13	12	12	0%

Source: Danmarks Statistik

## **Summary**

Denmark today is a good example for a country with medium grade market entry regulation, and, after some steps of liberalisation, low grade conduct regulation. Interestingly the liberalisation concerning prices and advertising, and, to some degree concerning forms of business etc., was combined with some complication of the process of market-entry. A new final admittance examination has been introduced in 1996, exactly the time when some regulations concerning conduct were liberalised to some degree. Currently there are considerations under way to reform the regulations of business form and inter-professional co-operation. The outcome will show, if the legal professions, after a long period of opposition on this point, will go a step further than opening up some possibilities in respect of business form; they may allow inter-professional co-operation.

## 7.2 Legal professions in Italy: an overview

The statute governing the legal profession dates back to 1933. Subsequent amendments until recently have not substantially modified its provisions. Following heavy criticism of the formulation of the statute, recently attempts have been made to introduce various programs of reform to the legal profession.

Traditionally the most relevant in legal professions in Italy have been two groups of lawyers (the *avvocati* and *procuratori legali*) and the notaries (*notaio*). According to the Law of 24 February 1997 (*Legge 24 febbraio 1997, n.27 GU 27 Febb. 1997*), the distinction between two groups of attorneys - *avvocati* and *procuratori legali* is no longer made. The profession of the *Procuratore Legale* has been abolished.

From an international comparative point of view the market entry regulation for Italian Lawyers is rather strict, conduct regulation is even more rigid. Our market entry index is 2.66 and in the upper medium field of the EU. The conduct regulation index is as high as 3.88 – the highest of all EU-Member States.

The other important legal profession in Italy are the notaries (*notaio*). There are many occasions in Italy where the consultation of a notary is obligatory. It must be stressed that the access to public registers (immovable, ships, cars, enterprises) is possible only for public deeds or private deeds with authentication of the signature by a Notary.

For both professions (notaries and lawyers) membership in the respective professional bodies is compulsory.

For Notaries both national (*Consiglio Nazionale del Notariato, CNN*, National Board of Notaries) and local (*Consigli Notarili Distrettuali*, Notarial District Boards) associations are established by law, and their members are elected democratically by the notaries themselves. The National Board of Notaries represents Notaries at a national level and has many functions, among them the production of ethical rules. Furthermore, the C.N.N., with a formal resolution, formulates the Notaries professional fees (honorarium, accessory rights, allowances and principles for reimbursement of expenses); this resolution is submitted to the final approval of the Minister of Justice (Law 5th March 1973, n. 41). The Notarial District Boards hold the register of Notaries and has many functions concerning the regularity of the exercise of the profession.

Italian lawyers are organised in regional/local Bar Associations, which are unified at national level in the *Consiglio Nazionale dell'Ordine Forense* on national level. Every lawyer has to be admitted to the *albo* (roll or register) of the *avvocati*. All *Avvocati* are obliged to become a member of and be registered with one of the regional *Consigli dell'Ordine degli Avvocati e Procuratori*.

## Market Entry

### **Tasks and exclusive tasks provided by Italian legal professions**

The Italian judiciary system is divided into three types of courts: ordinary courts, administrative courts and tax courts. In the given context the ordinary courts are of highest relevance. They deal with civil as well as criminal matters. Each branch of jurisdiction has its own stages of appeal. Generally, there is a first instance, an appeal instance and a hearing before the Court of Cassation - *Corte di cassazione*. The *Corte di cassazione* merely performs a judicial review of issues of law rather than fact.

With few exceptions parties must be represented before the court by a lawyer. In civil matters, one of these exceptions was that parties may represent themselves merely in proceedings before the *Giudice Conciliatore* - now the *Giudice di Pace* - that is, as long as the value in dispute does not exceed Lire 1,000,000.

The task of the attorney is to assist and advise his client in judicial as well as extra-judicial matters, and to represent him in civil and criminal, as well as in all other proceedings.

Only members of the legal profession have rights of audience before the courts. An exception to this rule are proceedings before the Tax Revenue Commissions; here, members of other professions may take over the representation of clients (see chapter on accountants in Italy).

As already mentioned above, according to the Law of 24 February 1997 (*Legge 24 febbraio 1997, n.27 GU 27 Febb. 1997*) regarding lawyers the distinction between two groups of attorneys - *avvocati* and *procuratori legali* is no longer made. In the past, noticeable differences existed between the activity permitted for *Avvocati* as compared to those of the *Procuratori Legali*, but, pursuant to the Law n° 406 of 1985, art. 4, the only difference was that while a *Procuratore Legale* might exercise his activity in his Court of Appeal district only, an *Avvocato*, under specific preconditions (see below), could practise in all the territory of the Italian Republic. As to the non juridical activity, this limitation did not apply even for the *Procuratore Legale*. According to the former legislation an *Avvocato* was a lawyer who had practised as a *Procuratore Legale* for at least six years and then was admitted to the *albo* (roll or register) of the *avvocati*. Now potential Italian lawyers become *avvocati* straight away, if they fulfil the relevant preconditions (see below).

Not all *avvocati* are allowed to appear in every court. The audience at so-called superior jurisdictions is reserved to specially qualified lawyers. Only those attorneys (all of whom are now called "*avvocati*") who have practised for twelve years as *Avvocato* (*legge 1997/12, art. 4*), or those who have passed a special examination have rights of audience before the *Corte di cassazione* and other superior jurisdictions (Constitutional Court - *Corte*

*Costituzionale*, Council of State-*Consiglio di Stato*). Such lawyers are listed in a special register. In order to take the above-mentioned special exam, an *Avvocato* must have practised as such for at least five years.

Regarding extra-judicial activity, no reserved tasks in favour of attorneys exist. There are many specialised law firms in fields such as contract, corporate or tax law. These firms employ experts in commercial law, as well as accountants and auditors. There has been some discussion on the need to regulate extra-judicial advice; however, up to the present, no formal restrictions on non-attorneys operating in this field have been enacted.

There are many situations in Italy, where it is obligatory to employ a notary. It has been mentioned above, that the access to public registers (immovable, ships, cars, enterprises) is for public deeds or private deeds only possible with authentication of the signature by a notary.

In addition the Italian Notary is the only “official” in Italy who can legally public deeds concerning private rights. As from the 4<sup>th</sup> of September 1993 (Act n. 310/1993) a notarial deed is compulsory for all transfers of property or firm management and for the transfer of shares of limited liability companies. A public deed is the only legal form for gifts, marriage conventions, public will, articles of association and incorporation of a recognised association, foundation, company limited by shares, company with limited responsibility, limited partnership by shares and a co-operative.

Other certifications also can only be authenticated by notaries, but in most cases they are not ‘compulsory’ (i.e., it is the parties to an agreement that want their signatures certified,). Additionally as from the 8<sup>th</sup> of September 1998 (Act n. 302/1998) the tribunals may delegate the transactions of auction sales of movables and immovables to notaries.

The following table gives an overview over the services provided by notaries.

**Table 7-5 Demand of notary services by type and category of client (%)**

Notary services	Enterprises, lib profs.	tot. population
Buying/Selling	74.5	66.0
Establishing Acts	47.2	17.3
Mortgages	19.8	15.9
Heritages (wills)	19.8	21.6
Donations	4.7	7.4
Marital Agreements	9.4	6.8
Certifications	21.7	11.2
Consulting	12.3	6.3
Other	--	0.8

Total is not equal to 100 because multiple replies were possible.

Source: Report on the liberal professions in Italy by the Italian Competition Authority.

### ***Education and entrance to the profession***

In order to become *Avvocato*, one normally must hold a degree in law from an Italian university – *laurea*. The law degree takes a minimum of four years study. The law student is required to pass at least 26 examinations, 14 compulsory and 12 optional subjects. The law graduate who intends to become an *Avvocato* is requested first of all to enter the register. In order to do this, he has to

- file a request to the Law Society Office of the district where he resides together with
- evidence of his Italian citizenship (this condition cannot apply to EC nationals as a matter of EC law, and has been suppressed for others by the effect of the law of 6 march 1998) art. 35,
- have an Italian law degree and
- be of an upright conduct.

After completion of university education and registration with the bar the candidate has to complete a two-year traineeship as *praticante Avvocato* in the law firm of an *Avvocato*. An examination, which is held once a year at the various Appellate Courts - *Corti d'Appello* - must be passed by the candidate at the end of the traineeship. Following this examination, it is possible to request directly admission as an *Avvocato*.

After completion of the first year of traineeship and fulfilling certain prerequisites, the candidate may be admitted as *praticante Avvocato*. As such, he may request rights of audience - *patrocinio* - before the *Giudice di Pace* and the *Pretore* of his own district. The "Justice of the Peace" - *Giudice di Pace* (which has replaced the former *Giudice conciliatore*) deals with disputes with a value of up to *Lire* 5,000,000 (ca. EUR 2.500) and all claims involving damages arising from road traffic accidents with a value of up to *Lire* 30,000,000 (ca. EUR 15.000). The first instance for disputes with a value of up to *Lire* 50,000,000 (ca.

EUR 26.000) the so-called the *Pretore* (the Magistrate). A candidate may not practise as a *praticante Avvocato* for a period longer than six years.

The exams take place in the month of December of each year in all the appellate Courts (Art. 2 of the Law of 20 April 1989 n. 142). The board of examiners is appointed by the Ministry of Justice; in each board there are two lawyers (practising for at least 8 years), two judges and a university professor in law (art. 22 LPF as amended by the provisions of art. 1 of the Law dated 27 June 1988 n. 242). The tests are written and oral. The candidates that pass the written test are admitted to the oral test.

In order to become a *notaio* the following steps are required (Law 16th February 1913, n. 89 and 6 August 1926, n. 1365):

- First one has to gain the *Laurea in Giurisprudenza* (university graduation in law). This takes a minimum of four years. There are many Notarial Schools, organised by the Notarial District Boards. They do not issue diplomas or certificates and have only a private nature and function. They prepare candidates for the notarial examination.
- Second, the candidates have to complete a two year traineeship period.
- In a third step candidates have to succeed in several examinations. The examinations, all in all, consist of seven different tests: one admission test is held as electronically-organised examination based on the choice among multiple answers to single elementary legal questions. After that, to become a self-employed notary, it is necessary to pass a national examination for the fixed number of positions of *notaio*. The examination is organised by the Ministry of Justice. The subsequent exam is based on three written tests (one about a *inter vivos* deed, another about a *mortis causa* deed and a third one about "*jurisdiction gracieuse*" (*volontaria giurisdizione*)). Those who succeed the three written tests pass to the oral exam, which has three parts as well. The Examining Commission is composed of two judges, two notaries (even retired) and one university professor in law.

The successful candidates can choose which of the *vacant* seats they would like, and they are attributed in order of priority on the basis of the results of the exam. According to information submitted by the *Consiglio Nazionale del Notariato* exams to get a notaries seat are taken by over 3,000 candidates for a normally small number of available posts (200-300).

As already mentioned above the number of notaries seats is fixed. The overall distribution of notary seats maybe revised every 10 years by decree of the head of State, after consultation with the Notary professional bodies. In any case, a new seat can only be created if it corresponds to at least 8000 inhabitants.



Currently there are attempts under way to reform the education of legal professions in Italy. *Decreto legislativo* 398/97 (17 November 1997) establishes the principle of specialised schools for the legal professions (*scuola di specializzazione per le professioni legali*) (art.16). The professions in question being judges, *avvocati* and *notaio*. The new schools shall be run by universities in co-operation with these three professions. There will be a competitive entry by exam (art. 16(5)). according to these plans, once the schools are established would-be legal professionals will have to take a two year course there. The first year will be common for the three professions. The second year will provide separate courses for notaries on the one hand and magistrates and *avvocati* on the other. After successfully passing the course, the candidate will have only one year of *pratica* instead of the current two year requirement.

## **Conduct Regulation**

### ***Prices and Fees***

In Italy lawyers' fees are regulated. They are set out in special tariff scales issued by the Italian Ministry of Justice. However, parties are free to negotiate fees which depart from those contained in the table, as long as the minimum and maximum rates given for each service are followed.

The calculation of the attorney's fee is a somewhat complex procedure. The official tariffs differentiate between the attorney's services in and out of court, as well as whether the matter pertains to criminal or civil law. The tariffs depend on:

- the outcome of the proceedings,
- the value of the litigious matter
- as well as on the court that is competent for the proceedings.

The different legal services are classified disregarding the amount of time invested in the case. There are minimum and maximum rates given for each service; this allows the lawyer a certain amount of discretion in determining his fee. In addition, there are specific rules for the calculation of travel and office expenses, as well as those for the preparation of legal documents. According to the code of conduct, the Italian lawyer is required to issue bills for their services that are very detailed, so that clients or other attorneys can examine these bills more easily.

It is important to note that Italian law prohibits any agreement on a contingency fee - *pactum quota litis*. Any agreement on such a contingency fee is null and void according to art. 2233, s.2, of the Italian *codice civile*, and therefore not binding on the parties.

Up to now all fees of notaries in Italy have been fixed as min/max prices . There exists a discussion on “modernising” the notaries fee system (proposed by the profession). The outcomes are not foreseeable at the moment. The arguments for reform, as stated by the professional organisations, are “modernise the system and make fees for notarial activities more transparent” (Questionnaire provided to IHS by the *Consiglio Nazionale del Notariato*). However, in the public discussion fear of an increase of the fees themselves dominates.

### **Advertising**

Advertising by lawyers in Italy traditionally has been totally prohibited. But in October 2002 Art. 17 of the code was changed to allow some types of publicity, in particular concerning the form:

*As to form:* Allowed are now: signs outside one’s office, brochures, internet sites, juridical publications or ‘annuaires’, brochures etc. as well as relationship with the press/media about a case, where the relevant information is non confidential. Such contacts with the press/media for self-publicity are not allowed, even indirectly.

Still forbidden are: publicity in print media, TV or radio. Forbidden is also advertising via billboards or flyers as well as soliciting by phone call, sponsorships, using the internet to offer free advice, either on one’s own website or on a third party’s website.

Seminars and conferences organised directly by lawyers’ cabinets are allowed forms of publicity in some cases, but prior authorisation by the professional body is obligatory.

*Concerning the substance:* Allowed are: personal information, listing of publications, information on the professional practice, a logo, indication of ‘quality certificates’ (this has to be approved by the professional body). It is also allowed to offer consultancy services via internet. Preconditions are that the service is not offered for free and that the lawyer that will treat the case is clearly identified. Additionally it is allowed to continue the name of a dead partner if he (or his heirs) expressly agreed to it.

Still forbidden are: all information regarding third parties, the name of clients (even if they have given their permission), specialisation (except those allowed by law), prices of each service (it is forbidden to indicate that the first meeting is free), the percentage of cases won, the turnover of the cabinet, the offer of services.

For notaries all forms of advertising are still forbidden.

### ***Forms of Business, Inter-professional Co-operation, Location and Diversification***

The subject of forms of business for lawyers has traditionally been regulated very rigorously by a statute of 1939. This statute contained a provision whereby law firms may not be established in the form of a company of any kind. As a consequence, attorneys according to this statute were only able to work together in partnerships known as the *associazione professionale*. The relevant Article 2 of the *legge 23 novembre 1939 n.1815*, which forbade the practice of law except in a *Studio legale*, has been repealed by article 24 of *legge n.266 of 7 August 1997*. However the replacement law has not yet been adopted. It was expected to allow incorporated practice and partnerships between lawyers, and may even contemplate multidisciplinary practice (*Disegno di legge: agosto 1998*). In fact the law does not yet provide positive rules on what is allowed, and paralleling the situation for accountants it is evident that “there still is a blank space to fill through legislation”. This means that at the moment for lawyer neither incorporation nor inter-professional co-operation (in a joint firm) is possible.

The lawyer is obliged to notify the competent Bar Council - the *Albo* - of his seat of practice. Admission must be requested in the district, in which the attorney resides. However, this does not prevent an *Avvocato* from setting up practice at other law firms in different locations.

Similar regulations apply for notaries. The Law provides only for notarial associations, provided that the notary's seal and his activity is strictly personal and so is his responsibility. As for lawyers also for notaries the Law that forbade every professional society (no matter which profession could be involved) has been abolished (see above) and has been delegated to issue a decree which will discipline the subject, but what it will provide is still an open question. Apart from formal co-operation in companies and partnerships, Notaries can collaborate with all professionals, provided that their professional activity remains strictly personal. Notaries in Italy are not allowed to open branch offices.

### ***Continuing Education***

For notaries in Italy there is no mandatory continuing education. However, the National Board of Notaries, through its institutions, frequently promotes seminars and congresses about legal issues and releases studies about diverse matters that are of interest to the notarial profession.

For lawyers we do not have any relevant information at the moment.

### **Specialisation in the Profession**

Traditionally lawyers in Italy were not allowed to call themselves “Specialists” in the one or other field of professional activity. Each legal professional can undertake the defence of the party without any limitations with regard to the subject matter he normally deals with. This means that customarily no "specialist" *avvocati* existed as a matter of law. The *disegna di legge* (agosto 1998) proposed to allow some *avvocati* to call themselves specialists (*articolo 7*). As to our current knowledge, lawyers are allowed to call themselves specialist only for specialisations that exist in the law.

For notaries there are no specific regulations for specialisation in the profession.

### **Compulsory Indemnity Insurance**

For notaries there is no obligation of professional insurance, but the *Consiglio Nazionale Notariato* has already signed a national insurance scheme on a voluntary basis. It is planned to impose a system of mandatory professional indemnity insurance for all notaries.

For lawyers we do not have any relevant information at the moment.

## **Economic Characteristics**

### **Italy – Structure and dynamics (NACE 7411)**

*Enterprises, Turnover, Employment*<sup>6</sup>: The nominal turnover of legal services enterprises in Italy reached a level of nearly 11,300 million Euro in 2000, equivalent to just under 1% of GDP, the highest share after the UK and with the exception of Belgium (c.f. Overview-tables in Chapter 5). Output of the sector rose however at a very high yearly average of 14.1% during second half of the 1990's, faster than the growth in GDP (an average of 6.8% p.a. over the same period 1995-2000). This represents a real growth in legal services of 11%, outstripping the growth in employment of just 2.5% over the period 1995-2000; so large productivity gains have also been made. In fact, the real turnover per employed person rose by an enormous 49% over the period.

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<sup>6</sup> EUROSTAT; Istituto Nazionale di Statistica (ISTAT)

**Table 7-6 Firms, Turnover and Employment; Italy 7411**

	Number of Firms	Turnover in Mio EUR	Employment	No. of Professionals
1995	74 158	5 818	131 184	
1996	77 367	7 824	131 409	
1997	80 241	7 824	136 694	
1998	70 254	8 222	128 185	
1999	79 093	9 104	135 842	
2000	87 608	11 273	148 665	
2001				139 500

Source: EUROSTAT

The number of firms increased correspondingly from about 74,000 in 1995 to approximately 88,000 in 2000, an average rate of 3.4 % p.a. (see Table) - also above the corresponding yearly growth rates over the period 1995-2000 for employment of 2.5% . The higher rate of increase in enterprises relative to employment is indicative of a slight trend towards *less* concentration i.e. relatively more firms with fewer employees: indeed the average firm gave employment to 1.70 persons in 2002, down from an average of 1.77 persons in 1995. The relative number of enterprises is typical, being the median of the member states in our survey, at over about 2600 per million of population.

The average turnover (1999) per legal services firm in Italy of 129,000 Euro is more than the corresponding figure for accountancy services (105,000 Euro) and considerably more than the corresponding value for technical services (81,000 Euro), and growth rates in the second half of the 1990s (a yearly average of 10.4%) were also much higher than for accountancy services, and for technical services. However the level of business of Italian legal enterprises is the second lowest after Spain of all the 12 member states surveyed here (and third lowest, ahead of only Spain and Luxembourg after the branch output figures are adjusted for relative price levels and the overall production of the economy).

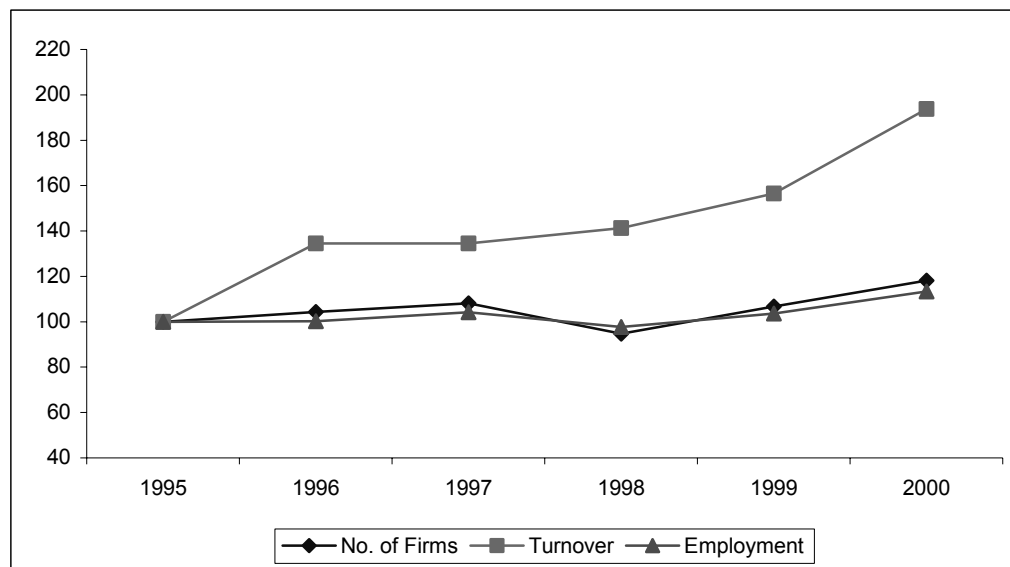
The level of employment, at over 1.7 per 1000 of the population in 2000 is low by international comparison (only Spain employing relatively fewer persons), but the level of productivity, as measured by a turnover of 76,000 Euro of per employed person, is fairly typical for the survey, being the median value, in relative terms, after adjusting for relative prices and overall level of economic output. It is the third highest in the survey after Belgium and Finland.

**Table 7-7 Key Statistics, Legal Services, Italy 7411**

	Turnover per Firm	Employment per 1000 firms	Turnover per person employed	Employment per Mio. of Pop	Firms per Mio. of Population
	1000 EURO	1000 EURO	1000 EURO		
1995	78	1 769	44	2 291	1 295
1996	101	1 699	60	2 292	1 349
1997	98	1 704	57	2 379	1 396
1998	117	1 825	64	2 227	1 220
1999	115	1 717	67	2 358	1 373
2000	129	1 697	76	2 577	1 519

Source: EUROSTAT

The differential rates of growth in enterprises, turnover and employment are illustrated in the chart, with the 1995 values indexed at 100.

**Chart 7-2 Relative Growth Rates, Italy 7411**

Source: EUROSTAT

*Growth of Sole Proprietors:*<sup>7</sup> The high growth rate of legal services firms in the early part of the 1990s is reflected in a correspondingly yearly increase in employment of over 6.5%. The growth in the number of self-employed, at over 10%, is especially remarkable, so that the proportion of self-employed in the legal services workforce rose from approximately 57% to approximately 68%.

<sup>7</sup> Source: ISTAT: Censimento intermedio industria e servizi. Note: some figures for 1996 differ slightly from previous section; IHS.

**Table 7-8 Self-employment and Employees, Italy**

	1991	in %	1996	in %	% Change p.a. 91-96
<b>Firms</b>	45 454	45.7%	79 423	57.9%	11.8
<b>Self-employed</b>	56 406	56.7%	92 960	67.8%	10.5
<b>Employees</b>	43 019	43.3%	44 198	32.2%	0.5
<b>Total</b>	99 425	100.0%	137 158	100.0%	6.6

Source: Istituto Nazionale di Statistica (ISTAT)

That this development was due to an overwhelming increase in sole practitioners is shown in the table below.

**Table 7-9 Legal Form of Companies**

	1991	in %	1996	in %
<b>Sole Practitioners</b>	41 300	90.9%	75 335	94.9%
<b>Partnerships</b>	965	2.1%	3 892	4.9%
<b>Private* Companies</b>	122	0.3%	176	0.2%
<b>Co-operatives</b>	12	0.03%	9	0.01%
<b>others</b>	3 055	6.7%	11	0.01%
<b>Total</b>	45 454	100.0%	79 423	100.0%

\* definition unclear

Source: Istituto Nazionale di Statistica (ISTAT)

This trend was also accompanied by an increase in the percentage of partnerships among firms, but also by a relative decline in joint-stock enterprises. These trends are also reflected in the statistics of one office versus multi-office firms.

The *Consiglio Nazionale del Notariato* reports in the IHS questionnaire, however, that 80% of notaries' firms have one qualified professional, 18% have two qualified professionals, and 2% have between 3 and 5 qualified professionals. The *Consiglio Nazionale* also reports 32% notaries' firms as having 2-5 offices. This contrasts with overall statistics shown below.

**Table 7-10 Offices**

	1991	in %	1996	in %
<b>one office</b>	43 018	94.6%	79 031	99.5%
<b>more than one office</b>	2 436	5.4%	392	0.5%
<b>Total</b>	45 454	100.0%	79 423	100.0%

Source: Istituto Nazionale di Statistica (ISTAT)

Starting from a very high percentage by 1991 – 95%, by 1996 nearly all firms operated out of one office, a mere 0.5% having other branch offices.

The trend to de-concentration is ultimately demonstrated in the breakdown of firms by size, in terms of employment: the sole practitioner category has increased its majority dramatically in the five years to 1996, so that it may be regarded as the norm for the profession.

**Table 7-11 Firm Size by Employment**

Employment	1991	in %	1996	in %
1	24 292	53.4%	57 075	71.9%
2	10 609	23.3%	11 075	13.9%
3 -- 5	7 771	17.1%	8 120	10.2%
6 -- 9	1 936	4.3%	2 280	2.9%
10 -- 15	655	1.4%	705	0.9%
16 -- 19	100	0.2%	104	0.1%
20 -- 49	85	0.2%	56	0.1%
50 -- 99	6	0.0%	7	0.0%
100 -- 199	0	0.0%	1	0.0%
<b>Total</b>	<b>45 454</b>	<b>100.0%</b>	<b>79 423</b>	<b>100.0%</b>

Source: Istituto Nazionale di Statistica (ISTAT)

Among notaries' firms the *Consiglio Nazionale del Notariato* reports, however, that 74% of firms have between 3 to 10 employees, and 19% have between 10 and 50 employees<sup>8</sup>.

*Professionals:* Whereas the number of lawyers has more than doubled during the 1990s, only a small increase in the number of notaries has occurred. For this reason the percentage of lawyers within the legal professions has risen to over 96% from around 92% in 1990.

**Table 7-12 Number of Legal Professionals**

	1990*	in %	1995*	in %	2001**	in %
<b>Notaries*</b>	4 473	8.2%	4 551	5.2%	4 620	3.3%
<b>Lawyers</b>	50 000	91.8%	83 090	94.8%	135 000 **	96.7%
<b>Total</b>	<b>54 473</b>		<b>87 641</b>		<b>139 620</b>	

Source: Lawyers - "La regolamentazione dei servizi professionali - aspetti settoriali", Italian Competition Authority, 1997;

\* Notaries - Questionnaire from Consiglio Nazionale del Notariato

\*\* Source: based on a communication with the Italian Competition Authority

*Trainee Notaries:* The *Consiglio Nazionale del Notariato* reports a two thirds increase in trainees, from approx. 3,000 in 1990 to approx. 5,000 in 2000, out of a constant number of law graduates of 18,000-20,000. The pass rate for trainees taking final qualifying examinations varied from 6.1% of 2,296 in 1990 to 11.5% of 1,560 in 2000.

<sup>8</sup> IHS Questionnaire.



## Summary

As for the accounting professions several attempts have been made in the recent years to deregulate the legal professions in Italy. The system of market entry has been changed (and liberalised to some degree). The same is true for regulations on marketing and advertising as well as the system of fee setting and the regulations for business structures and inter-professional co-operation (also the last point has not been implemented up to know). Also the overall picture points to the direction of some liberalisation, however, the overall regulatory system for legal professions in Italy is still rather rigid. Currently new rules concerning the educational system are under consideration. It is not yet clear if this will lead to some liberalisation in market entry or not.

We have the impression that regulatory changes in Italy take a very long time to be decided, and if they are decided, it takes even longer to implement them, if they are implemented (and not abolished at a later stage) at all. This leads to a considerable lack of transparency and insecurity, whereby it is unclear how a more dynamic market should evolve in such a situation. The respective professional bodies of established licensed professions appear to be rather defensive in regards to liberalisation, whereas some other professions make attempts to be equipped with reserved rights to offer services as well. In such a situation it appears to be rather difficult to liberalise the respective markets to a certain degree, especially concerning market entry, the questions of business-forms and inter-professional co-operation. However, in the long run the rather small-scale structure of legal (and accounting) services will not be competitive, even more in an increasingly internationalised market.

### 7.3 Legal professions in England & Wales: an overview

Legal services are regulated separately in the three jurisdictions of England & Wales, Scotland and Northern Ireland. In each jurisdiction there is a separate profession of solicitor, regulated and unified by/in the relevant Law Society, and of barrister (in Scotland “advocate”), regulated by and unified in the relevant bar Council (in Scotland “Faculty of Advocates”). The rules are broadly similar for solicitors and barristers (advocates) respectively in each jurisdiction. Also several differences are obvious, in this report we decided to provide information on the regulatory systems in England & Wales only.

As already mentioned above in England & Wales there exist two main legal professions: the solicitors and the barristers. The solicitor is the first point of contact for individuals or organisations seeking legal advice and he may be called upon to deal with a wide variety of problems. Solicitors now are, under specific preconditions, allowed to represent parties before all kinds of courts (see below for details).

A Barrister is essentially a consultant offering specialised services as an advocate and an adviser in all matters involving litigation and, as a main field of activity, the practice of the courts. A barrister does not normally deal directly with members of the public but is instructed by a solicitor. (However, reform of this under consideration.)

Generally speaking only those who are qualified as a lawyer (solicitor or barrister) may represent parties before English Courts. But the rules in relation to the capacity of the representative before some specialised tribunals are considerably more relaxed. In Industrial Tribunals, for instance, the representative needs no specific qualification and, in practice, parties are often represented by trade union officials. It should also be noted that parties to small claim arbitrations can be represented by anyone they wish.

There is no monopoly on the giving of legal advice in the United Kingdom. The only limitations to this are areas restricted to solicitors and barristers by statute, that is the formalities concerning real property transfer and conduct of litigation (see below for details) and the representation of clients before the courts. Anyone, whether a qualified lawyer or not, is able to give legal advice. Extra-judicial legal advice is often given by non-lawyers in, for instance, the fields of tax, business and planning.

The market entry-index we have calculated for legal professions for England & Wales with a value of 2.82 is considerably higher than for example those for Finland (0), Sweden (1.98), Denmark (2.08) or even Belgium (2.52), but still lower than e. g. the one for Austria (4.08) or Germany (3.7). The figure for the conduct-index is 1.175, which is towards the lower end of our ranking.

For solicitors the membership of the relevant professional association (Law Society of England & Wales) is *not* compulsory. However, the Law Society is the representative and regulatory body for solicitors of England and Wales. In order to practice, all solicitors must have a Practising Certificate, which is issued by the Law Society on an annual basis. The Law Society governs admission to the Roll, that is entry to the profession, ensuring that all new solicitors are fit and proper persons and have undergone the necessary training. Currently, there are over 85,000 solicitors on the Roll.

Anyone wishing to train for the Bar must join one of the four "Inns of Court" in London. Although barristers are primarily regulated by the Bar Council, the Inns of Court have an important role in their education and training. Indeed, you can only be a barrister if you have been "Called to the Bar" by an Inn of Court. The Inns provide support for barristers and student barristers through a range of educational activities, lunching and dining facilities and provision of various grants and scholarships etc. The Bar Councils' functions as the governing body include laying down and implementing policies affecting the Bar on Education and Training, rules of conduct particularly with regard to rights of audience as required under the Courts and Legal Services Act 1990 and the Access to Justice Act. The Council represents a wide variety of interests at the Bar and is made up of 115 barristers who are elected or represent the Inns, Circuits and Specialist Bar Associations.

## **Market Entry**

### ***Tasks and exclusive tasks provided by Legal Professions in England & Wales***

Solicitors act as legal advisers to clients and conduct legal proceedings on their behalf. Until 1990, they had rights of audience only in the County Court, Magistrates' Court, and certain other tribunals. The Courts and Legal Services Act 1990 removed the monopoly which allowed only barristers to appear as advocates in higher courts, and solicitors are now acquiring rights of audience in the higher as well as the lower courts. They have now been given rights of audience in the High Court, Crown Court and appellate courts, subject to obtaining a special additional qualification. At present, however, it remains common practice for a solicitor to instruct a barrister to appear in these courts. In this respect, although most advocacy is undertaken by solicitors, barristers are often instructed to conduct a case because of their expertise and experience in pleading before the courts. It is worth mentioning that parties may represent themselves before any court in England, except, in the absence of special permission, the House of Lords.

Apart from representation of clients before courts the formalities involved in real property transfer and succession form a significant share of the work of solicitors in general practice. This field of activity, conveyance, until the beginning of the 1990s was a service reserved to the profession of solicitors. This monopoly has been abolished with the „Administration of

Justice Act 1990“ and now several other professions are allowed to offer that kind of service as well.

As already mentioned legal advice is not an exclusive task of specific professions in the United Kingdom. However, it is the solicitors who are the main profession doing this kind of service. Solicitors advise private persons on all kinds of legal questions as well as businesses on such issues as employment, contracts, company formation and competition policy.

Barristers (also known as counsel) have rights of audience before all courts and tribunals. They are specialist advocates. They also act as legal consultants. Barristers will generally draft the written pleadings used in litigation and advise on particular points of law and, in addition, as to the conduct of the case. Barristers are legal consultants offering specialist services, in particular as advocates or advisors in matters involving litigation. Many barristers are specialists in one area of law almost to the exclusion of all others. Barristers as a general rule can only receive instructions to appear or advise in cases before the English courts from solicitors and members of certain other professions. For example an accountant or a tax specialist could approach a barrister for advice directly on a taxation problem or an architect could approach a barrister directly in relation to a planning matter. In relation to matters before foreign courts and the European Court of Justice, they are allowed to receive instructions directly from lay clients and foreign lawyers. They can, and often do, advise on questions of English law which fall to be considered in foreign courts. Barristers' training concentrates on the art of advocacy, court procedure and the rules of evidence.

Since 1999 in specific cases there exists the possibility of direct access to barristers without the need first to instruct a solicitor, mainly for advice work by individuals or organisations licensed by the Bar Council. This deregulation has occurred to enable those equipped to instruct barristers without the intervention of a solicitor to do so, in cases where the law does not require a solicitor to be on the record.

Currently there are regulatory changes in preparation to permit access to barristers by lay clients without the need first to instruct a solicitor, for competition reasons. In opinion of the Council of the Bar there is potential for difficulty with clients who are ill-equipped to carry out themselves the role that would normally fall to a solicitor if one were instructed. Another potential problem could be that barristers would be taking on an administrative role for which they currently have no training or support infrastructure, neither of which is necessary as they currently operate (source: questionnaire forwarded by the General Council of the Bar of England and Wales). This regulatory change has been proposed by the Office of Fair Trading.

As Solicitors, apart from representation of clients before court, barristers have the (reserved) right to offer conveyancing services.

### ***Education and Entrance to the Profession***

There are two main routes for admission into the solicitors' profession in England & Wales: one via a university degree (in law or an other subject) and an other via obtaining employment in a legal office and joining the Institute of Legal Executives.

The quickest and most common route to qualification is by means of a qualifying law degree. If a student decides to take a degree in a subject other than law, he will have to complete a one year full-time (or two years part-time) course leading to the Common Professional Examination (CPE) or the post-graduate Diploma in Law. These courses are offered at a number of institutions. The course gives the basic grounding in law to qualify as a solicitor.

After successful completion of the law degree, or CPE, or Diploma in Law, would-be Solicitors have to undertake the Legal Practice Course (LPC), which is the professional training for solicitors. This course takes one academic year, or two years if studied part-time. Again, competition for a place on the LPC is very tough. Good academic grades are essential. The course is offered by a number of different colleges and universities.

Having successfully completed the Legal Practice Course, the candidate enters a two year training contract with a firm of solicitors or other approved organisation (such as a local authority or the Crown Prosecution Service), gaining practical experience in a variety of areas of law. At this stage, the candidate is paid a salary. He holds the title of a trainee solicitor.

Furthermore the Training Regulations 1990 require everyone wishing to qualify as a solicitor to have successfully completed the Professional Skills Course (PSC) after the Legal Practice Course and during the course of the training contract prior to admission. The course is offered by a number of different institutions.

For those who do not wish to take a degree, it is possible to qualify as a solicitor by obtaining employment in a legal office, joining the Institute of Legal Executives and taking the examinations to qualify as a member and subsequently a Fellow of the Institute of Legal Executives. The process is lengthy and demanding, but enables the non-graduate to qualify as a solicitor. Would-be solicitors have to provide a minimum of five years of relevant practise, and visit two courses and sit the respective examinations. The first course is the so-called MILEX: "Member of the Institute of Legal Executives" (MILEX). This course normally takes four years. The second course is called FILEX. With this the candidate gets „Fellow of the Institute of Legal Executives". After this, as for other would-be Solicitors, the LPC has to be done (see above), but the need for further training and PSC is waived.

To qualify as a barrister there are 3 main stages to be completed:

1. Academic Stage: undergraduate degree in law, or undergraduate degree in any other subject plus a CPE conversion course (see above).

2. Vocational Stage: the Bar Vocational Course, one year full time or two years part time. This course combines practical assessed work and examinations at all stages. Once the would-be Barrister has successfully completed the BVC he will be called to the Bar by the respective Inn. Competition for places on the Bar Vocational Course is highly competitive. For the 2001/2002 course, approximately 2,116 candidates applied for 1,540 places. Course fees for the 2001/2 intake range from £ 6400 to £ 8750. The course is offered by several institutions (c.f. <http://www.legaleducation.org.uk/BVC/thebvc.php>). A would-be Barrister also has to undertake 12 qualifying sessions (previously known as "dining") before Call to the Bar.

3. Pupillage: a year's supervised practical experience, which is generally taken with a barrister in practice, although part of it can be completed in another approved legal environment.

The chart below provides an overview on the entrance schemes for solicitors and barristers in England & Wales. Although the respective systems appear to be rather complicated, they appear to be of rather flexible nature as well.

BARRISTERS		SOLICITORS		
law graduate	graduate	law graduate	graduate	non-graduate
A Levels	A Levels	A Levels	A Levels	4 GCSE Passes
degree in law	Degree in any subject	Degree in law	degree in any subject	MILEX I + II (min 3 years)
BVC; 1 year	CPE or Diploma in Law; 1 year	LPC; 1 year	CPE or Diploma in Law; 1 year	
Pupillage; 1 year	BVC; 1 year	2 years practise incl. PSC	LPC; 1 year	2 years qualifying + over 25; FILEX
	Pupillage; 1 year		2 years practise incl. PSC	LPC; 1 year
				(training contract waved)

## Conduct Regulation

### *Prices and Fees*

As a basic principle the prices and fees of Solicitors in England & Wales are not regulated and freely negotiable. Usually a solicitor's fees will be calculated on the basis of an hourly rate agreed between the client and solicitor and will not correlate directly with the value of the claim. Some solicitors will work on the basis of a fixed fee for the conduct of a piece of work, most often for non-contentious business. If a solicitor and client disagree as to the level of fees ultimately incurred in relation to contentious business, the solicitor's bill may be assessed at the request of the client. The bill is subjected to an independent evaluation of its reasonableness by an officer of the court and the excess assessed off. In the case of non-contentious business, a similar process will be carried out at the client's request by the Law Society. It is, however, unusual for a client to take either of these steps if the basis of payment was made clear from the outset, the case has been properly handled and he has been kept fully informed about all matters as it proceeded.

It should be noted that the basis of assessment of a bill between a solicitor and his own client is more generous to the solicitor than that of the assessment of costs awarded against an unsuccessful party at the conclusion of a case (see below). In particular, any costs which have been impliedly or expressly authorised by the client will be allowed, although they might strictly be considered unnecessary. It is unusual, therefore, for the successful party to litigation to have all his costs paid by the party who is unsuccessful.

Many solicitors will also undertake work on the basis of a contentious business agreement. Under this arrangement, the client cannot apply for assessment of the bill. The solicitor enforces the agreement by applying to the court in which the business was done, not by suing for the debt owed. The court will only allow enforcement if the agreement is fair and reasonable. The agreement will be considered unfair, if it is unreasonable and the client did not fully understand and appreciate its effect before making it and/or, if it amounts to excessive profiteering by the solicitor. The court only examines the agreement, not the sum payable under it, unlike an assessment, where the court inquires into the reasonableness of the bill ultimately submitted and each item thereon. If, however, the number of hours claimed under a contentious business agreement is excessive, the court may not allow enforcement of the agreement as regards that excessive time. A non-contentious business agreement may also be made under which the fees payable are sued for as a debt, but the client only has a limited entitlement to assessment. In court actions, solicitors may not enter into contingency fee agreements under which their fees will be a percentage of the damages or the property gained. Even a conditional fee agreement ("no win no fee") is banned in criminal and matrimonial cases. However, in civil cases, a conditional fee may be agreed.

Barristers' fees are generally negotiated between the solicitor and the barrister's clerk. In relation to drafting and advising barristers generally charge an hourly rate. For appearances

in court, a lump sum fee will be charged (a brief fee) for the preparation and first day in court together with an appropriate daily sum for each day in court thereafter (a *refresher*). The *brief fee* must, in general, be agreed in advance of any attendance at court.

### **Advertising**

Broadly speaking, solicitors are allowed to advertise their services to potential clients subject to certain limited controls. Publicity Code 2001 for Solicitors states that publicity must not be misleading or inaccurate. Any publicity as to charges or a basis of charging must be clearly expressed and it must be clear whether disbursements and VAT are included. Practitioners must not publicise their practices by making unsolicited visits or telephone calls to a member of the public. "Member of the public" does not include: (a) a current or former client, (b) another lawyer; (c) an existing or potential professional or business connection; or (d) a commercial organisation or public body. As for Solicitors also for Barristers the regulations on advertising recently have been liberalised. The most recent liberalisation was to allow comparative fee advertising (2002). According to information provided by the Council of the Bar of England and Wales for barristers now only adverts including statements about a barrister's success rate are forbidden (c.f. paragraph 710.2 of the Code of Conduct).

### **Forms of Business, Inter-Professional Co-operation, Location and Diversification**

Solicitors' firms can comprise either sole practitioners, private company ("unlimited company") or limited liability partnership. In case of the latter two the firm may only be held by members of the profession. This means that inter-professional co-operation in a joint firm (incorporation or partnership) has not been allowed up to now.

In respect of the question of location following occurs: Solicitors in general serve the local community, solving the legal problems of the public. They are not however, nor indeed are barristers, tied to any particular court: a solicitor can act throughout England and Wales.

Barristers are all self-employed, but generally join together in sets of chambers in order to share office accommodation and administrative staff. Barristers' clerks act for a set of chambers in negotiating and collecting fees on behalf of each member of the set. Partnerships between barristers are not allowed, nor are they allowed to form limited companies for the purpose of providing legal services. Inter-professional co-operation is forbidden. Furthermore employed barristers until recently had only very limited rights to practise. But as from 2000 employed barristers got allowed to exercise full rights of audience.



For Solicitors there are no specific regulations on the opening branch offices. The same is true for Barristers (Source for both professions: questionnaires provided to IHS by the respective professional bodies).

### ***Continuing Education***

Continuing Professional Development (CPD) for Solicitors in England & Wales is compulsory. Solicitors must complete 16 hours of CPD each year. At least 25% must be from attendance at accredited courses; the remainder can be obtained from research, writing, speaking at conferences etc. Solicitors must keep their own records and are asked each year to confirm on the renewal of their practising certificate that they are in compliance. They may be asked at any time for their CPD records and persistent non compliance may result in disciplinary action. These requirements are waived for solicitors in practice overseas. Accredited courses are provided by market providers who are quality controlled by the Law Society.

For Barristers there now exists an obligation for continuing education as well (recently introduced: 2001). The Bar Council requires established practitioners to complete a record card of their continuing professional development (CPD) hours and submit this to the Education & Training Department on an annual basis. These records are randomly checked and if a barrister is found not to have completed their hours they will not be issued with a practising certificate. Those subject to the New Practitioners Programme (NPP) have their records logged on a database at the Bar Council. Providers of NPP courses are required to confirm the barristers' attendance with the CPD Department who ensures their records are up to date. The Bar Council introduced the New Practitioners' Programme on 1 October 1997 for barristers in their first three years of independent practice. This was extended on 1 October 1998 to barristers entering employed practice. The Bar Council has also introduced a continuing professional development scheme for established practitioners. This was introduced from Jan. 1 2001 for all barristers who have completed the New Practitioners' Programme. Other practitioners will be phased in by year of Call as follows: In or after 1990 - from January 2003, between 1980 and 1989 - from January 2004, before 1980 - from January 2005.

### ***Specialisation in the Profession***

While a single firm might offer a full range of services, increasingly, individual solicitors and firms are specialising in areas of law in which they are experts. This is particularly true of firms dealing with business clients, more often found in the major cities: their specialisms include banking law, entertainment law, corporate and commercial law, construction, trusts, environmental law, insurance, intellectual property, tax, competition, shipping and arbitration.

As the law has become more complex, barristers increasingly specialise in particular areas of work. A number of Specialist Bar Associations (SBAs) exist to provide support, training and representation for their members.

### **Compulsory Indemnity Insurance**

For Solicitors a professional indemnity insurance is compulsory. It has to cover a minimum sum of 1.6 Million EUR per case. For Barristers professional insurance is mandatory as well. Minimum sum of insurance is 392,419 EUR per case (£ 250,000)

## **Economic Characteristics**

### **United Kingdom – Structure and dynamics (NACE 7411)**

*Enterprises, Turnover, Employment:*<sup>9</sup> The nominal turnover of legal services enterprises in the UK reached a level of nearly 28,000 million Euro in 2001, equivalent to over 1.8% of GDP, the highest share after the exception of Belgium (c.f. Overview-tables in Chapter 5). Output of the sector rose however at a very high yearly average of 16.3% during second half of the 1990's, faster than the growth in nominal GDP (an average of 9.9% p.a. over the same period 1995-2001). The annual growth rate from 1998 to 2001 continued at 16.1%. This represents a real growth in legal services of 12.5%, outstripping the growth in employment of 4% over the period 1998-2001, so large productivity gains have also been made. In fact, the real turnover per employed person rose by as much as 27% over this period.

**Table 7-13 Firms, Turnover and Employment; U.K. 7411**

	Number of Firms	Turnover in Mio EUR	Employment	No. of Professionals
1995	21 620	11 326		
1996	22 490	13 047		
1997	22 988	16 217		
1998	23 491	17 894	254 000	
1999	24 106	21 077	276 000	
2000	24 416	25 062	272 000	
2001	24 763	28 032	286 000	111 772

Source: Office of National Statistics, IHS

The number of firms increased correspondingly from about 21,600 in 1995 to 23,500 in 1998 to approximately 24,800 in 2001, an average growth rate of 1.8 % p.a. from 1998 to 2001

<sup>9</sup> EUROSTAT; Office of National Statistics, ONS

(see Table), below the corresponding yearly growth rates over the period 1998-2001 for employment of 4% . The lower rate of increase in enterprises relative to employment is indicative of a trend towards more concentration i.e. more firms with relatively more employees: indeed the average firm gave employment to 11.6 persons in 2001, up from an average of 10.8 persons in 1998. The UK is indeed the second largest employer of personnel in legal enterprises after the Netherlands (see chapter 4). The relative number of enterprises is however typical, being the median of the member states in our survey, at over 410 per million of population.

The average turnover (2001) per legal services firm in UK of 1,132,000 Euro is considerably higher than the correspondingly values for both legal services and for technical services, which have similar outputs per firm (795,000 Euro and 779,000 Euro respectively). The recent nominal growth rate since the second half of the 1990s - a yearly average of 13.7% - were also a little higher than for accountancy services (11.6%) and for technical services (12.3%). Along with this strong growth in enterprises, the level of business per firm in UK is by far the highest among all the 12 member states surveyed here even after the branch output figures are adjusted for relative price levels and the overall production of the economy.)

The level of employment generated by UK legal firms, at over 4.6 per 1000 of population in 2000 is also the second highest in our international comparison (only Belgium employing relatively more persons) and the turnover per employed person of 92,000 Euro in 2000 is third in absolute terms after Belgium and Finland, but only fourth highest after adjusting for relative prices and economic output and not greatly higher than the median value of the member states in the survey.

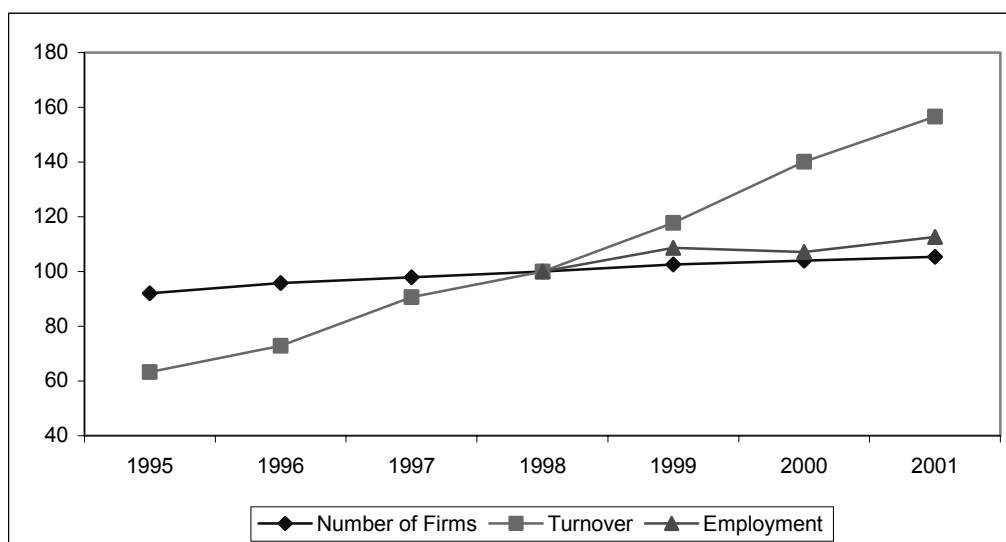
**Table 7-14 Key Statistics, Legal Services; U.K. 7411**

	Turnover per Firm	Employment per 1000 firms	Turnover per person employed	Employment per Mio. of Pop	Firms per Mio. of Population
	1000 EURO		1000 EURO		
1995	524				370
1996	580				383
1997	705				390
1998	762	10 813	70	4 299	398
1999	874	11 449	76	4 647	406
2000	1 026	11 140	92	4 562	410
2001	1 132	11 549	98	4 780	414

Source: Office of National Statistics, IHS

The differential rates of growth in enterprises, turnover and employment are illustrated in the chart, with the 1998 values indexed at 100.

**Chart 7-3 Relative Growth Rates, U.K. 7411**



Source: Office of National Statistics, IHS

*Turnover Size Class of Firms:*<sup>10</sup> Unlike the situation in many other EU member states, the largest proportion of legal firms are not to be found in the smallest categories (The high proportion of small accounting services category is certainly influenced by the inclusion of tax advice services in this 4-digit NACE (SIC) code). There are in comparison, however, relatively less large legal services firms with a turnover in excess of ca. 7,400 euro (500,000 GBP).

**Table 7-15 Professional Services Firms: Size Class by Turnover, UK**

as of April 1998	Turnover classes <sup>1</sup> in 1 000 GBP							
	0-49	50-99	100-249	250-499	500-999	1000-4999	5000+	TOTAL
SIC (NACE) Code	Equivalent turnover classes <sup>2</sup> in 1 000 EUR							
	0-72	73-146	147-368	369-738	739-1477	1478-7390	7391+	TOTAL
<b>7411 Legal</b>	4 475	5 535	5 890	3 030	1 740	1 400	275	22345
<b>7412 Accounting</b>	6 520	5 195	3 980	1 775	945	625	90	19135
7413	305	315	330	195	150	170	45	1510
7414	13 280	13 790	7 310	2 420	1 245	1 045	245	39340
7415	310	480	840	875	630	685	135	3950
<b>7420 Arch/Eng</b>	16 950	13 525	7 400	3 610	2 200	1 935	440	46065
	as percentages of total							
<b>7411 Legal</b>	0.20	0.25	0.26	0.14	0.08	0.06	0.01	100%
<b>7412 Accounting</b>	0.34	0.27	0.21	0.09	0.05	0.03	0.00	100%
7413	0.20	0.21	0.22	0.13	0.10	0.11	0.03	100%
7414	0.34	0.35	0.19	0.06	0.03	0.03	0.01	100%
7415	0.08	0.12	0.21	0.22	0.16	0.17	0.03	100%
<b>7420 Arch/Eng</b>	0.37	0.29	0.16	0.08	0.05	0.04	0.01	100%

<sup>1</sup>Excludes units with zero VAT turnover and all enterprises without a VAT basis.

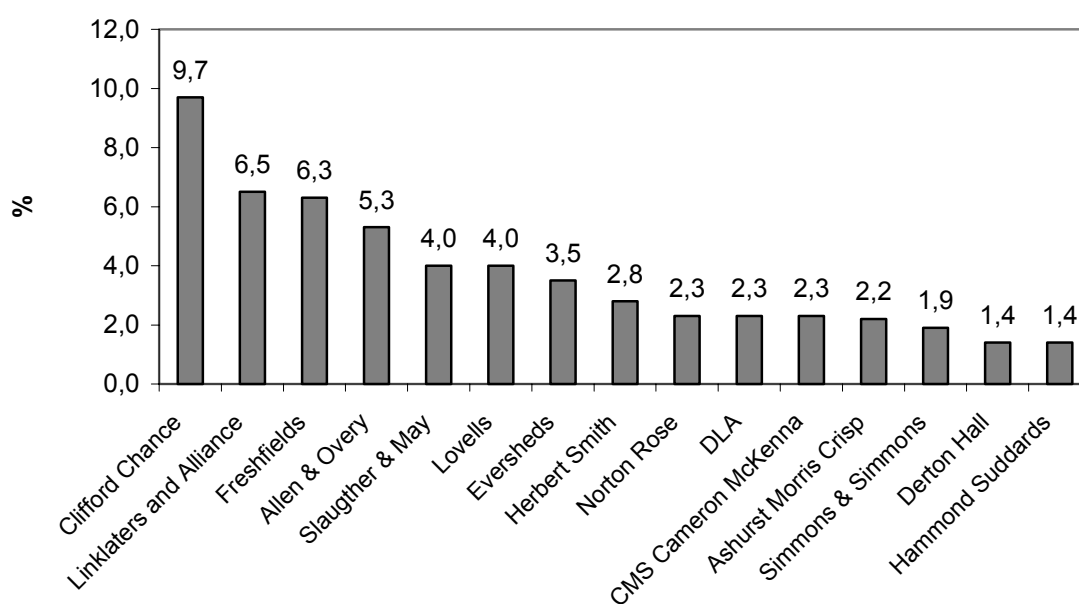
<sup>2</sup>Approximated by 1998 ECU/GBP exchange rates.

Source: Office of National Statistics

<sup>10</sup> Source: ONS, IHS.

**England and Wales: Solicitors<sup>11</sup>**

*Concentration:* The market for solicitors' legal services nevertheless does not exhibit as high a degree of concentration as has been reached in the market for accountancy services in UK. Whereas the 'big 5 accountancy firms' (in 2000) had a market share above 70%, the top 5 solicitors' firms had a share of 32%, increasing to nearly 47% for the share of the top 10 firms.

**Chart 7-4 Market Share of Top 15 Law Firms by Turnover in 2000**

Source: The Lawyer op. cit. LECG Report, see footnote.

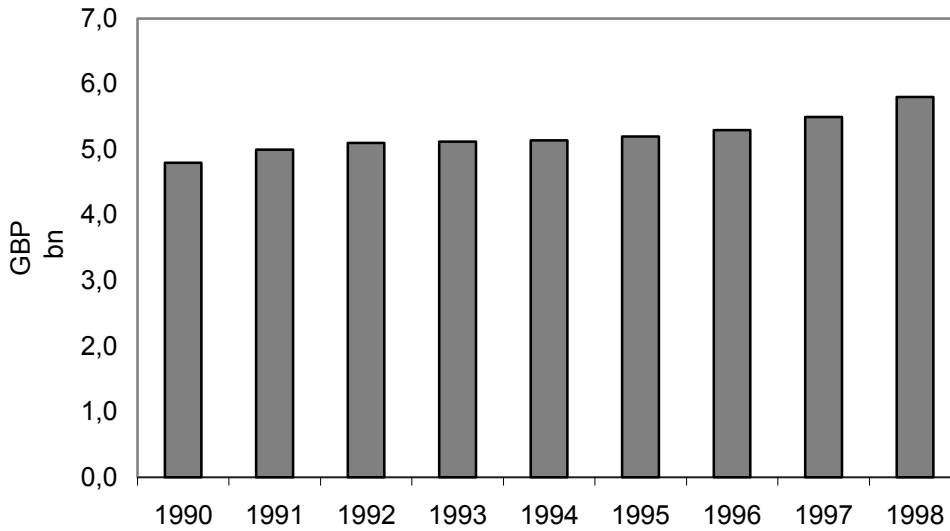
*Solicitors' Revenue and Profit:* The single major contributing area to revenue is business and commercial law (28%), followed by commercial property (15%). Civil law areas such as personal injury, conveyancing, probate, family, housing and employment together make up 39%, crime another 7%, and sundry others 11%.

Solicitors' fees increased by 31% in real terms from a gross fee revenue of 6,600 Mio. EUR (4,700 million GBP) in 1990 to 9,200 Mio. EUR (6,200 million GBP) in 1998. The increase was steady and evenly spread over these years. Real growth in fees exceeds real growth in GDP from 1990-92 and again from 1996-98. In the most recent year reported, 1998, revenue from fees grew in real terms 3.5 percentage points more than GDP, at around 5%.

<sup>11</sup> Source: LECG Report "Restrictions on Competition in the Provision of Professional Services", for OFT, 2001, including the graphics.

Depending on GDP growth, solicitors' fees have been more or less around 1% of GDP since 1991 (+/- 0.02 percentage points).

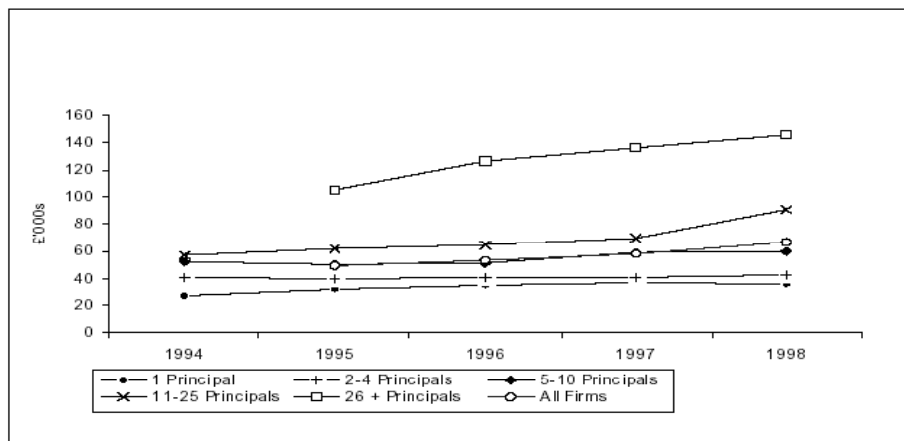
**Chart 7-5 Solicitors' Real Gross Revenue**



Source: Trends in the Solicitors Profession 1995-98, *ibid.*

In the following charts law firms are broken down by their number of 'principals', defined as equity or salaried partners. In general, the larger the firm in terms of its principals, the larger the profit, whether gauged by a profit per equity partner or profit per solicitor in the firm.

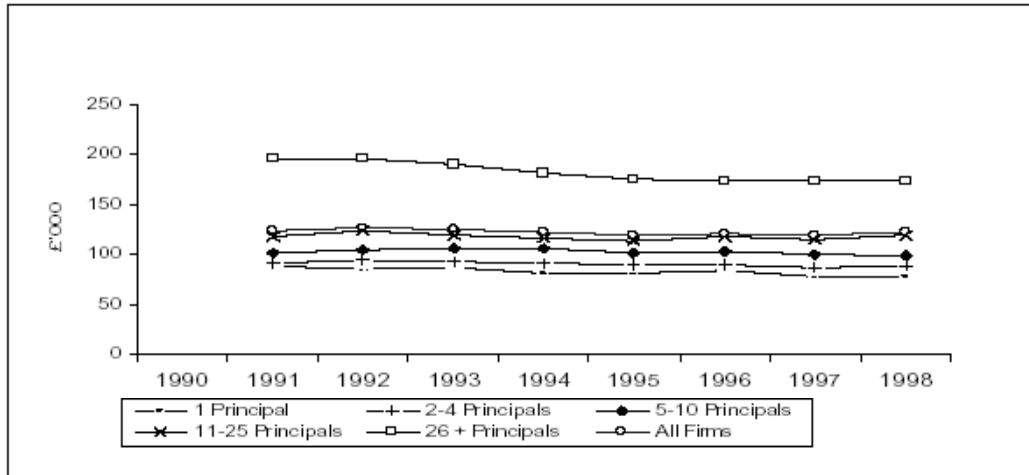
**Chart 7-6 Average real profits per equity partner – by size of firm (Principals)**



Source: Trends in the Solicitors Profession 1995-99 and Economic Trends 1999 Annual Supplement (ONS), *ibid.*

Whereas the profit on a per equity partner basis increased in recent years, this is not the case when the profit per solicitor in the firm is calculated.

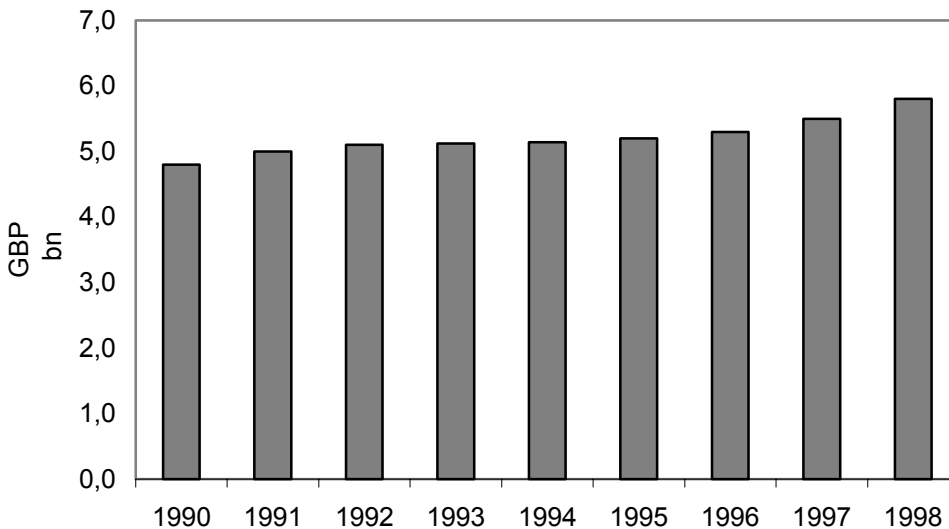
**Chart 7-7 Average real profits per solicitor – by size of firm (Principals)**



Source: Trends in the Solicitors Profession 1995-98, *ibid.*

Average earnings for solicitors are by far the highest of comparable professional groups, at 787.90 GBP per week being 26% higher than those for certified and chartered accountants, and 42% higher than the average earnings of architects.

**Chart 7-8 Average weekly earnings by occupation**

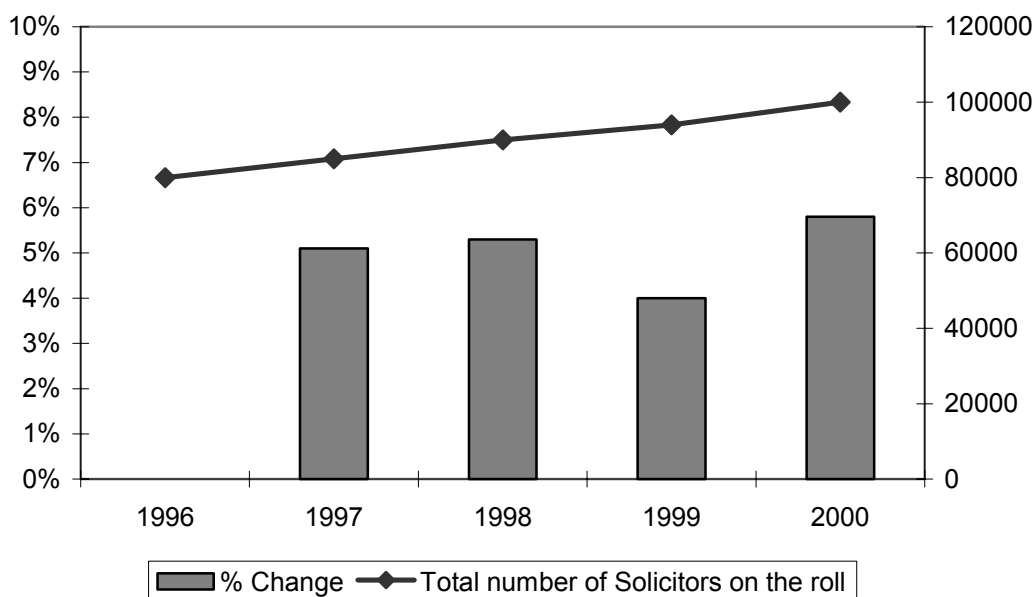


Source: New Earnings Survey 1995-99, *ibid.*

The growth in nominal earning of solicitors between 1995 and 1999 was 19%, a little behind the figure for chartered and certified accountants – 23%, but ahead of architects – 15%, and the average of all professional occupations, of 17%.

*Solicitors – members and entrants:* The total number of registered solicitors rose steadily at a (compound) average annual rate of increase of 5.1% from 1996 to 2000, reaching a total number of just under 101,000 by 2000.

**Chart 7-9 Growth in the number of solicitors**



Source: Trends in the Solicitors Profession 1995-99, *ibid*.

The intake of newly registered solicitors was 3,058 in 1989 and rose to 4,827 in 1999, an average annual increase of 4.7%. The year to year variation can deviate a lot from this average as is illustrated by the intake rates of 17%, 2% and 0% for the three years 1997-99.

The Law Society of England and Wales reports a membership of 86,603 with certificates, and 22,950 without practising certificates, in 2001.<sup>12</sup>

### **England and Wales: Barristers:**<sup>13</sup>

*Barristers – members and entrants:* The increase in the total number of barristers has been steady, just as for solicitors, as is shown in the chart, even if the percentage growth rate in individual years varies somewhat.

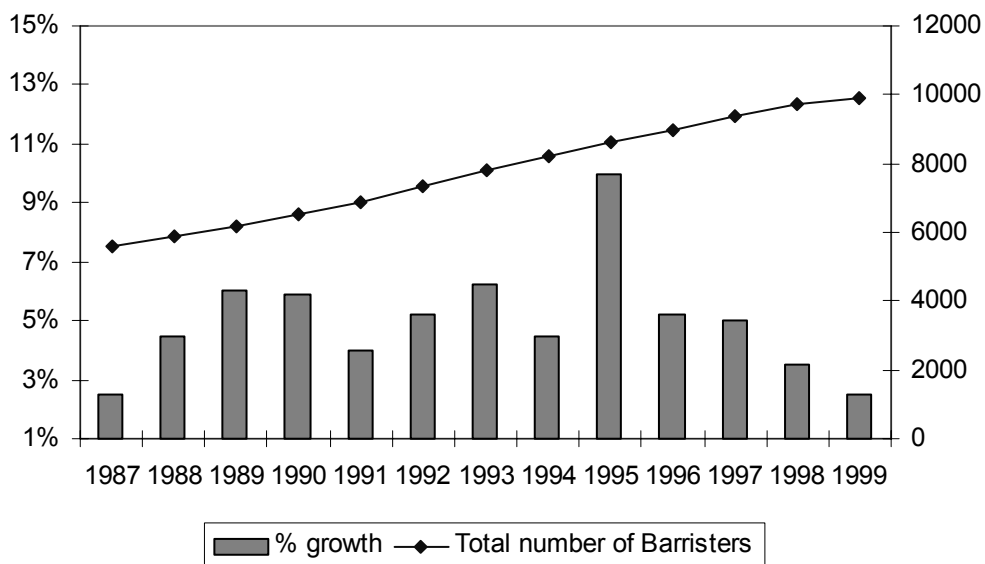
<sup>12</sup> IHS Questionnaire.

<sup>13</sup> Source: LECG Report "Restrictions on Competition in the Provision of Professional Services", for OFT, 2001, including the graphics.



The average growth rate of barristers over more than a decade to 1999 was 4.8%: in the second half of the 1990s the rate of 5.2% p.a. was comparable with that for solicitors.

**Chart 7-10 Growth in the number of barristers**



Source: Report on the survey of Barristers Chambers 1999 and 2000, BDO Stoy Hayward, *ibid.*

In recent years, starting in 1997, the net growth in barristers has diminished. This reflects a net change in the number of barristers (i.e. new entrants less the number of those exiting the profession, for example retirees) of around 440 in 1997 down to around 240 in 1999. This kind of variation in numbers is fairly typical, but the LECG report suggests that the decline may be due to recent regulatory changes, namely the increased costs of qualifying to enter the profession and the impact of the government's recent reform programme ('Woolf'), among a number of other factors.

*"Thus it is possible that a combination of the Woolf reforms promoting settlement of litigation at an early stage, government promotion of alternative dispute resolution (ADR) and the extension of rights of audience to solicitors, have together reduced the demand for advocacy services in litigation. Solicitors may be less likely to use barristers, following the emergence of solicitor-advocates, and because solicitors are tending to do traditional barrister work in-house (such as drafting pleadings). A report by the Goldsmith Working Party on Financing Entry to the Bar (July 1998) illustrated the recent increase in the costs of qualifying. In 1990-91 over 60% of students taking the Bar Vocational Course (BVC) received some kind of local*

authority grant, and over 50% received a full grant. By 1996-97, however, only 6% of BVC students received a grant, fewer than 3% received a full grant.”<sup>14</sup>

**Table 7-16 Growth rates of solicitors and barristers in the 1990s**

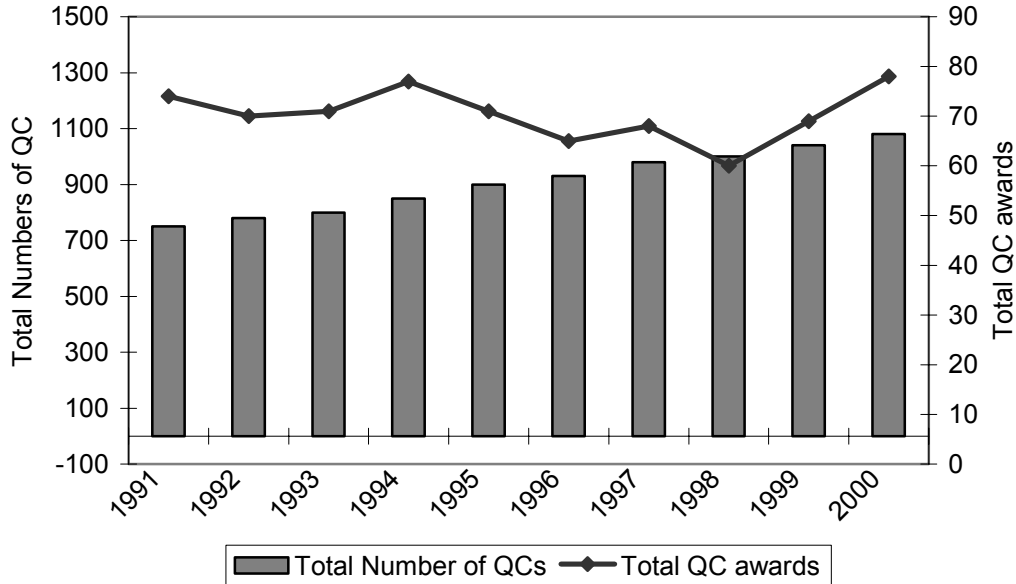
	Solicitors		Barristers		
	total	entrants	total	QCs	QC applications
1987			5 642		
1988					
1989		3 058			
1990					
1991				736	
1992					
1993					
1994					
1995			8 095		
1996	82 820				
1997					
1998					
1999		4 827	9 932		
2000	100 957			1 072	
<b>c.a. growth rate period</b>	<b>5.1%</b> 95-00	<b>4.7%</b> 89-99	<b>4.8%</b> 87-99	<b>4.3%</b> 91-00	<b>5.75%*</b> 92-99
<b>c.a. growth rate period</b>			<b>5.2%</b> 95-99		

Source: LECG Report; \*average rate

The above table shows that the rate of growth in the number of Queen’s Counsel (QCs) has fallen behind that of barristers in general: the increase in QCs has, however, also been steady as the chart below illustrates. Once again, the size of intake varies from year to year, from a low of 60 new QCs in 1998, to a high of 78 in 2000 (average intake of 70 over the period).

<sup>14</sup> Source: LECG Report “Competition in professions” para. 230, 231.

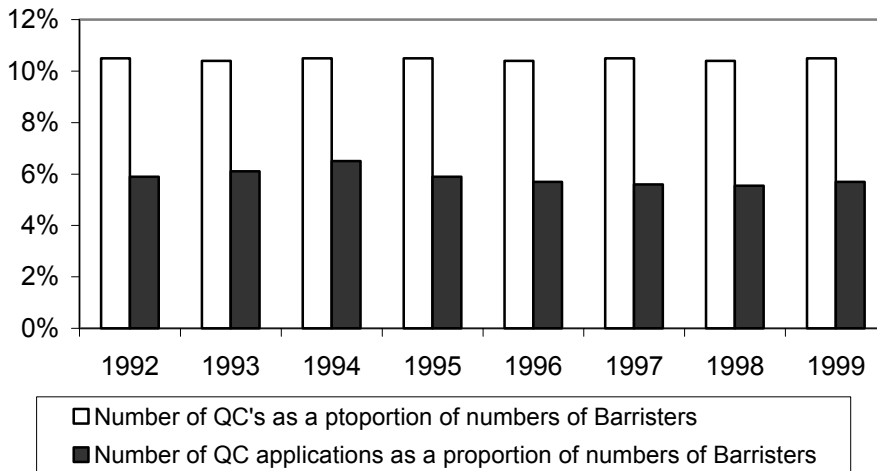
**Chart 7-11 Total number of QCs vs. Total QC awards**



Source: The Lord Chancellors Department and Parliamentary Questions, Andrew Dismore MP, *ibid.*

The chart below shows that the number of QCs as proportion of barristers remained constant around a figure just over 10% throughout the 1990s. The average rate of applications for QC status, which was 5.8%, exceeded the growth rate of barristers, unlike the growth rate in actual appointments of QCs (see Table above).

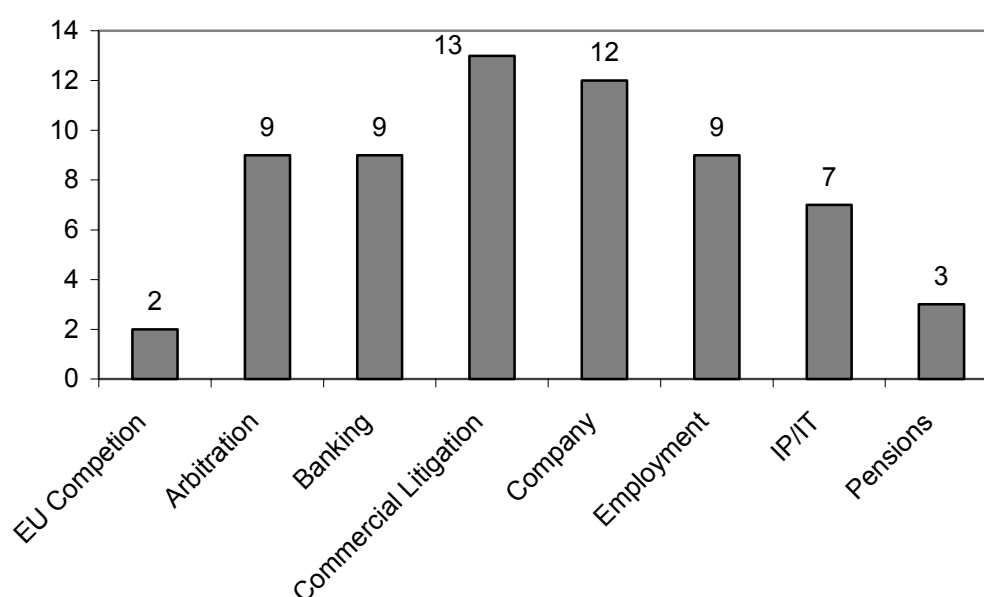
**Chart 7-12 Number of QCs**



Source: The Lord Chancellors Department and Parliamentary Questions, Andrew Dismore MP. *Ibid.*

*Barristers' Chambers:* Barristers are organised into Chambers, i.e. groups separately negotiating on behalf of barristers within certain units of specialism. The LECG report makes the observation that competition takes place at the level of Chambers rather than at the level of individual barristers. The numbers of chambers competing within each specialism is shown in the chart below. Unlike, say the field of competition legislation, there is thus less competition in the areas of EU Competition Law or Pensions: LECG believes that mergers between Chambers are likely in future because there will be increased competition from solicitor-advocates.

**Chart 7-13 Number of chambers by specialism**



Source: [www.chambersandpartners.com](http://www.chambersandpartners.com)

*Professionals:*<sup>15</sup> Altogether there are 86,603 practising professionals, a rise of over 50% in the years since 1990 reported by the Law Society of England and Wales (LSEW). This development is accompanied in a increase in the percentage of non self-employed from 15.8% to 20.9%. Further, the number of holders of LSEW practising certificates who practise abroad has nearly doubled to about 3,100 since 1995.

*Firms:* LSEW reports the number of private practice firms varying between ca. 8,100 and 8,700 over the last decade. The trend towards a higher proportion of large firms (with 11 or more partners) – 5.7% of firms in 2001 compared to 4.9% in 1990 – that is also indicated by the increase in non self-employed, has also been accompanied by an increase from 37% to

<sup>15</sup> IHS Questionnaire

42% in the number of single qualified professional firms. Together with two partner firms, these account for over 82% of all lawyers' firms.

*Turnover.* LSEW reports a branch for legal services firms turnover before tax of 10,552 million GBP (approx. 17,500 euro) in 2001<sup>16</sup>. In terms of prevailing Euro/ECU rates, this represents an increase of over 70% in nominal terms from 6,977 million GBP in 1995, a very high rate of growth indeed.

### **Summary**

Like Denmark, England & Wales from an international comparative point of view shows a medium grade of entry regulation and, after several steps of liberalisation, a rather low grade of conduct regulation. A peculiarity of the entry regulation system in force is, that it is rather flexible and that there are several different routes of entry. At the same time it appears to be cost intensive and places for education appear to be rather scarce.

The professional division between Solicitors and Barristers has been discussed for quite a while now. Whereas at first instance there may be no direct negative outcomes of this separation (as a monopoly for barristers in representation in high jurisdiction does not exist any more), for the external observer it is rather unclear what, apart from tradition, the advantage of this separation is.

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<sup>16</sup> c.f. a figure of 28,032 mill. Euro reported for entire UK 7411 branch in 2001 – see Overview table in Chapter 5.

## 7.4 Legal professions in Germany

### Lawyers

*The lawyer* today is an independent adviser in legal matters and representative of the interests of individual persons, legal entities, and public institutions in and out of court and before authorities. The lawyer renders, as an independent organ of the judiciary, as stipulated in §1 of the Federal Lawyer Order (BRAO), in judicial proceedings an independent contribution to the finding of justice. As representative of his client's interest he has to prevent that his client from suffering disadvantages that are not justified according to the law.

Every lawyer becomes a member of the lawyer chamber (*Rechtsanwaltskammer*) by act of law when he is accredited as a lawyer. In the Federal Republic of Germany there are 28 such lawyer chambers. The lawyer chamber is a statutory body for self-administration of the legal profession and as such guarantees the independence of the law profession and protects it from the influence of the state and at the same time accentuates the status of the lawyer as an independent organ of the judiciary. The German lawyer chamber system is thus based on obligatory membership of every lawyer in a lawyer chamber. The duty of the Federal Lawyer Chamber (*Bundesrechtsanwaltskammer* – BRAK) is to safeguard, advance and represent the interests of its members. The administrative tasks of the regional lawyer chambers are the participation in the procedures of accreditation for new lawyers, reprimanding in case of misconduct and the involvement in procedures regarding professional issues. Furthermore the lawyer chambers perform social duties for their members, they are responsible for the vocational and professional competences and duties as well as further education and training of its members.

Besides the lawyer chambers there exist the so-called lawyer societies (*Anwaltsvereine*) which are voluntary associations, based on the German society law (*Vereinsrecht*). The umbrella organisation of the approximately 190 associations in Germany is the German Lawyer Association (*Deutscher Anwaltverein* – DAV) based in Berlin.

### Market Entry

#### **Tasks and exclusive tasks provided by German Lawyers**

The lawyer is according to § 1 BORA, paragraph. 3 (professional code of conduct - *Berufsordnung Rechtsanwälte*) an independent adviser and representative in all aspects of law. The main tasks are: advising and consulting in matters of taxation, pensions and insurance, collecting of claims, patents and insolvency administration.

The tasks of lawyers today do not only encompass the judicial procedural aspects. Rather the modern occupational image is characterised, and this despite a rise in cases that come before courts, mainly by task that involve advising, consulting and helping.

According to § 1 Legal Advice Law (*“Rechtsberatungsgesetz”*) the agency and procuration of legal matters for others, including the consulting and getting claims, can only be carried out with an official licence. At the same time the §§ 1 et sqq. BRAO not only regulate the title (name) security in terms of the certificate model (*“Bezeichnungsschutz i.S. des Zertifikationsmodells”*) but it is also a strong prohibition with an approval provision (*“Verbot mit Erlaubnisvorbehalt”*) (Herrmann 1996: 346). For the field of activity of legal advice it means that legal advisers that are not lawyers need a specially permission of the provincial court president of the state, where the job is carried out (§ 11 Abs. 1 RBerV). Exempted from this rule are primarily patent lawyers, notaries, public appointed tax consultants and certified public accountants, public authority representatives, liquidators, cooperative auditors (*“genossenschaftliche Rechnungslegerprüfer”*).

The lawyer chambers are not involved in the otherwise applicable licensing procedure, (cp. Herrmann 1996: 347). The accreditation is given only for a specific subject field and regional area. According to the law (§ 1 Nr. 1-6 RBerG) the following subject areas come into question: pension advisers, insurance advisers for the out of court representation of clients against insurance companies, out of court collection of claims and lawyers versed in foreign law.

To be able to represent a client before court the lawyer has to be registered as a lawyer in the respective register (for more details see par. Location below). Exceptions are when cases are brought before the Court of Finance where - even up to the Supreme Court for Financial Issues (*Bundesfinanzhof*) - tax advisers, auditors and certified public accountants are allowed to represent their clients without being officially registered as lawyers.

### **Education and Entrance to the Profession**

The judicial schooling and education in the Federal Republic of Germany is traditionally based on a dual step procedure of university education and following this legal clerkship (*“Referendariat”*). The university study is the first phase which provides the theoretic, academic knowledge and lasts for at least seven semesters (usually far longer) and ends with the first state exam (*“Erstes Staatsexamen”*). The focus of the second phase, the legal clerkship (*“Referendariat”*) is on the practical implementation of the gained theoretic knowledge and the gaining of experience. The prescribed length of the clerkship is two years and ends with the second state exam (*“Zweites Staatsexamen”*). It is important to note that in Germany, as a key difference from other systems relying on university education, there are no university exams as such for the law degree. The *Staatsexamen* are, as their name

already indicates, carried out by the state, which implies comparatively stronger state control. The clerkship encompasses several stations, e.g. the jurisdiction (“*ordentliche Gerichtsbarkeit*”), public prosecutor, public service and law firms. The duration of the stay at a law firm can be varied between four and twelve months. Normally it lies between four and six months. The two state exams have to be taken before a public authority, the judicial examination board and not at the university or lawyer chamber. The judicial examination board is part of the state justice department.

A jurist that has been educated according to this system may call himself a “complete jurist” (“*Volljurist*”), another term often used is that of “*Einheitsjurist*”, which roughly translated means “unity-jurist”. With this education he has fulfilled the requirements to become a lawyer, a notary, a state prosecutor or a judge in the Federal republic of Germany. After passing the second state exam the “complete jurist” can endeavour to become accredited as a lawyer at a specific court at the relevant state justice department. The accreditation can principally be refused when one of the grounds mentioned in § 7 BRAO exist: the forfeiture of a basic right, previous convictions, dwindling of assets or if gainful employment (“*erwerbswirtschaftliche Tätigkeit*”) is exercised. Before accreditation of the lawyer an approval by the executive board of the responsible lawyer chamber is needed. Even if the lawyer chamber rejects the accreditation for no apparent reasons the state justice department cannot just overrule this rejection. The affected jurist in this case can apply at the Lawyer Court (“*Anwaltsgerichtshof*”-AGH) for a court order for his instatement as a lawyer. The same procedure is to be followed if the state federal department refuses the accreditation (§ 11 BRAO).

## Conduct Regulation

### Prices and Fees

Basically one has to distinguish in Germany between extra judicial (out of court) representation and client representation before court. In legal matters that are settled out of court the lawyer is free to determine his rates (§ 3 Abs. 5 BRAGO), there are no minimum or maximum fees that he may charge. Nearly 70% of all cases in which a lawyer is active can be settled out of court. Despite being able to charge flexible rates in out of court cases, more than 80% of lawyers charge rates according to the Federal Tariff for Lawyers (*Bundesgebührenordnung für Rechtsanwälte*) according to information provided by the Federal Lawyer Chamber.

For court cases the rule is that the prices set by the state in the Federal Tariff for Lawyers (“*Bundesrechtsanwaltsgebührenordnung*”) are minimum tariffs that have to be charged (§ 49b *Bundesrechtsanwaltsordnung*). This principle stipulates that the party losing the case has to cover the cost of the lawsuit. This does not only include the court costs, but also the



cost for own lawyer and for the lawyer of the opponent. However, only the fees that the loser has to pay for the lawyer of the winning opponent are fixed as a maximum rate. From their “own clients” lawyers are permitted to charge higher rates.

In Germany it is however forbidden to link the price to the outcome of the case (§ 49b *Bundesrechtsanwaltsordnung*) or to demand a certain part of the remuneration if the case is won (*quota litis*, § 49b *Bundesrechtsanwaltsordnung*).

### **Advertising**

Until 1994 there existed a far reaching prohibition of advertising for lawyers. § 43b BRAO (since September 9, 1994 in effect) loosened the very strict advertising ban that was based on traditional professional class status law. However the direct and targeted advertisement for a lawyer or law firm is still prohibited according to § 43b BRAO, as well as and especially deceptive and impertinent or un-objective advertisement. In § 6 paragraph 1 of the BORA (professional code of conduct - “*Berufsordnung*”) it is stipulated that the lawyer may inform about himself as a person and the service he offers. According to paragraph 2 booklets of the practise or law firm, circular letters and other equivalent forms of information material are allowed. It is however forbidden to mention success rates or revenue volumes according to paragraph 3. Details of clients may only be published with their express consent. Apart from mentioning the respective specialisation or specialist title (see below) a lawyer is only allowed to mention a maximum of five areas of special interest and/or focus of activity, of which only three may be areas of main activity.

Regarding an internet presence (homepage) attention has to be paid to the new regulations according to law on online services, § 6 (*n.F. des Teledienstegesetzes* - TDG) where the identification and information requirements have been extended. Under the new law the following information generally has to be provided: address, contact details, public oversight, register entry details, sales tax identification). Lawyers especially have to list the following: lawyer chamber, occupational title and professional regulations. Reference also has to be made of the Federal Lawyer Order (“*Bundesrechtsanwaltsordnung* - BRAO), the Federal Tariff for Lawyers (“*Bundesgebührenordnung für Rechtsanwälte*” - BRAGO) and the Professional Regulatory Order for Lawyers (“*Berufsordnung für Rechtsanwälte* - BORA).

### **Forms of Business**

Lawyers can practise as an individual lawyer, in the form of a co-partnership / joint practise (“*Sozietät*”), as an office partnership, as a freelancer, as employee or as a syndic-lawyer. The office-partnership or -sharing is simply a cooperation in terms of combined usage of technical and personnel resources to lower costs. In the case of a joint practise (“*Sozietät*”) the lawyers join forces to practice their profession together as one entity and practice. They

accept and represent the clients together, fees and remuneration are received collectively and they are collectively liable. Apart from the practising as an individual lawyer it is technically also possible to practise one's profession in the form of a company according to civil law ("*Gesellschaft bürgerlichen Rechts*" - *GbR*). Since 1998 it is furthermore possible to form a limited liability company ("*Gesellschaft mit beschränkter Haftung*" - *GmbH*) and lastly it is possible to form a cooperation with other professions, as is described in detail in the next chapter.

### ***Inter-professional Co-operation***

German lawyers can form, since the mid nineties, national and even international co-operations with tax advisers, chartered accountants, legal advisers ("*Rechtsbeiständen*") and patent lawyers (also in the form of a limited liability company). The limitation to these professions is made to protect the consumer says the Federal Lawyer Chamber. Consumers in Germany enjoy a number of protective measures. The lawyer may not disclose any information out of the counselling interview with the client to a third party. The documentation of the lawyer is protected from access or confiscation by other parties (freedom of confiscation). The lawyer has above these the duty to deny testimony if the client does not allow him to give this information to others. With the argument that these clients' protective rights and measures could be circumvented if the lawyer cooperates with persons who's professional relationships and contacts do not have these protective rights and obligations, the cooperation possibilities are limited to the above mentioned professions

### ***Location and Diversification***

The lawyer is obliged to open a practice to carry out her/his business. If a lawyer works in an EU state he can exempt himself from this duty according to § 29a *Bundesrechtsanwaltsordnung*.

Until the year 2000 a localisation imperative existed. The admittance of a case to a county /magistrates court ("*Landesgericht*") or the higher regional court ("*Oberlandesgericht*") was based on the localisation of the law practise. This rule, which implied a certain territorial protection, was finally scrapped in 2000 as far as the county/magistrate courts ("*Landesgericht*") are concerned. If a lawyer is registered at one county/magistrate court, he is automatically authorised to represent clients before the other similar German courts as well. However, lawyers licensed at one higher regional court ("*Oberlandesgericht*", OLG) are still not automatically authorised to represent before other OLGs, as the licensing procedure before OLGs is more comprehensive.

Furthermore until now it is forbidden for lawyers to run several branch offices (§ 28 BRAGO). On the other hand it is allowed that every lawyer may cooperate with other lawyers, not only within Germany, but also worldwide.

### **Continuing Education**

Every lawyer is obliged to continue his education on a permanent basis according to § 43a Abs. 6 *Bundesrechtsanwaltsordnung*. How and on what scale is not stipulated further in the professional code of conduct.

Specialist lawyers ("*Fachanwälte*", see par. Specialisation below) have to study yearly a certain amount of hours in their field of speciality. If they don't comply with this regulation their licence can be withdrawn.

To acquire this further and specialised knowledge various courses are offered. The German Lawyers Institute (*Deutsche Anwaltsinstitut e.V.*) of the Federal Lawyer Chamber offers every year a huge number of courses and lectures for this purpose. The same applies to the German Lawyers Association ("*Deutscher Anwaltverein*" - DAV).

### **Specialisation in the Profession**

Lawyers in Germany can acquire so called specialised lawyer titles ("*Fachanwaltsbezeichnungen*"). The rules and regulations of these specialised lawyers are stipulated in the Federal Specialised Lawyers Order ("*Fachanwaltsordnung*" - FAO). According to § 1 FAO and § 43 c paragraph 1 sentence 2 BRAO there are currently the following specialisations: tax law, labour law, social law, family law, criminal law and insolvency law. According to § 43c Abs. 1 BRAO a lawyer may only specialise in a maximum number of two areas.

The decision to grant a specialised lawyer title rests with the lawyer chambers. Pre-requisites to obtain such a title are that the lawyer has gathered special theoretical knowledge in the particular field of law. Mostly this qualification is obtained by writing an exam about this subject after having attended courses on it for at least 120 hours. Besides this practical experiences in the relevant field have to be documented. In the particular field a minimum number of cases has to be completed and the lawyer must at least have practised for three years.

That it is allowed to advertise with further "fields of interest and specialisation" has already been mentioned above.

### **Compulsory Indemnity Insurance**

For lawyers in Germany indemnity insurance is compulsory. The minimum amount for which professionals must be insured is 250,000 € per case and 1,000,000 € per business and year. If the risk is higher than this amount, then the lawyer, according to § 51 BRAO, has the obligation to insure himself for a higher amount. For many lawyers, especially those who are doing international business, the insurance covers much higher sums than those mentioned above.

### **Actual challenges and recent changes in regulations**

There are possibilities of widening the activity field of lawyers in the future, in particular in the field of preventing law advice, which is supported by outsourcing of entrepreneurial services due to cost and flexibility considerations. Because firm successor problems will definitely endure in the coming years, additional lawyer activities will be demanded.

With regard to future market fields according to the environment, labour, social and data processing laws and according to economic consulting an increase in consulting needs can be expected.

During the next years a change in the kind of services is to be expected. Catchwords are: specialisation, inter-professional joined work and fusion.

In the last years an extension of the specialised lawyers denominations were discussed. According to §1 FAO (1.1.2003) denominations now can be awarded for: administrative law, tax law, labour law, social law, family law, criminal law and insolvency law with respective specialised knowledge according to the regulations of the specialised lawyers (FAO).

Lawyers, but also accountants and tax advisers, face a growing competition via economic jurists (*Wirtschaftsjuristen*): Law faculties in Germany are starting to certificate a diploma for the examined person receiving practical training in judicial or other legal work after having passed the first state examination (*Rechtsreferendar*), if they did not continue their education within the last ten years to achieve an „Assessor“.

One of the essential legal changes with regard to an inter-professional joint work in the 1990s in Germany was the "*Partnerschaftsgesellschaftsgesetz*". This law was amended 1998 and provides a regulation frame for partnerships among professionals.

The lawyers' organisation is asking for a structural revision of the Federal Tariff for Lawyers (*Bundesgebührenordnung für Rechtsanwälte*). An expert commission of the Federal Ministry of Justice (BRAGO structure reform commission) presented in August 2001 a concept. This

concept now is the basis of the recent government law concept „*Gesetzes zur Neuordnung des Rechtsanwaltsvergütungsrechts – RVNeuOG*“ (BT-Drucksache 14/9037).

## **Notaries**

The German Federal Notarial Code - the relevant statute for the whole profession - classifies the Notary as a holder of a public office. A constitutional state owes a duty of legal security to its citizens, and therefore disputes have to be settled, or prevented from happening. An essential precondition for this security is the reliability of legal documents and other important legal statements.

The legislator has entrusted the function of an impartial, public institution primarily to Notaries. This special status is marked by the official seal, which is applied to all instruments issued by a Notary.

The importance of such notarial deeds is shown for example in court where they are accepted as one of the best means of evidence. This is also the case in enforcement proceedings: since it is an extremely severe intrusion into a person's privacy, it is only legally possible based on a final judgement or a notarial deed. Furthermore, public registration authorities – the companies' registry, land registry, register of associations - rely on the correctness of notarial deeds when they make an entry. Such bodies are thereby relieved of the manpower and time-consuming examination of often very complex facts, whilst still retaining their controlling function.

Notarial deeds have a special warning function: citizens are protected from the consequences of hasty actions by statutory provisions stipulating special formalities before taking important steps such as the purchase of real estate or the setting up of a binding mutual will.

## **Organisational structure of Notaries**

The independence of Notaries is traditionally reflected in their self-governing bodies, the Notarial Associations. They represent the interests of the profession with regard to third parties, and at the same time operate as a regulatory authority for their members. In this way the Associations supervise professional compliance within their districts, and are authorised to issue binding professional ethical guidelines. Further, if a client has a complaint, he can apply to the Notarial Association. They also provide professional education to single-profession Notaries.

The *Bundesnotarkammer* (Federal Chamber of Notaries) in Cologne is the umbrella organisation for all the Associations. It works out common guidelines to all notarially relevant

questions, develops new concepts and acts on behalf of Notaries, in particular with political and economical institutions. The Federal Chamber of Notaries consists of the Council of Representatives with delegates sent by 21 associations. The members of the chambers, with around 11.000 Notaries (Dec. 2002), elect the Boards of the Chambers.

The Federal Association of Notaries also advises on legislation. Beyond this, many Notaries have joined together in Notaries' Societies.

Notaries, like advocates and tax advisers, have professional indemnity insurance. However such insurance generally excludes responsibility for intentionally caused damage. Contrary to other advisory professions, the clients of a Notary are protected in these situations: every Notarial Association has fidelity insurance, which covers such damages. Since 1981 a fund exists in Cologne into which every Notary contributes.

*The Deutsches Notarinstitut* (German Institute of Notaries) was created in Würzburg in 1993 as an initiative and institution of the *Bundesnotarkammer*. Any Notary can refer to it when he comes across an unusual or particularly complicated legal problem in his practice. The Institute supplies Notaries with technical publications and other professional information.

There is the *Fachinstitut für Notare* (Notarial Institute) within the *Deutsches Anwaltsinstitut* (German Institute of Advocates) in Bochum. The Institute offers continuing education and specialist courses to Advocates who wish to go on to become a Notary, and also to trainee Notaries.

### **Controlling Notaries**

As a rule the Notary is not a civil servant, but is self-employed. He works at his own risk: the Notary is liable with all his property for damage caused by him. Because he is not a civil servant, the Notary works independently from any directions of a public authority. Unlike an Advocate, the Notary does not have to focus on the interests of only one party. Thus in a real estate purchase contract the Notary must have to point out the consequences of a clause to both parties involved.

Conditions for admission: Each Notary must be personally and professionally qualified and must swear an oath that he will conscientiously conduct his office. Periodically the President of the competent Regional Court inspects for compliance with all relevant statutes and regulations, as well as correct billing of the Notary's clients. In the case of complaints a disciplinary procedure can be instituted, and for very grave offences the Notary may even be dismissed from office.

### ***Notaries international***

In the light of increasingly complex international structures and integration fewer and fewer legal problems can be solved on a mere national level. As a consequence German Notaries have co-operated with foreign partner organisations. Thus the *Bundesnotarkammer* also has an office in Brussels. For example, a close interchange of experience and work on common concepts takes place in subjects such as electronic commerce, data security or cross border conveyance.

On a European level, in order to represent common interests to the consumer, various European notarial organisations have formed the Conference of the Notarial Associations of the European Union which runs an office in Brussels. There Notaries co-operate in the law-making process and give expert opinions in close contact with EU Institutions.

Notaries strive to introduce common standards of service on a European level. A first step in this direction was the European Code of the Notarial Professional Ethics (Deontology) adopted in 1995 by the Conference of the Notarial Associations of the European Union in Naples. It sets out ethical principles such as independence, confidentiality, impartiality and also conditions of a Notary's function such as training or professional indemnity insurance.

On an international level the *Union Internationale du Notariat Latin* - U.I.N.L. - serves as a forum for information and exchange of opinion. More than 60 national Notaries' organisations belong to the U.I.N.L.

### **Market Entry**

#### ***Tasks and exclusive tasks provided by German Notaries***

At first sight, notarial activity is restricted to certification and authentication. However before certifying a document, the Notary must ascertain the real intentions of the parties, draft and read out the relevant contracts and statements, advise on the consequences and point out any risks and dangers. When authenticating, that is to say when confirming the authenticity of a signature or a document, the Notary examines the identity of the signatory or the conformity of the copy to the original produced and thereby protects commerce from forgeries and the parties involved from damage. In practice, Notaries act in many fields. Some examples:

#### ***Real estate law***

This is one of the main areas of a Notary's activity. He acts in purchase contracts for land, houses and apartments, as well as in real estate donations, either in connection with estate

planning or the transfer of a business to the next generation. The Notary not only drafts the necessary documents and certifies them but also impartially assists the parties involved in the execution of these contracts. Thus, he obtains - if necessary – consents from public authorities, sees to the removal of charges in the land register, protects the buyer by lodging a caution in the land register and handles monies entrusted to him in a client account. For the security of loans he certifies land charges and mortgages. Finally the Notary is competent to auction real estate and to partition real estate rights in the new federal states between owners deriving their ownership from titles acquired before 1945 and the actual users of such real estate.

### ***Commercial law and the law of associations***

If a person or a company wants to do business at large, it must be registered in the companies' register. The Notary drafts and arranges the notifications and authenticates the signatures of the persons involved. Furthermore he drafts, produces and certifies the statutes for partnerships and limited partnerships (personal corporations), and for private and public limited companies (capital corporations).

Alterations to the statutes of a corporation such as the change of domicile or an increase in capital must be certified by a Notary and notified to the companies' register, as do changes in the management or the board.

Advice on foundation, registration in the register of associations and help with changes in the statutes in addition has to be done for the law of associations.

### ***Family law***

When parents adopt a child, the Notary drafts the necessary applications to the Guardian's Court.

Before or after a marriage he advises on and certifies the marriage contract, which for example may provide for the separation of the spouses' property, maintenance and custody. The Notary can draft a tailor-made agreement on the distribution of the assets earned by the spouses during their marriage. If the marriage should fail, the Notary can certify agreements on the distribution of assets, pension rights or maintenance. In doing this he is legally bound to remain impartial.

### ***Law of succession***

In consultation, Notaries not only focus upon the fiscal aspects of wills and contracts of inheritance, but also consider family matters such as support to dependants or the



avoidance of quarrels and disputes within the family. Also when passing a business on to a suitable successor, a contrived succession arrangement can avoid protracted and costly conflicts. Finally, but not least, the Notary can assist in the issue of the Certificate of Inheritance, or, generally in the case of insolvent estates, if the inheritance is to be declined. He drafts and submits the relevant applications to the Probate Court.

### ***Education and Entrance to the Professions***

A Notary has to be a German citizen with qualification to be a justice according the German Justice Law (§5 BNotO).

In Germany, for historical reasons, three different types of Notaries have been evolved: the "single profession Notary", the "Advocate Notary" and the "state-employed Notary".

As the name implies, single profession Notaries practise exclusively as Notaries, Advocate Notaries exercise the profession of a Notary alongside the profession of an Advocate. Both of them are still self-employed, and therefore practise independently and at their own risk. State-employed Notaries are paid by the state.

Whatever the type of Notary may be, all have studied law and undergone practical training with above average grades, and are qualified to be judges (except for the state-employed Notaries in the district of the Higher Regional Court of Stuttgart who receive special legal training). Furthermore, the personality of applicants for the position of a Notary must be suitable for an office that is considered by the general public as especially trustworthy.

If there are several applicants for a single vacant notarial office, the Minister of Justice for the relevant federal state will decide according to the merit principle.

Prospective single profession Notaries must pass the Second State Examination with particularly good grades in order to be admitted to the three years of preparatory training as a trainee Notary, during which they have to prove their practical suitability for the profession.

Prospective Advocate Notaries must have practised at the bar for five years successfully and without any complaints. During this time they have to undergo continuing education by acting as locum Notaries and attending courses in order to acquire the professional knowledge especially relevant for work as a Notary. Their marks in the Second State Examination are also taken into consideration when they are appointed.

State-employed Notaries are selected in accordance with the principles applying to civil servants.

Further detailed information for the entrance conditions for notaries are given in: *Bundesnotarkammer 2002, Der Zugang zum Anwaltsnotariat*, Köln (available via the secretariat of the *Bundesnotarkammer*).

## **Conduct Regulation**

### ***Prices and Fees***

Notarial tariffs are regulated by law. The fees are determined solely on the basis of the importance and value of the business transaction and not by the amount of the notary's work input necessary. There is a single federal system of costs, related to the kind of business transaction. Actual fees are calculated from the corresponding tariff schedule. The fee for certifying a document takes into account the notary's advice, production of the document, and the act of certification as such.

Further detailed information: *Gesetz über die Kosten in Angelegenheiten der freiwilligen Gerichtsbarkeit (Kostenordnung) in der Fassung vom 26. Juli 1957* (BGBl. I S. 960), last change by the law of July 23, 2002 (BGBl. I S. 2850).

### ***Advertising***

The law on notaries - §29 BNotO (April 2002) - forbids any commercial undertakings, especially advertising that contradicts the notary's public office status.

Advertising is under discussion for almost all liberal professions. Advertising (so called information advertising) is discussed with respect to notaries by the following foci:

- Internet presentation
- Headlines according to catch-up advertising (*„Blickfangwerbung“*)
- Tendency: Development and care of office (*„Kanzlei“*)-images will be allowed, if the professional background is visible
- No self-evaluation
- There are acceptance problems with regard to the new European § 2 UWG (Comparable Advertising)

### **Forms of Business**

As mentioned before, single profession Notaries practise exclusively as Notaries, Advocate Notaries exercise the profession of a Notary alongside the profession of an Advocate. Both of them are still self-employed, and therefore practise independently and at their own risk. State-employed Notaries are paid by the state. The type of Notary varies from federal state to federal state.

The single profession Notary is preferred by Bavaria, Brandenburg, Hamburg, Mecklenburg-Western Pomerania, Rhineland-Palatinate, Saarland, Saxony, Saxony-Anhalt, Thuringia and the Rhine territories of North-Rhine/Westphalia. Overall there are 1700 single profession Notaries.

Around 9,000 Advocate Notaries practise in Berlin, Bremen, Hessen, Lower Saxony, Schleswig-Holstein and the Westphalian territories of North-Rhine/Westphalia.

State-employed Notaries - around 630 - are found in Baden-Württemberg, in the district of the Higher Regional Court of Stuttgart all three types of Notaries co-exist, and in the district of the Higher Regional Court of Karlsruhe judges act as Notaries.

Forms of business is described in §20 pp BNotO with its areas

- Recording (*Beurkundungen und Beglaubigungen* (§20 BNotO))
- Other legal forms (*Sonstige Bescheinigungen* (§21 BNotO))
- Taking oaths (*Abnahme von Eiden; Aufnahme eidesstattlicher Versicherungen* (§22 BNotO))
- Keeping of values (*Aufbewahrung und Ablieferung von Wertgegenständen* (§23 BNotO))
- Care and representation (*Betreuung und Vertretung der Beteiligten* (§24 BNotO))

### **Inter-professional Co-operation**

Though in many liberal professions the question of co-operation among professions is discussed, there is no co-operation allowed by the BNotO. I.e.: single profession Notaries practise exclusively as Notaries, Advocate Notaries exercise the profession of a Notary alongside the profession of an Advocate. Both of them are still self-employed, and therefore practise independently and at their own risk. State-employed Notaries are paid by the state.

### **Location and Diversification**

Though the location is under discussion in the legal services in general, there is still a strict regulation concerning the location of a Notary.

A certain location (*Amtssitz*) is assigned for the Notary (§10 BNotO).

The authority area (*Amtsbereich*) is the area of the respective court (*Amtsgericht*).

The *Amtsbezirk* of a Notary §11 BNotO is the *Oberlandesgerichtsbezirk* of the *Amtssitz*.

According to §11 BNotO it is allowed to support a foreign notary.

### **Continuing Education**

The Chamber of Notaries provides guidelines for the continuing education (§ 67 BNotO, *Absatz 2, 10*) notaries have to follow (§14 BNotO General Occupational Duties).

### **Specialisation in the Profession**

According to the BNotO no specialisation is allowed. Thus, the entire tasks of a Notary as described above have to be fulfilled.

There is a compulsory indemnity insurance (§19 BNotO *Berufshaftpflichtversicherung*) via the state specific justice administration.

### **Actual challenges and recent changes in regulations**

Since the particular situation of notaries within the field of liberal professions is strongly regulated, and changes in the tasks of notaries only can be made by law, there are little changes with respect to the entrance conditions and the notary tasks to be expected.

Though recent changes in different laws (*Verfahrensrecht, Bürgerliches Recht, Handels- und Gesellschaftsrecht und Steuerrecht*) will affect notaries in different ways, however, not changing their already defined tasks and dues (see internet page of BRAK: *Gesetzgebungsübersicht*). According to their occupational law (BNotO) only the conversion from DM to EURO and the novelation 1998 with a systematic new ordering with regulations of a computer assisted accounting or new regulation of the storage of documents has to be mentioned.

## Economic Characteristics (Lawyers and Notaries)

### Germany – Structure and dynamics (NACE 7411)

*Enterprises, Turnover, Employment*<sup>17</sup>: The only data available for Germany at the 4-digit level are those recently made available by EUROSTAT for the year 2000.

**Table 7-17 Firms, Turnover and Employment; Germany 7411**

Year	Number of Firms	Turnover in Mio. EUR	Employment	No. of Professionals
2000	31 195	11 863	200 461	105 724

Source: EUROSTAT, IHS

The key indicators are thus also restricted to the year 2000:

**Table 7-18 Key Statistics, Legal Services: Germany 7411**

Year	Turnover per Firm	Employment per 1000 firms	Turnover per person employed	Employment per Mio. of Pop	Firms per Mio. of Population
	1000 EURO		1000 EURO		
2000	380	6 426	59	2 440	380

Source: EUROSTAT, IHS

*Number of enterprises*: In 2000 there are 31,195 enterprises in the legal services (NACE classification 7411). Dominant are the 22,922 single enterprises (*Einzelunternehmen*) (73.5%) followed by 8,152 personal associations (*Personengesellschaften*) (26.1%), 83 capital associations (0.3%) and 37 other legal forms (0.1%).

*Active persons (as of September 30, 2000)*: Altogether there are 200,461 persons active in the legal services with 151,532 wage and salary earners (76% of all active persons).

*Expenditures*: Total expenditures are 6,162,876 EUR which are 51.4% of total turnover. Among the expenditures personal expenditures are dominant with 3,283,472 EUR, i.e. 53.3% of all expenditures. 2,879,404 EUR are material expenditures, i.e. 46.7% of all expenditures. Among the material expenditures let and lease is the main expenditure block with 849,112 EUR (74.1% of material expenditures).

*Wages and salaries*: 15,532 persons are wage and salary receivers in the legal services. The total personal expenditures are 3,283 Bill. EUR (3,283,472,000 EUR). Among these expenditures wage and salaries count for 2.712 Bill. EUR, i.e. 82,6% of total personal

<sup>17</sup> EUROSTAT

expenditures. Social expenditures are 571,430,000 EUR, i.e. 17.4% of total personal expenditures.

### Lawyers

*Members of the profession:* Within the re-united Germany in the last decade the number of lawyers increased continuously. From 1990 with 56,638 lawyers to 2002 with 116,305 this is more than a doubling.

It is to be noted that the Federal Chamber of Lawyers includes advocate notaries in their statistics of total number of lawyers. Remarkably there is a pronounced decrease in the relative proportion of advocate notaries (but still an increase in absolute numbers) over the years: the advocate notaries quota in 1980 of 18.4% decreased to 7.5% in 2002. Note, that there is no access to an advocate notary licence in the five new Federal states.

**Table 7-19 Quantitative development of lawyers 1980 to 2002 in Germany**

Year*	Lawyers (1)	Among them Advocate Notaries (2)	Lawyers without Advocate Notaries (1)-(2)	Advocate Notaries %
1980	36 077	6 633	29 444	18.4
1985	46 933	7 174	39 759	15.3
1990	56 638	7 877	48 761	13.9
1991	59 446	8 180	51 266	13.8
1992	64 311	8 657	55 654	13.5
1993	67 120	8 616	58 504	12.8
1994	70 438	8 650	61 788	12.3
1995	74 291	8 715	65 576	11.7
1996	78 456	8 857	69 599	11.3
1997	85 105	9 031	76 074	10.6
1998	91 516	9 045	82 471	9.9
1999	97 791	8 925	88 866	9.1
2000	104 067	8 838	95 229	8.5
2001	110 367	8 897	101 470	8.1
2002	116 305	8 765	107 540	7.5

\* per 1.1. of each year, since 1992 with the new five Federal states

Source: Federal Chamber of Lawyers (Bundesrechtsanwaltskammer, BRAK) 1.1.2002

The *Bundesnotarkammer* reported a total membership of 10,562 in 2001, up just slightly from 10,343 in 1995, having been 8,890 in 1990, (IHS Questionnaire). The *Deutscher Anwaltverein* reported a membership of 55,000 in 2001, up from 33,500 in 1990 (IHS Questionnaire).

*Women in the profession:* Women increasingly participate in the labour market; the general female labour force participation rate increases from 31.3% in 1950 via 39.2% in 1990 (West

Germany) to now 44% in 2001 (West and East Germany). In the former DDR (East Germany) the female labour participation rate was always higher from 52.5% in 1950 to 78% in 1990. The gap between West and East Germany is diminishing: the female labour force participation rate in East Germany now is 45.5% in 2001, in West Germany about 43.6% in 2001. All over Germany the general female participation rate now is 44% (2001).

The importance of female lawyers increased within the last years by the absolute numbers as well as in its relative portion to all lawyers. As in the last years the female lawyer quota increased more than proportionally compared to the overall lawyer's growth rate. Per 1.1.2002 there are 31.482 female lawyers with a female lawyer quota of about 27%<sup>18</sup>. An additional 358 female lawyers were licensed compared to 2001, the year before. That is a growth rate of 12.7% compared to 5.4% for all lawyers. The Federal Chamber of Lawyers (*Bundesrechtsanwaltskammer*, BRAK) expects a further increase because the number of female law students is still increasing.

*Age structure:* The average starting age when for lawyers is about 30 years. The profession's exit age is about 70 years (*Rechtsanwaltskammer Koblenz* 1992). The average age of active lawyers was about 44 years in the eighties with an increase within the last 30 years (Braun 1986).

*Economic Situation:* The following economic indicators are based on the Cost Structure Statistic for lawyers of the Federal Statistical Office and on the Statistical Information System for Lawyers STAR 2001 of Institute for Liberal Professions (IFB, Nürnberg). Further information for the entire legal services is given in the notary chapter based on the Service Statistics of the Federal Statistical Office.

*In the following two tables:* the personal yearly charge (fee) turnovers (without sales tax) of lawyers in self-employed activity are specified for the 1990s. In some Federal States (*Bundesländer*) there are no advocate notaries but only single notaries; i.e. a lawyer can not be a lawyer and a notary simultaneously. The numbers refer exclusively to lawyer activities without being a notary. Other income figures like from a syndic activity are not regarded.

We inspect two groups: on the one hand lawyers exclusively active in an own office, and on the other hand exclusively self-employed with at least 40 working hours a week (so called full time lawyers).

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<sup>18</sup> Note, the BRAK lawyers data here encompasses advocate notaries.

**Table 7-20 Personal yearly fee turnover of lawyers exclusively active in own offices (without advocate notaries) in West and East Germany 1993 to 1999**

Personal Yearly Fee Turnover of Lawyers Exclusively Active in Own Offices						
Year	Lawyers in single offices active		Lawyers in local co-partnership active		Lawyers in regional co-partnership active	
	West in DM	East in DM	West in DM	East in DM	West in DM	East in DM
1993	212 000	175 000	291 000	219 000	800 000	-
1994	236 000	216 000	314 000	226 000	762 000	-
1995	251 000	204 000	322 000	257 000	1 069 000	-
1996	232 000	254 000	331 000	263 000	630 000	435 000
1997	241 000	233 000	344 000	274 000	519 000	394 000
1998	210 000	220 000	333 000	256 000	654 000	365 000
1999	218 000	216 000	329 000	215 000	549 000	298 000

Source: Statistisches Berichtssystem für Rechtsanwälte STAR 2001, Schmucker 2002

The personal yearly fee turnover of West German lawyers in own offices decreased till 1998 with a recent slight increase to 218,000 DM in 1999. Whereas in East Germany the decline is continuing: in 1999 they gained on average 216,000 DM, i.e. 1.8% less than the year before. Though East German lawyers turnover is lower now than their West German's colleagues the discrepancy is only marginal now.

The average turnover in local co-partnerships (*lokale Sozietäten*) in the last years is more than a third higher than in a single office situation. There is a recent decrease in both parts of Germany which is remarkably higher in East Germany with -16.1% than in West Germany - 1.3%.

The highest reduction in turnover recently has occurred in regional co-partnerships (*überörtliche Sozietäten*) 1998 to 1999: West Germany by 16.1% and East Germany by 18.4%. Here the West East differences are most distinguished with 549,000 DM in 1999 for West Germany and 298,000 DM for East Germany in 1999.

The full time lawyers show a similar turnover picture compared to the situation of lawyers exclusively with an own office (see table).



**Table 7-21 Personal yearly charge turnover of full time lawyers (without advocate notaries) in West and East Germany 1993 to 1999**

Year	Personal Yearly Charge Turnover of Full Time Lawyers					
	Lawyers in single offices active		Lawyers in local co-partnership active		Lawyers in regional co-partnership active	
	West in DM	East in DM	West in DM	East in DM	West in DM	East in DM
1993	246 000	179 000	293 000	219 000	800 000	-
1994	265 000	217 000	326 000	226 000	931 000	-
1995	289 000	209 000	325 000	262 000	867 000	-
1996	266 000	268 000	346 000	267 000	668 000	465 000
1997	280 000	243 000	355 000	274 000	485 000	394 000
1998	254 000	231 000	348 000	260 000	654 000	376 000
1999	267 000	227 000	342 000	218 000	568 000	308 000

Source: Statistisches Berichtssystem für Rechtsanwälte STAR 2001, Schmucker 2002

Again, the turnovers in East Germany are lower than in West Germany with a larger recent difference between West and East Germany compared to the own office lawyers.

In 1999 finally this gap was -15% for lawyers in single offices, 27.3% for lawyers in local co-partnerships and even 45.8% in regional co-partnerships.

*Fee revenue:* Besides the personal fee revenue the personal turnover of lawyers is of interest. The following Tables show the development in the 1990s.

**Table 7-22 Personal yearly turnover of lawyers exclusively active in own offices (without advocate notaries) in West and East Germany 1993 to 1999**

Year	Personal Yearly Turnover of Lawyers exclusively active in own offices					
	in single offices active		in local co-partnership active		in regional co-partnership active	
	West in DM	East in DM	West in DM	East in DM	West in DM	East in DM
1993	92 000	71 000	151 000	99 000	351 000	-
1994	92 000	73 000	166 000	112 000	338 000	-
1995	107 000	84 000	161 000	108 000	306 000	-
1996	94 000	93 000	162 000	115 000	249 000	164 000
1997	94 000	84 000	171 000	116 000	243 000	168 000
1998	84 000	84 000	161 000	124 000	273 000	148 000
1999	83 000	78 000	159 000	92 000	279 000	127 000

Source: Statistisches Berichtssystem für Rechtsanwälte STAR 2001, Schmucker 2002

The general picture: after a period of increasing turnovers in the early 1990s, from 1997 onwards the personal yearly turnover decreased regardless whether there is a single office, local or regional co-partnership activity. There is one exception: the growing regional co-partnership personal yearly turnover in West Germany, which showed a slight increase from 1998 to 1999 by 9.9% to 279,000 DM.

With regard to full time lawyers, the general picture is one of increased turnovers in the early 1990s but decreasing turnovers from 1997 onwards (see table).

**Table 7-23 Personal yearly turnover of full time lawyers (without advocate notaries) in West and East Germany 1993 to 1999**

Year	Personal Yearly Turnover of Full Time Lawyers					
	Lawyers in single offices active		Lawyers in local co-partnership active		Lawyers in regional co-partnership active	
	West in DM	East in DM	West in DM	East in DM	West in DM	East in DM
1993	104 000	73 000	158 000	101 000	342 000	-
1994	104 000	76 000	164 000	111 000	323 000	-
1995	123 000	86 000	162 000	110 000	327 000	-
1996	107 000	99 000	168 000	120 000	262 000	172 000
1997	108 000	87 000	175 000	116 000	240 000	168 000
1998	101 000	89 000	169 000	126 000	273 000	151 000
1999	101 000	83 000	168 000	93 000	294 000	133 000

Source: Statistisches Berichtssystem für Rechtsanwälte STAR 2001, Schmucker 2002

However, the average personal yearly turnover of full time lawyers in all of the different partnerships is higher than for those lawyers who are exclusively active in an own office.

The gap between West and East Germany is evident: in 1999 for the single office situation – 17.9%, for local co-partnerships – 45.6% and for regional co-partnerships even – 54.8% compared to West Germany.

To summarize: the partnership situation results in quite different personal turnovers (charge turnovers or just turnovers) with higher turnovers in more widespread activities. Simultaneously, the gap between the turnover situation between West and East Germany is increasing in more widespread activities. The characteristic picture for all respective turnovers over the 1990s: after a period of growing turnovers from 1997 on turnovers are decreasing.

The above figures may be compared with information from BRAK regarding the breakdown of turnover for 1999.<sup>19</sup> For the three categories of lawyers - in single offices (55% of lawyers), local co-partnerships (35% of lawyers), and regional co-partnerships (10% of lawyers) - the average personal turnover was 76,694 Euro (150,000 DM), 146,229 Euro (286,000 DM) and 214,743 Euro (420,000 DM) respectively. Total costs amounted to 52%, 57% and 51% of total turnover, of which the costs of personnel accounted for approximately 47%, 49% and 54% of total costs, respectively. The average surplus before tax in 1999 was thus 29,655 Euro (58,000 DM), 63,400 Euro (124,000 DM) and 106,349 Euro (208,000 DM) for these three groups of lawyers respectively, while the 1999 after tax surplus amounted to

<sup>19</sup> Accompanying information to IHS Questionnaire.

22,673 Euro (44.344 DM), 41,504 Euro (81,175 DM), and 61,698 Euro (120,671 DM) on average, respectively.

*Function as instructors:* For the analysis of the importance of lawyers as instructors there are data available from 1990 to 2000 (see table).

In 2000 the number of apprentices was 16,561. The new regulations for qualifying as a lawyer assistant (*Rechtsanwaltsgehilfe/in*) started 1995 with a crossover from two years to 1997. Over the 1990s decade the number all of the different legal apprentices increased by 12.4%.

Relatively constant is the female apprentice quota, which remarkably is about 97% from 1980 on to 2000. In West Germany legal advising professions together instructed between 23.000 in 1980 to 27,000 persons in 2000.

**Table 7-24 Apprentice lawyers - Germany, 1990 to 2000**

Germany	1990	1995	2000
<i>Rechtsanwaltsgehilfe/in bzw. Rechtsanwaltsfachangestellte/r</i>	13 400	15 869	16 561
<i>Notargehilfe/in bzw. Notarfachangestellte/r</i>	720	1 513	1 043
<i>Rechtsanwalts- und Notargehilfe/in bzw. Rechtsanwalts- und Notarfachangestellte/r</i>	10 719	11 280	10 424
<i>Rechts- und Patentanwaltsgehilfe/in bzw. Rechts- und Patentanwaltsfachangestellte/r</i>	131	168	282
<b>Total</b>	26 960	30 825	30 310

Source: Statistisches Bundesamt 1991, 1996, 2001: Bildung und Kultur, Reihe 3, Berufliche Bildung

Altogether there are approximately 1,600,000 apprentices (all occupations) in Germany. The percentage of legal apprentices in this total is about 2%.. Advocates instruct about 21% of all apprentices instructed by liberal professions.

*Students:* Information about law students as beginners and about passed examinations (first and second legal exams) from 1959 to 2001 is shown in the table below.

As the table shows there are distinct fluctuations, including, of course, a specific increase since the re-unification of Germany in 1990. A peak of law studies beginners was reached in 1995. Since then a slight decrease to more than 18,000 beginners in 2001 can be observed. Note that the average study duration is around 10 to 11 semesters. Thus, roughly speaking, the 1995 beginners should have their second examination around 2001. If we compare two figures (20,153 beginners in 1995 and 10,697 in 2001 with passed second examination) we can estimate the drop out quota to be around 50%.

**Table 7-25 Law Students in Germany 1959 to 2001**

Year	Beginners	Passed examinations	
	Law studies First Specialized Semester	First Legal Federal Examination	Second Legal Federal Examination
1959	3 916	3 153	2 308
1960	3 173	3 400	2 173
1965	4 805	2 698	2 919
1970	6 703	3 712	2 758
1975	12 206	4 326	5 353
1980	14 446	5 750	4 123
1985	11 995	6 015	5 265
1990	15 953	8 127	6 853
1995	20 153	11 380	10 653
1996	19 907	12 573	10 689
1997	19 210	12 393	9 761
1998	19 198	12 153	10 397
1999	18 836	12 099	10 710
2000	18 455	11 893	10 366
2001	18 143	11 139	10 697

From 1992 including new Federal States; winter term (Semester)

Source: Statistisches Bundesamt: Fachserie 11, Reihe 4.1. Studenten an Hochschulen

In addition to university studies there are at least two years of being a referent (*Referendar*) for the prospective lawyer. Thus, there are at least 8 years of education and training: so, for example, study beginners in 2001 will enter the labour market around 2009. Even if we account for a constant drop-out quota of 50%, at the end of this decade nine to ten thousand new lawyers will enter the arena. Assuming that over the years there is an approximately constant distribution of 'where to go' among the new 'full jurists' (*Volljuristen* with second legal examination), then: 45% of these graduates will be lawyers, 45% will be in the civil service (with 18% as judges or attorneys) and 10% will be in the economic sector *per se* (Sahner et al. 1989, Hommerich 1988).

### **Notaries**

*Members of the Profession:* The development from 1980 to 2002 of the number of notaries in Germany, is shown in the table below.

The number of single professional notaries (further abbreviated as single notaries) increased from 942 in 1980 to 1,609 in 1994 (Jan. 1 1994). In considering this remarkable increase of about 70% till the mid 1990s one has to take into account the fact that there were 368 'new'

single notaries in 1991 as a result of re-unification (485 in 1992). Since 1994 the number of single notaries in Germany has changed only slightly, a result of the regulations. Now and in the last years the number of single notaries is 1,663 in Germany.

**Table 7-26 Number of notaries in Germany 1980 to 2002**

Year <sup>1</sup>	Total	Advocate Notaries <sup>2</sup>	Single Profession Notary
1980	7 567	6 625	942
1982	7 844	6 881	963
1984	7 968	7 000	968
1985	8 164	7 174	990
1986	8 347	7 345	1 002
1987	8 493	7 490	1 003
1988	8 640	7 639	1 011
1989	8 724	7 710	1 014
1990	8 890	7 877	1 013
1991	9 562	8 180	1 382
1992	10 141	8 657	1 484
1993	10 179	8 616	1 563
1994	10 259	8 650	1 609
1995	10 343	8 715	1 628
1996	10 439	8 857	1 636
1997	10 691	9 031	1 660
1998	10 701	9 045	1 656
1999	10 588	8 925	1 663
2000	10 495	8 838	1 657
2001	10 562	8 897	1 665
2002	10 428	8 765	1 663

<sup>1</sup>From 1992 inclusive the new five Federal states; - no information available.

<sup>2</sup>There is no access to the profession of advocate notaries in the new Federal states.

Source: Bundesrechtsanwaltskammer, Bundesnotarkammer: Notarstatistik (per 01.01. of each year)

The highest number of advocate notaries was reached in 1998 with 9,045 persons. Since then there has been a slight decrease to 8,765 advocate notaries in 2002. Because the number of advocate notaries is dominant within all notaries, the total number of notaries has its peak 1998 too, with a slight decrease to 10,428 notaries in 2001 in Germany.

*Age structure:* There is no individual age information about notaries in Germany available. However, the regional notary chambers estimate a starting age of ca. 35 years. In former times the profession's retirement age was not limited. Now the profession's retirement age is 70 years. The Federal Notary Chamber estimates the average age of leaving the profession at about 67 years. The average age of the active notaries in Germany is between 45 and 55 years.

*Women in the profession:* There is a relatively low percentage of female notaries in the old Federal States (*alte Bundesländer*, former West Germany); the recent female quota is 5.9%

per Jan. 1 2002. In contrast, there is a quite high percentage of female notaries in the new Federal States (*neue Bundesländer*, former GDR, East Germany), about 45.3% per Jan. 1 2002. Altogether in Germany the female notary quota per 1.1.2002 was 18.6%.

*Function as employer:* Statistics about the employment situation of notaries are neither available from the regional chambers, the federal notary chamber nor official statistics. The notary chamber of Koblenz estimates an average number of between five and seven employees in their region. The percentage of women seems to be as high as in ordinary bureau occupations.

*Function as instructors:* Notaries educate and qualify specialised notary's employees (*Notarfachangestellte*). 1995 the qualification changed: until 1997 there was a qualification as a notary assistant (*Notargehilfe*). The qualification period was two and a half years until 1988, since then three years.

Since 1995 the number of apprentices is decreasing continuously. It decreased from 1,582 apprentices in 1995 via 1,321 in 1997 to 1,034 in 2000, where the number of notaries as instructors remains constant that period about 1,663 notaries.

With several types of notaries as single notaries and advocate notaries the final qualification can be notary assistant or lawyer and notary assistant.

**Legal Services, Germany 7411****Table 7-27 Firms per legal form (2000)**

NACE	Branch	total	individual enterprise	Firms		
				business partnership in units	joint-stock company	other forms
74.11	Legal services	31 195	22 922	8 152	83	37

Source: Statistisches Bundesamt

**Table 7-28 Turnover and persons employed (2000)**

NACE	Branch	Total turnover	Total employment in units - point in time (Sept. 30th)		Employees in % of employment
		in 1 000 EUR	total	Employees	
74.11	Legal services	11 982 441	200 461	151 532	76

Source: Statistisches Bundesamt

**Table 7-29 Total expenditure (2000)**

NACE	Branch	Total expenditure	personnel costs	material expenditure	thereof leasing and renting	Expenditure in % of total turnover	Personnel costs in % of total expenditure	Material expenditure in % of total expenditure
74.11	Legal services	6 162 876	3 283 472	2 879 404	849 112	51.4	53.3	46.7

Source: Statistisches Bundesamt

**Table 7-30 Number of employees and personnel costs (2000)**

NACE	Branch	Number of employees (Sept. 30th) in units	total	personnel costs	social costs to employer	social costs to employer
				gross wages and salaries in 1 000 EUR		as % of personnel costs in %
74.11	Legal services	151 532	3 283 472	2 712 042	571 430	17.4

Source: Statistisches Bundesamt

**Table 7-31 Turnover, stocks and material costs (2000)**

NACE	Branch	Total turnover	stocks in 1 000 EUR	
			at the beginning of the year	at the end of the year
74.11	Legal services	11 982 441	378 045	451 126

Source: Statistisches Bundesamt

**Table 7-32 Investment, taxes and subsidies (2000)**

	material expenditure	total investment	all taxes	subsidies
74.11	2 879 404	344 275	94 461	6 923

Source: Statistisches Bundesamt



**Table 7-33 Firms in turnover size classes (2000)**

NACE 74.11	Firms in units	Turnover in 1 000 EUR	Employment - (Sept. 30th)		total expenditure	personnel costs	material expenditure	thereof leasing and renting	total investment	all taxes	subsidies	
			total	number of employees								
total			in units		in 1 000 EUR							
total	31 195	11 982 441	200 461	151 532	6 162 876	3 283 472	2 879 404	849 112	344 275	94 461	6 923	
more than	less than	thereof in turnover size classes										
16 620-	50 000	4 374	144 047	6 745	2 377	237 860	139 780	98 080	48609	6903	2248	389
50 000-	100 000	6 382	462 468	14 365	7 906	221 218	88 876	132 342	44415	36464	8025	982
100 000-	250 000	9 964	1 607 842	39 889	27 312	829 718	421 619	408 099	146746	53919	22613	2168
250 000-	500 000	5 586	1 973 613	42 260	32 546	1 050 639	613 505	437 134	141033	67592	16308	1875
500 000-	1 Mio.	3 016	2 068 980	39 138	31 861	1 099 221	651 698	447 523	131675	59341	15661	660
1 Mio.-	2 Mio.	1 222	1 636 480	28 632	24 845	833 909	458 679	375 230	93448	40502	9008	420
2 Mio.-	5 Mio.	486	1 439 596	14 927	12 177	710 148	343 444	366 704	85408	33837	6469	291
5 Mio.-	10 Mio.	95	659 691	6 362	5 511	373 640	166 270	207 370	33411	15324	4930	35
10 Mio. -	25 Mio.	28	425 221	2 891	2 503	224 636	115 962	108 673	19400	9290	251	1
25 Mio.	and more	41	1 564 504	5 249	4 494	581 887	283 639	298 248	104967	21103	8948	102

Source: Statistisches Bundesamt

Table 7-34 Firms in employment size classes (number of persons employed) (2000)

NACE 74.11	Firms in units	Turnover in 1 000 EUR	Employment - (Sept. 30th)		total expenditure	personnel costs	material expenditure	thereof leasing and renting	total investment	all taxes	subsidies	
			total in units	number of employees								
total	31 195	11 982 441	200 461	151 532	6 162 876	3 283 472	2 879 404	849 112	344 275	94 461	6 923	
more than	less than	thereof in employment size classes										
bis	4	17 467	1 858 198	38 811	21 879	851 378	355 974	495 403	160 387	84 085	34 367	2 561
5-	9	8 262	3 222 067	53 484	39 924	1 494 961	821 016	673 944	240 334	78 317	22 835	2 080
10-	19	4 169	2 978 308	54 626	43 471	1 764 721	1 012 715	752 006	220 255	80 778	18 304	1 628
20-	49	1 105	2 137 208	29 926	25 240	1 017 604	574 223	443 381	113 500	48 335	8 647	626
50-	99	122	708 269	8 156	6 793	414 346	194 922	219 424	44 748	20 567	1 329	26
100-	249	61	498 501	11 029	10 407	300 426	161 658	138 768	33 654	12 982	244	2
250-	499	.	.	.	.	.	.	.	.	.	.	.
500-	999	.	.	.	.	.	.	.	.	.	.	.
1000	and more	.	.	.	.	.	.	.	.	.	.	.

Source: Statistisches Bundesamt

## 7.5. Legal Professions in France: an overview

### Lawyers

The lawyers in France – as in other countries – generally are independent advisers in legal matters and representative of the interests of individual persons, legal entities, and public institutions in and out of court and before authorities.

Following the reform in 1990, the differentiation between “*avocats*” and “*conseil juridiques*” has disappeared. The consequence is that basically there is just the description “*avocat*” in this matter. The title “*avocat*” can just be used by persons if the person meets the professional requirements given by law. The title-protection is coupled with a strict ban from the profession if the requirements for the protection are not fulfilled.

With the registration in the register of lawyers the lawyer becomes a member of a chamber (*Barreau*). The chamber has its own law identity and is situated within each “*tribunal de grande instance*”, i.e. court area. As well as exerting an encompassing control, the chambers attend to the interests of their members. In particular they verify if the requirements for registration are fulfilled and check if the professionals carry out their duty. The chambers are allowed to impose administrative or disciplinary sanctions if they find offences against that. The organisational structure of chambers on a local level (*conseil de l'ordre, le bâtonnier* as well as *l'assemblée générale*) and the election procedure are defined by law not by the chambers themselves.

In addition to the chambers, on a regional level there exists a national association for lawyers (*Conseil national des barreaux*). This association also has its own law identity established by the reform of 1990. Their functions are the representation of all lawyers in public and to harmonise the different regulations for professionalism given by the different chambers. Besides this, the association has the task of standardising vocational education, particularly in the matter of training centres, to improve the co-operation between them and to give regulations concerning job-specialisation of lawyers.

Another institution for lawyers is the national lawyers association (*Association Nationale des Avocats, A.N.A.*). Their main task is the further development of job-related legislation. Moreover there are professional associations e.g. for lawyers specialised in taxation (“*Institut Français Des Avocats Spécialistes Du Droit Fiscal*”). The lawyer voluntarily can be a member of this association.

## **Notaries**

The notary (*notaire*) is a public officer appointed by the *Garde des Sceaux*, Minister of Justice. He has a monopoly on documents that must be authenticated by deed, i.e. wills, marriage, contracts, document dealing with transfer of real property, and conveyancing. Furthermore he is allowed to give advice in these fields. Although he is a public servant the “*notaire*” runs his office on his own economic responsibility as his enterprise.

Notaries are general practitioners of the law and the advice they give, as well as the instruments they draft, concern all legal areas including international and tax law (see [www.notaires.fr](http://www.notaires.fr)). The competence of notaries covers the family, property, real estate, companies in all branches of activity, whether commercial, industrial, rural or a liberal profession, international private law, town planning, consumer law, the law of obligations, obligations in contract, tort and quasi-contract and statutory obligations, tax law, mortgage law and many others.

The primary public tasks of the *chambre de notaires* are to control the professional exertion and to ensure the compliance with professional regulations. Besides they have the task of specifying the professional regulation, which has not to be against the *Règlement du Conseil supérieur du Notariat*.

The present organisation of the profession is based on a plan set out in the order of 2 November 1945 and the decree of 19 December 1945. France's 7,600 notaries operate under the aegis of several structures. 95 *Chambres* operate at the level of the department [French administrative area] (sometimes between departments), 33 Regional Councils operate at regional level, and the Superior Council has authority nationwide (see [www.notaires.fr](http://www.notaires.fr), Jan. 7 2003).

Several other bodies also contribute, each in their own way, to the life and development of the profession: the *Assemblée de Liaison des notaires de France* (Assembly of French notaries); *Association pour le développement du service notarial* (Association for the development of the notarial service) (A.D.S.N.); Centres for research, information and notarial documentation (C.R.I.D.O.N.); training bodies for notaries and their staff; company organisations etc.).

## **Market Entry**

### ***Tasks and exclusive tasks***

#### ***Lawyers***

The advocate (*avocat*) has exclusive rights of audience in all courts of general jurisdiction:

- *Tribunaux de Grande Instance*
- *Cours d'Assises*
- *Cours d'Appel*
- *Tribunaux Administratifs*
- *Cours Administratives d'Appel*

The *avocat* also has the exclusive right to represent a client in the pre-trial stage of a criminal case and may complete acts of procedure on his behalf.

Since 1992 (merger between the professions of *avocat* and *conseils juridiques et fiscaux*), the *avocat* has a monopoly of giving legal advice, though this new legal monopoly contains a long list of exceptions.

#### ***Notaries***

Notaries will typically assist those constructing properties: in the purchase of land suitable for construction, advise on the value of land, provide the appropriate legal form of tenancies and/or deal with mortgage arrangements. He also has some duties in the field of company law (as to declare the subscription of the capital of private companies).

Notarial certificates are directly executable. These functions are different with regard to the different laws: association, real estates, family, donation and heir law:

Association law: notaries are not as important as in other countries, because the foundation of an association does not need a notarial certificate.

Real estate law: This is the most important area for notaries. Each sale needs a notarial certificate. A peculiar feature within the real estate business is that each partner – even the bank - has its own notary.

Family law: Marriage contracts need a notarial certificate.

Donation law: Within the French law system there is not only a "donation" (gift) but also a *contrat de bienfaisance*, a gratuitous contract. Both have to be certified by a notary.

Heir law: Evidently, the notarial testament (last will) needs a notarial certification.

### **Education and Entry to the profession**

#### **Lawyers**

Since 1977, the intending *avocats* must first obtain the university law degree *Maitrise de droits* (Master of Laws) which requires four years of study. The first three years entitle the successful candidate to the degree of *Licence en droit*. The four-year programme for the degree follows the aim of guaranteeing a comprehensive knowledge of French law and procedure.

It includes: Administrative Law, Business Law, Civil Law and Procedure, Company Law, Constitutional Law, Criminal Law and Procedure, EC Law, Economic Sciences, History of Law, Labour Law, Public Finances, Public Freedoms, International Law, Tax Law.

In addition to the *Maitrise* (law degree), the intending *avocat* must obtain the certificate of aptitude for the profession of *avocat* (CAPA). The rules require the candidate for the CAPA to follow a one-year course of study of both theory and practice, after the passing of an examination. The programme consists of practical courses in oral expression, interviewing clients and preparing opinions, drafting of procedural requirements and pleadings, drafting of other legal documents and studying the rules of professional conduct. During the year, the candidate also undertakes periods of training in the office of an *avocat* or other practising lawyer, or accountant, or in legal departments of a commercial company, or court, or with a trade-union, or with a central or local government department in France or abroad.

The entrance examination comprises both written and oral tests. In addition, the certificate for the CAPA is, of course, only granted after a further examination at the conclusion of the course. Once he has obtained his certificate, the intending *avocat* must undertake the period of practical training (stage). Admission to the stage is dependent on evidence of good character; the *stagiaire* must also show that he is going to serve his stage in the office of an *avocat* situated in the area of that particular Bar.

He then takes the oath of admission to the Bar and becomes an *avocat stagiaire* (trainee) under the supervision of the centre of professional training of the regional Court of Appeal. The centre provides the practical course of tuition in the rules and customs of the profession; it arranges for each *stagiaire* to attend court hearings and generally ensures that he receives

an effective training. The period of training of a *stagiaire* is usually for a minimum period of two years, and a number of alternatives are allowed for where the training may take place.

During his training, a *stagiaire* is entitled to do all acts which a full member of the profession can do. He may plead in court or give advice in chambers without restriction, although naturally subject to the supervision of his principal.

Finally, the *stagiaire* receives her/his *certificat de stage* (training certificate) at the completion of his period of practical training, provided the governing body of the centre considers that he has satisfactorily fulfilled the requirements. The certificate is not subject to his passing any additional professional examinations.

Each lawyer has to be registered in the profession's register (*tableau*). The prerequisite is a *certificat de fin de stage*, which is the final exam of the legal studies in France. If a lawyer is coming from another European country, the lawyer can be registered if the foreign certification is comparable.

### **Notaries**

For Notaries entry into the profession can be done by different routes and requires the completion of a professional examination process: university examination *Maitrise en droit*, or a similar valued examination, or, after the practical education the examination as *Certificat d'aptitude aux fonctions de notaire*, or, the examination as *Diplôme supérieur de notariat*. Furthermore it requires a permanent education, appointment and conditions of practise, governing bodies, professional activities, multidisciplinary activities.

The nomination to a lifetime notary by the Ministry of Justice requires in addition one of the following situations: 1. An applicant wants to continue a given notariat (*nomination sur présentation*); 2. A notariat is vacant (*nomination dans un office vacant*); 3. A new notariat has to be opened (*nomination dans un office crée*).

In France entry to the profession is subject to various general conditions set out in a decree of 5 July 1973 (see [www.notaires.fr](http://www.notaires.fr)):

Candidates who already have a Master of Law degree (or a qualification which is recognised as the equivalent) are eligible to take a three-year course leading to the notaries' diploma (Total seven years' study after the baccalauréat (high school certificate)).

Candidates who are working as notaries' clerks (who hold the clerks' first diploma) may be eligible to take the examination leading to the *Certificat d'aptitude aux fonctions de notaire* (Notaries' certificate) provided they have sufficient professional experience.

Candidates who are working as legal professionals either as lawyers in a practice, in the public service or in a company, may become notaries provided they fulfil certain conditions.

The initial training for notaries' clerks is open to candidates holding the *baccalauréat* (high school certificate) or candidates who have completed the first part of a degree course.

## **Conduct Regulation**

### **Prices and Fees**

#### **Lawyers**

Because there is no regulation of honoraria in France, each lawyer is free to negotiate his remuneration. However, he has to take into account the principles of the chamber. In addition, each lawyer has to give account to the question of the president of the chamber.

Fees are generally negotiated with the client in advance. The majority of firms work on an hourly rate basis. Hourly billing rates range from € 140 for junior lawyers to € 360 for senior partners, though in some cases € 420 may be charged on particularly complex issues.

#### **Notaries**

The remuneration of notaries is defined by Art. 44 *Décret* 1973. There are fees and a honorarium. The fees can be divided in "*Émoluments proportionels*" and "*Émoluments fixes*". In principle a notary can ask for a honorarium in addition to the defined fees.

To be noted are (voluntary) public auctions of real estates which is done by the notary chamber of Paris. Fees amount to 2.5% for a value above 45,735 EUR (below that limit: 5%).

### **Advertising**

#### **Lawyers**

It is one of the lawyers' chambers duties to give information about the tasks of the chamber as well as about the services of *avocats*. In contrast to the chambers, direct advertising for a single *avocat* is prohibited. „Necessary advertising“ is allowed but restricted, e.g., to information on opening and removal of an office or company plaque. Information about dominant areas of practice is not allowed to be given about a lawyer, singly; however, this is allowed for the chamber.



Though the French legal profession is governed by a strict code of professional ethics (especially with regard to publicity), law firms are increasingly opening up to marketing.

### **Notaries**

Whereas there is no advertising allowed for single notaries – he only is allowed to a starting announcement in two local newspapers within the first three months after beginning – the chambers are allowed to advertise.

### **Forms of Business, inter-professional co-operation, location and diversification**

#### **Notaries**

There are two traditional forms of a notary association: The "*Société civile de moyens*" which is an office community, and a "*Société civile professionnelle*", which has legal personality. Both forms a private companies. Since 1990 also incorporation in form of a capital company is allowed. However, inter-professional co-operation of any form is forbidden for notaries. There are no geographical restrictions on offering services in France, but it is forbidden to run branch offices.

#### **Lawyers**

Same as notaries lawyers are allowed to run private companies and capital companies. but, as in the case of notaries, inter-professional co-operation of any kind is forbidden. There are no geographical restrictions on offering services and – as to our current knowledge – no restrictions on opening branch-offices.

Continuing Education

#### **Lawyers**

The continuing education centre offers at least one course each year for all lawyers in their region. Up to now there is no compulsory requirement to participate. However, obligatory continuing education of 20 hours/year is under consideration.

#### **Notaries**

According to the questionnaire sent back by the French Notaries an obligation for continuing education exists. No more detailed information has been provided.

### ***Specialisation in the Profession***

For lawyers a list of specialisations is announced by the Ministry of Justice based on the proposal of the *Conseil national des barreaux*. In the 1990s 15 different specialized lawyer labels existed. A prerequisite is a four year practice within the office of an appropriate colleague, or within an enterprise or University institution with a respective specialized alignment. There is a special examination at the end of that time. If the examination is successful, the specialisation is marked in the professional register.

For notaries no specific models of specialisation exist.

### ***Compulsory Indemnity Insurance***

Both for notaries and for lawyers, an obligation for professional indemnity insurance exists. The minimum insurance sum for lawyers is 300.000 EUR/year.

Concerning notaries, further to the general principles of French law, each professional is responsible to his clients for all loss resulting from any fault he commits in the course of his professional duties (see also in the following [www.notaires.fr](http://www.notaires.fr)). If the notary's obligations were limited to this one principle, they would be the same as those incumbent on all citizens. But apart from the fact that the courts apply the law of liability with greater severity when a professional person is liable, the notary has two other obligations: first of all he must insure the financial consequences of his business activity with a reputable insurance company; second, he is also responsible, along with all the other members of the profession, for all clients.

While the obligation to have insurance for civil liability is not unusual in itself as other professions of all kinds are in a similar position, the solidarity rule which exists in the profession is specific to notaries, which makes it unique.

In order to cover all the risks which may arise from notarial practice, the profession has set up: regional guarantee funds, financed by contributions from notaries operating in the region concerned; a central guarantee fund, financed by contributions from all French notaries.

## Economic Characteristics

### France – Structure and dynamics (NACE 7411)

*Enterprises, Turnover, Employment:*<sup>20</sup>: Note - In discussing the turnover of firms it is to be noted that only enterprises above 76.000 EUR turnover per year are incorporated in the French national statistics (INSEE), for which data on average turnover are available. Furthermore, statistics on employment include only units with 1 or more employees, so that single-person self-employed enterprises are left out.

For that reason the tables below contain 1994 data from Eurostat, and 2000 figures based on extrapolation on the basis of growth rates from the INSEE statistics.

**Table 7-35 Firms, Turnover and Employment; France 7411**

	Number of Firms	Turnover in Mio. EUR	Employment	No. of Professionals
<b>1994</b>	24 776	9 585	132 884	
<b>2000*</b>	30 340	13 352	146 018	
<b>2001</b>				39 940

\* extrapolated value based on INSEE definitions (except No. of Professionals)

Source: EUROSTAT, INSEE, IHS

**Table 7-36 Key Statistics, Legal Services: France 7411**

	Turnover per Firm	Employment per 1000 firms	Turnover per person employed	Employment per Mio. of Pop	Firms per Mio. of Population
	1000 EURO		1000 EURO		
<b>1994</b>	387	5 363	72	2 300	429
<b>2000*</b>	440	4 813	91	2 465	512

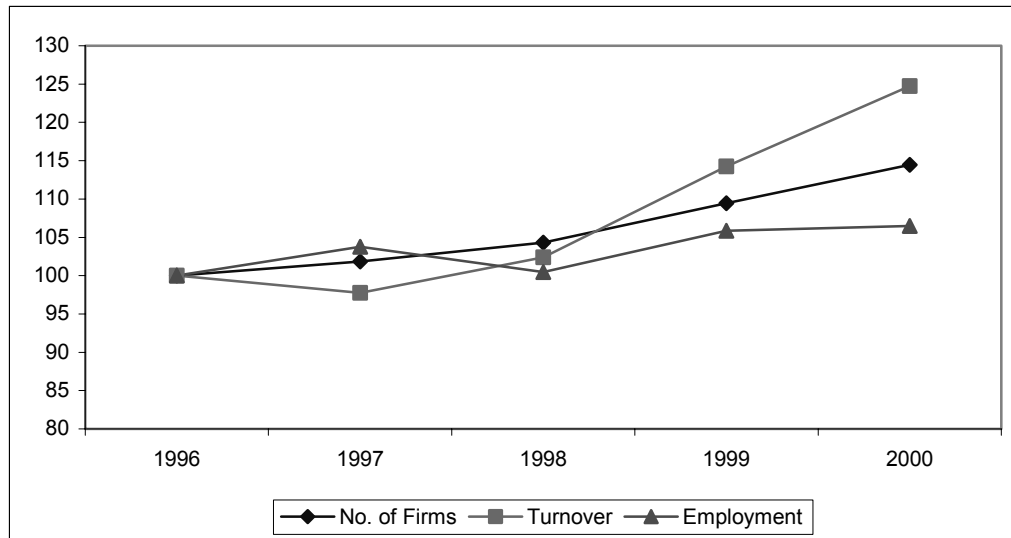
\* extrapolated value based on INSEE definitions (except No. of Professionals)

Source:EUROSTAT, IHS

The differential rates of growth in enterprises, turnover, and employment are illustrated in the chart, with the 1996 values indexed at 100.

<sup>20</sup> EUROSTAT, SIRENE (Système informatique pour le répertoire des entreprises et des établissements - Computer system for the companies and establishments directory) (INSEE) 2002

**Chart 7-14 Relative Growth Rates\*, France 7411**



Source: INSEE, \*based on INSEE definitions

The following further analysis is based on the data obtained from INSEE.

The quantitative development of enterprises in legal services in France from 1996 to 2001 is shown in the table.

**Table 7-37 Development of legal services enterprises in France 1996 to 2001**

Year	Legal active at 31/12 Enterprise demography			
	Sum	Individual entrepreneur	Company	Other
1996	34 855	26 642	1 589	6 624
1997	35 495	27 086	1 619	6 790
1998	36 358	27 823	1 625	6 910
1999	38 151	29 408	1 643	7 100
2000	39 895	30 979	1 677	7 239
2001	41 989	32 812	1 767	7 410

Source: SIRENE (INSEE) (2002)

From the mid 1990s to 2001 there was a growth rate for all legal service units in France of 20.5%, from 3,855 in 1996 to 41,989 in 2001. The dominant group is individual entrepreneurs which count for 76.4% of all units in 1996 and 78.1% in 2001. Their growth rate is 23.2%. Thus, compared to the overall growth rate this is more than proportional and the development of companies and other units is correspondingly less than proportional.

*Size of enterprises:* The number of enterprises by numbers of employee classes in France from 1996 to 2001 is shown in the table.

**Table 7-38 Number of legal services' enterprises in employee classes in France 1996 to 2001**

Year	Number of enterprises active at 31/12						
	0-5	Jun.19	20-49	50-249	250-499	500-1999	>=2000
1996	29 490	4 863	455	42	4	1	0
1997	29 936	5 032	477	44	5	1	0
1998	30 739	5 090	478	44	6	1	0
1999	32 514	5 110	473	45	7	1	1
2000	34 167	5 152	517	51	6	1	1
2001	36 164	5 180	578	57	8	1	1

Source: SIRENE (INSEE) (2002)

Small enterprises are still dominant. Typically there are small legal services enterprises in the 1990s and at the beginning of this century with a growth rate of 22.6%. However, larger enterprises, though relative small in their absolute number, show higher growth rates (27% in the 20-49 employee category, 36% in the 50-249 category). Thus, larger legal services enterprises are to be expected in the next years.

**Table 7-39 The average turnover in legal services' enterprises in employee classes in France 1996 to 2000**

Year	Average turnover					
	Legal active	0-9 employees	10-19 employees	20-49 employees	50-249 employees	>=250 employees
	EUR	EUR	EUR	EUR	EUR	EUR
1996	546 000	304 000	1 227 000	2 584 000	6 475 000	47 695 000
1997	524 000	309 000	1 120 000	2 689 000	6 844 000	58 605 000
1998	536 000	302 000	1 119 000	2 670 000	6 735 000	53 874 000
1999	570 000	311 000	1 174 000	2 878 000	6 390 000	55 400 000
2000	595 000	313 000	na	na	na	na

Threshold: Turnover > 76.000 EUR ; na: not available

Source: Système unifié de statistiques d'entreprises (SUSE-INSEE)

*Average Turnover:* For all legal activities in 2000 there was an average turnover of 595,000 EUR and since the mid 1990s the growth rate was about 9%. There was a particularly high rate of growth of firms with more than 250 employees (16%). Among these largest enterprises (>=250 employees) the highest turnover within the last years was in 1997 and amounted to 58,605,000 EUR. Turnover per employee would appear to increase with size of firm (but exact calculation is uncertain from these data).

*Employment structure by gender:* The legal services employment structure measured as salary receivers by gender in France from 1996 to 2000 is shown in the table.

Altogether in 2000 there were 92,068 salary receivers with a high female proportion of 81.6%. The employment grew by 6.4% with 86,461 salary receivers in 1996. The gender structure has remained constant over recent years in the French legal services employment.

**Table 7-40 Employment structure in legal services' enterprises by gender in France from 1996 to 2000**

Year	Total employees at 31/12		
	All	Men	Women
1996	86 461	16 310	70 151
1997	89 715	16 682	73 033
1998	86 873	16 257	70 616
1999	91 523	16 986	74 537
2000	92 068	16 971	75 097

Threshold: Enterprises with 1 or more employees

Source: Déclaration annuelle de données sociales (données d'entreprises) (DADS-INSEE)

It should be noted that the above data applies to firms with more than 1 employee, hence there is a discrepancy with Eurostat data.

The following information about lawyers and notaries was received via IHS questionnaires.

*Professionals:* The membership of the *Conseil national des barreaux* rose by 66% from approx. 23,000 in 1990 to 38,140 in 2001.<sup>21</sup> Of this number, registered professionals (*Inscrits au tableau*) account for 32,076 in 2001, 6,064 being *stagiaires*. The proportion of self employed *avocats* was 92.5% in 2001. Just under half (475) of 1,034 *avocats* practising abroad in 2001 were in EU member states.

The membership of the *Conseil Supérieur du Notariat* rose under 5% from approx. 7,500 in 1990 to 7,864 in 2001.<sup>22</sup> Of this number, 1,274 were *notaires assistants*. The number of new entrants has varied around the 300 mark per year since 1990, whereas the number of new *stagiaires* entrants has increased from around 400 in 1990 to around 700 in 2001. Total employment (professionals and non-professionals) rose from 47,263 in 1990 to 50,052 in 2001.

*Firms:* There were 19,020 *avocats* firms in 2001 (IHS Questionnaire)<sup>23</sup> 21.5% of which had incorporated status. Over 96.5% of *avocats* firms had between 3 and 10 non-professional employees in 2001, just under 3% had 10-50 employees, and 0.5% were very large firms with over 50 employees.

<sup>21</sup> IHS Questionnaire.

<sup>22</sup> IHS Questionnaire.

<sup>23</sup> C.f. the higher figures above for all legal firms (INSEE).

There has been a reduction in the total number of notaries' firms, from 4,865 in 1990 to 4,540 in 2001, accompanied by a decline in the percentage of firms with incorporated status from 57.6% to 43.9%. A trend to larger firms on average is noticeable – only 52% of notary firms were single professionals in 2001, down from 62% in 1990. Likewise the proportion of firms with 3-5 professionals rose over the same period from 11.5% to 17%. Slightly more notaries' firms (21.8%) have branch offices (i.e. 2 or more offices) in 2001, than the corresponding figure in 1990 (19%).

*Turnover.* The *Conseil national des barreaux* reports a branch turnover for legal services in 2001 of 12.4 bill. FRF (1,890 million Euro), which is considerably less than the estimates we have made from the INSEE data (see above<sup>24</sup>). The *Conseil national* reports the remuneration of professionals in 2001 in the 'median' firm as being 52,577 Euro.

The *Conseil Supérieur du Notariat* reports a branch turnover of 4.324 bill. Euro in 2001, up in nominal terms by a third since 1990. Despite the trend towards larger notary firms noted above, the data from the *Conseil Supérieur* shows a de-concentration process between 1990 and 1995: the market share of the 5 largest firms was 3% and 1.8% respectively; the market share of the 10% largest firms was 40.4% and 33% respectively; and the market share of the 30% largest firms was 65.3% and 61.3% respectively. In 2001 the situation regarding concentration was more or less unchanged from 1995.

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<sup>24</sup> The Eurostat data for turnover in legal services in France was 9.6 bill. Euro/ECU in 1994, so the figure reported seems unreliable.

## 8. Case Studies Accounting

### 8.1 The Accountancy Professions in Italy: an overview

The “*Steuerberater Handbuch Europa*” (“Tax Advisers handbook Europe”), which is edited by the International Bureau of Fiscal Documentation, lists more than 15 different professions that can be found in the Italian accounting-market. But most of these terms for professions or even tasks are not “official” names for different professional groups.

There exist two professions that are licensed by public law: The *Dottori Commercialisti* (Certified Public Accountants) and the *Ragionieri e Periti Commerciali* (Accountants and Trade Experts). Both groups show a long professional tradition, but both have undergone changes at the beginning of the 1990s, concerning their respective educational market entry systems. These changes were primarily induced by the adoption of EU-law on accounting standards.

Both professional groups are – even from an international point of view – rather heavily regulated. This is reflected in a relatively high market-entry-index (3.16) and a very high conduct-index (2.925). Even though other countries in the European Union have stronger market-entry regulation (due to broader exclusive tasks reserved to the profession), conduct regulation in Italy is strongest from an international comparative point of view.

For both professional groups membership in a professional association is compulsory: the *Dottori Commercialisti* with the relevant regional “*Ordini di Dottori Commercialisti*”. The Ministry of Grace and Justice, through the Directorate-General for Civil Affairs and Professions, supervises the practice of the profession. The management of the profession is, on the other hand, entrusted to the local branch of the association, with the same territorial area as the local Courts of Justice. Each Branch is headed by a Council elected by those included in the local rolls. There are currently 124 local Branches. The Branches have wide organizational and disciplinary powers over their members.

A comparable structure of professional organisation is in place for the *Ragionieri e Periti Commerciali*, who are also registered on the regional level. The head organisation of this profession on a national level is the “*Consiglio Nazionale die Ragionieri e Periti Commerciali*”.



## Market Entry

### **Tasks and exclusive tasks provided by Italian Accounting Professions**

In principle Italian accountants provide the same services as their colleagues in other European countries. Traditionally the *Ragionieri* primarily serve the smaller companies or single persons. The *Dottori Commercialisti* are the typical advisers of the medium business sector as well as larger companies. Both professions have the same authorisations in regard to the services they may offer on the market. With three exemptions, all these tasks are not reserved to one or more professions. The first exclusive task provided by *Ragionieri* and *Dottori Commercialisti* is that of statutory audit. Both professions are licensed to be members of boards of auditors and function as auditors in commercial companies and in bodies where auditing is required by law (according to legislative decree n. 88/1992 acknowledging EC directive no. 8). The second is tax representation (in proceedings before the Tax Revenue Commissions) and the certification of tax declarations, whereas tax advice may be offered by any other profession. Apart from this, both professions are also licensed to work as trustees nominated by court, including insolvency trustees (lawyers may also execute this task).

Important other services offered by both professions are not reserved tasks, but may be offered by any profession::

- administration and liquidation of business, estates and individual assets;
- technical expert assessments and consulting;
- administrative inspections and audits;
- company and contractual advice;
- organisation of companies, groups and legal-commercial assistance;
- verification and inquiries regarding the credibility of balance sheets, accounts, book entries and other accountancy documents used by a business;
- settlements and payments of damages.

### **Education and Entry to the profession**

Both forms of accountants are academic professions, applicants for which must have an university degree in a relevant subject and several years of professional experience. After this they are allowed to do the State Exams in accounting.

State exams *Ragionieri e Periti Commerciali* may be taken by those who have an Accounting and Trade Expert Diploma as well as a University degree in: Foreign trade, Economy of co-operative enterprises and non-profit organisations, Economy and Administration of

enterprises, Economy and Management of tourist services, Management of Public Administration, Management of Food Enterprises, Marketing and Corporate Communication, Degree in Business and Economics or in Law. Those that have started practising the profession after the Law dated 12.2.1992, n.183 came into force and before 21.12.1993 are admitted to take the State Exam whether or not they have a University degree or diploma, as long as they have obtained the diploma as Accountant and Trade Expert (art. 6 of Law 12.2.1992, n. 183). It takes a minimum of three years to obtain one of the mentioned university diplomas. A further requirement for being admitted to the exam is the training prescribed by Law 12.2.1992, n. 183. This has to be undergone under the control of a registered member of one of the two professions (*Ragionieri* or *Dottori Commercialisti*). Before 1993, only two years of accounting experience were required (by the ACA). The exams consist of a written and oral part. Only those who pass the written exam may take the second oral exam.

State exams for Certified Public Accountant (*Dottori Commercialisti*) may be taken by those who have a University degree in: Degree in Business and Economics, Degree in Economic and Business Sciences, Degree in Economic, Political and Social Sciences, Degree in Economic-Maritime Sciences, Degree in Corporate Economy and Economic Politics, Degree in Economic and Banking Sciences, Degree in Economic and Social Sciences, Degree in Economic and Social subjects. On the basis of the decision dated 11.5.1990 of the State Council, graduates with a degree in Political Sciences may also be admitted to the State Exam for Certified Public Accountant. It takes a minimum of 4 years to obtain one of these university degrees.

As for the *Ragionieri*, a further requirement for taking the exam is the completion of the training prescribed by Law of 17.02.92, n.206 and by ministerial decree n. 327/95. For this, each trainee is supervised by a practitioner who is considered as trainer and ethically responsible for the training. Every six months the professional who supervises the trainee signs a statement that the trainee has regularly followed the training tasks and assignments. This documentation is sent to the competent local branch. During the training period the training may be suspended for a maximum of 18 months. The trainer – practitioner has to attest the reasons and give his consent.

As for the *Ragionieri*, the exams for the *Dottori Commercialisti* have two parts: a written and an oral. Only those who pass the written exam may take the second step, the oral exam.

Up to 1992/93 applicants to the profession of *Dottori Commercialisti* were not obliged to undertake the above mentioned three years of professional practice: a university degree was required, but no related work experience.

## Conduct Regulation

### *Prices and Fees*

The professional bodies of both professions indicated to us in the respective questionnaires that for the services offered only recommended non-binding reference prices exist. In fact before 2000 the fees of both accounting professions in Italy were “fixed” as a minimum and a maximum price for every service. In these margins the parties were allowed to agree freely on the respective price. Since 2000, for the concrete determination of price one has to take into account the characteristics and value of the service. These regulations are non-binding in nature, because the parties are allowed to agree on a different price. This kind of recommended tariff only applies if there is no agreement and applies to both professions.

In 1997 the *Ragionieri* revised their tariffs. They are basically the same now as for *Dottori Commercialisti*.

In 1998 the Italian Antitrust attacked the two professional bodies for co-ordinating the tariffs, but the decision was reversed on appeal, since the professional bodies have to fix a tariff according to the law. In November 1998 the Italian Antitrust Authority completed an investigation aimed at verifying possible violations of the prohibition on agreements restricting competition by the two professions. The object of the investigation primarily concerned the following practices: a) the active role played by the two bodies in determining professional fees, which – in the opinion of the Authority – went well beyond the advisory function attributed to them under current law; b) the invitation by the *Consiglio Nazionale dei Ragionieri e Periti Commerciali* to its members to apply the fee schedule it had approved before it was authorised by the Ministry of Justice; and c) the joint determination of fees by the two professional bodies in order to align their pricing policies. As regards the role played by the two bodies in determining fees for professional services, the Authority found that both bodies had engaged in the formulation and approval of schedules, not only to update existing price lists but also for the purpose of completely reorganising their form and contents. The Authority concluded that the resolutions adopted by the two bodies regarding the reformulation of the schedules for the various professional services, the invitation by the *Consiglio Nazionale dei Ragionieri e Periti Commerciali* to its members to apply fees in the absence of ministerial approval and the co-ordination practised by the two bodies to harmonise the fees applied by the two professions violated the prohibition of anti-competitive agreements. As mentioned above, the decision was reversed on appeal.

### *Advertising*

Advertising for auditors has long been very rigidly regulated. Nearly all forms of advertising by Italian accountants have been forbidden. But now there is no general prohibition, rather,

the relevant codes provide guidance on forms and means that have to be respected. All in all the respective regulations are somewhat less restrictive than for Italian lawyers.

Concerning form, everything is allowed except billboards, flyers, sending email/post/fax messages indiscriminately, soliciting by direct visits or phone call. Concerning substance, the following is forbidden: name of clients, the tariffs applied, academic or professional titles not linked to the profession. Organisation of and participation in conferences and seminars is allowed, as well as professional publications. Apart from that, a general mailing of technical information may be made to existing clients and to third parties who have explicitly requested it.

### **Forms of Business, Inter-professional Co-operation, Location and Diversification**

According to the questionnaire responses by the *Consiglio Nazionale di Ragionieri e Periti Commercial* and the *Consiglio Nazionale di Dottori Commercialisti*, accountants in Italy currently may not incorporate in the form of a limited liability partnership or a public limited company. Nor may they form a private company. This means that an accountancy firm may not be established in the form of a company of any kind. As a consequence, accountants are only able to work together in partnerships known as the *associazione professionale*, and in consequence the form of the business is that of a sole practitioner.

According to the questionnaire response of the *Consiglio Nazionale di Dottori Commercialisti*, the elimination of the prohibition on partnerships between professionals (in form of a corporation) in principle has been enacted by regulatory reform in 1997. But the law does not yet provide positive rules on what is allowed, so, according to the *Consiglio Nazionale di Dottori Commercialisti* “there still is a blank space to fill through legislation”.

Currently there is no way for accountants in Italy to incorporate with other accountants, nor is it possible to form a company with members of other professions. Apart from this, to the best of our knowledge there are no further specific regulations on inter-professional co-operation. The same applies to the questions of location and diversification: there are no special rules in that respect. So Italian accountants may offer their services all over Italy and open branch offices.

### **Continuing Education**

Continuing education for Italian accountants became mandatory only recently. The obligation for continuing education for both professions starts as from January 2003. Each professional has to comply with a minimum of 30 hours (credits) per year according to specific programs adopted by the national professional bodies, that co-ordinate the local branches' activities.

### **Specialisation in the Profession**

In Italy there are no specific regulations on specialization in the profession of accountants.

### **Compulsory Indemnity Insurance**

According to the questionnaires responses, professional indemnity insurance is not obligatory for *Ragionieri*, nor for *Dottori Commercialisti*.

### **Economic Characteristics**

#### **Italy – Structure and dynamics (NACE 7412)**

*Enterprises, Turnover, Employment*<sup>1</sup>: The nominal turnover of accountancy enterprises in Italy reached a level of nearly 9,500 million Euro in 2000, equivalent to over 0,8% of GDP, which is slightly below the median of the sample of member states surveyed in terms of share of GDP. (c.f. Overview-tables in Chapter 5). Output of the sector rose however at a high yearly average of 10.3% during second half of the 1990's, faster than the growth in GDP (an average of 6.8% p.a. over the same period 1995-2000). This represents a real growth in accountancy services of 7.2%, higher than the growth in employment of 5.1% over the period, 1995-2000, so slight productivity gains have also been made. In fact, the real turnover per employed person rose by 10% over the period.

**Table 8-1 Firms, Turnover and Employment; Italy 7412**

	Number of Firms	Turnover in Mio EUR	Employment	No. of Professionals
<b>1995</b>	68 030	5 805	141 768	
<b>1996</b>	70 677	6 654	144 684	
<b>1997</b>	73 157	7 393	149 021	
<b>1998</b>	72 785	7 954	148 673	
<b>1999</b>	83 205	10 791	167 766	
<b>2000</b>	90 216	9 460	182 211	
<b>2001</b>				88 421

Source: EUROSTAT, IHS

The number of firms increased correspondingly from about 68,000 in 1995 to just over 90,000 in 2000, an average rate of 5.8% p.a. (see Table). The corresponding yearly growth rates over the period 1995-2000 are 10.3% for turnover, and 5.1% for employment.

<sup>1</sup> EUROSTAT; Istituto Nazionale di Statistica (ISTAT)

The higher rate of increase in enterprises relative to employment is indicative of a extremely slight trend towards *less* concentration i.e. relatively more firms with fewer employees: indeed the average firm gave employment to 2.02 persons, down from an average of 2.08 in 1995. The relative number of enterprises is very high, at over 1,560 per million of population, nearly double the median of 795 in our survey, and almost as high as for the special case of Luxembourg, which has a very large banking and financial sector for its size.

The average turnover (1999) per accountancy firm in the Italy of 105,000 Euro is less than the correspondingly figure for legal services (129,000 Euro) but considerably more than the corresponding figure for technical services (81,000 Euro). Growth rates in the second half of the 1990s (a yearly average of 4.2%) have also been lower than for legal services, but higher than those for technical services. The level of business of Italian accountancy enterprises is the lowest of all the 12 member states surveyed here, even when the branch output figures are adjusted for relative price levels and the overall production of the economy.

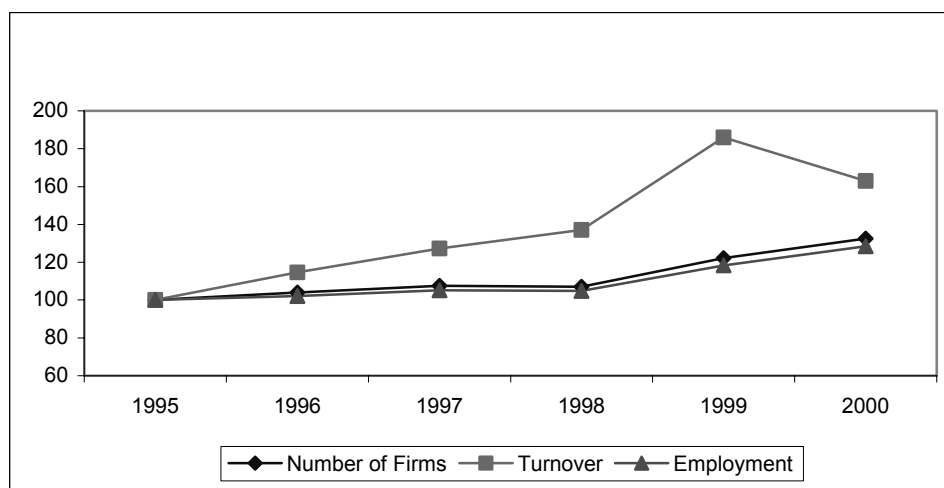
The level of employment, at over 3.2 in 1,000 of the population in 2000 is fairly 'average' by international comparison (just under the median value), but the level of productivity, as measured by a turnover of 52,000 Euro per employed person, is the second lowest in the survey after Spain in absolute terms, and second lowest in relative terms after Luxembourg after adjusting for relative prices and economic output.

**Table 8-2 Key Statistics, Accountancy, Italy 7412**

	Turnover per Firm	Employment per 1000 firms	Turnover per person employed	Employment per Mio. of Pop	Firms per Mio. of Population
	1000 EURO		1000 EURO		
<b>1995</b>	85	2 084	41	2 475	1 188
<b>1996</b>	94	2 047	46	2 524	1 233
<b>1997</b>	101	2 037	50	2 593	1 273
<b>1998</b>	109	2 043	54	2 583	1 264
<b>1999</b>	130	2 016	64	2 912	1 444
<b>2000</b>	105	2 020	52	3 159	1 564

Source: EUROSTAT

The differential rates of growth in enterprises, turnover and employment are illustrated in the chart, with the 1995 values indexed at 100.

**Chart 8-1 Relative Growth Rates, Italy 7412**

Source: EUROSTAT, IHS

*Growth of Sole Proprietors.*<sup>2</sup> The high growth rate of accounting firms in the early part of the 1990s is reflected in a correspondingly yearly increase in employment of over 7%. The growth in the number of self-employed, at over 10%, is especially remarkable, the proportion of self-employed in the accounting workforce rising from approximately 50% to approximately 60%.

**Table 8-3 Self-employment and Employees, Italy**

	1991	in %	1996	in % of Total	% Change p.a. 91-96
<b>Firms</b>	40 007	39.3%	71 003	49.2%	12.2
<b>Self-employed</b>	51 838	50.9%	86 537	59.9%	10.8
<b>Employees</b>	50 083	49.1%	57 863	40.1%	2.9
<b>Total</b>	101 921	100.0%	144 400	100.0%	7.2

Source: Istituto Nazionale di Statistica (ISTAT)

<sup>2</sup> Source: ISTAT: Censimento intermedio industria e servizi. Note: some figures for 1996 differ slightly from previous section; IHS.

That this development was due to an overwhelming increase in sole practitioners is shown in the table below.

**Table 8-4 Legal Form of Companies**

	1991	in %	1996	in %
<b>Sole Practitioners</b>	32 615	81.5%	61 087	86.0%
<b>Partnerships</b>	3 293	8.2%	7 281	10.3%
<b>Private Companies</b>	1 448	3.6%	2 188	3.1%
<b>Co-operatives</b>	291	0.7%	332	0.5%
<b>others</b>	2 360	5.9%	115	0.2%
<b>Total</b>	40 007	100.0%	71 003	100.0%

Source: Istituto Nazionale di Statistica (ISTAT)

This trend was also accompanied by an increase in the percentage of partnerships among firms, but also by a relative decline in joint-stock enterprises. These trends are also reflected in the statistics of single-office versus multi-office firms.

**Table 8-5 Offices**

	1991	in %	1996	in %
<b>one office</b>	38 452	96.1%	70 276	99.0%
<b>more than one office</b>	1 555	3.9%	727	1.0%
<b>Total</b>	40 007	100.0%	71 003	100.0%

Source: Istituto Nazionale di Statistica (ISTAT)

Starting from a very high percentage in 1991 – 96%, in 1996 nearly all firms operated out of one office, a mere 1% having other branch offices.

*Professionals:* Membership of the two key professional bodies increased over the latter half of the 1990s, but the annual rate of increase of 2.6% is well below the rate of increase in the overall number of firms, a clear indication that the trend of the early 90s towards single professional firms continued, even if at a slower rate. While membership is split fairly evenly, the slight numerical superiority of the *Dottori Commercialisti* continued.



**Table 8-6 Membership**

	1995	in %	1996	in %	2001*	in %	% Change p.a. 91-96
<b>ragionieri</b>	35 021	46.3%	36 881	45.8%	39 421	44.6%	2.0
<b>dottori commercialisti</b>	40 600	53.7%	43 678	54.2%	49 000	55.4%	3.2
<b>Total</b>	75 621	100.0%	80 559	100.0%	88 421	100.0%	2.6

Source: consiglio nazionale dottori commercialisti e consiglio nazionale dei ragionieri e periti

\* from IHS Questionnaires

*Consiglio Nazionale dei Dottori Commercialisti*: The number of firms is approximately 4,000 (IHS Questionnaire). Clearly the number total number of firms recorded in the statistics of firms in the NACE 7412 branch cited in the preceding paragraphs includes a large number of tax advisers' firms. Among these firms, 10% have 3-5 qualified professionals, and 5% have 5-30 qualified professionals. Approximately the same proportion of firms have 2 qualified professionals<sup>3</sup> as single office firms (85%), and this 'typical firm' employs 1-2 persons.

The *Consiglio Nazionale* reports that of accountancy and auditing firms whose head office is not in Italy, the highest number are from the USA, followed by UK, then Germany and France.

## Summary

In February 1999, in response to a request from the Ministry of Justice under Article 22 of Law no. 287/1990, the Italian Competition Authority sent the Parliament and the Government a report with its opinion on bill no. 5092 delegating the reorganisation of the professions to the Government. This report dealt not only with accounting professions but also with lawyers, notaries and others.

The Authority reaffirmed that the reserved activities system and the related professional orders should be an exception.

As regards the regulation of the performance of reserved activities, the Competition Authority reaffirmed that it should be designed primarily to correct possible information asymmetries in markets and should avoid introducing unjustified limits to competition. The Authority accordingly expressed a favourable opinion on the publication and dissemination of quality standards for services and codes of conduct, the elimination of the prohibition on advertising professional services and the dissemination of information on their prices, provided such

<sup>3</sup> It appears that 'qualified professionals' includes trainees in the IHS Questionnaire from *Consiglio Nazionale*.

information is gathered ex post by independent observers. On the other hand, it objected to the provision permitting professional orders to adopt non-binding price schedules, albeit only as guidelines, since this was more likely to limit competition among members of the profession than safeguard users. The adoption of binding price schedules that the bill prescribes for obligatory services should be limited to the cases where the prices are the maximum allowed and users are in an especially weak position.

The Authority considered that the contents of the codes of conduct that professional orders are required to prescribe should not cover the economic behaviour of the members of the professions. It also recommended that the legislation governing professional firms should permit a wide range of organizational solutions from which members of the professions would be free to choose. Lastly, the Authority recommended easing the current rigid rules on the incompatibility between professions, which are often unjustified or disproportionate with respect to the objectives they are intended to achieve.

The regulatory system of accountants in Italy in the last ten years has undergone several changes. Some of them led to a higher degree of freedom for professionals. Regulatory changes of this kind primarily occurred concerning prices and fees, forms of advertising and forms of business (the last one also has not really been implemented yet). However, the market for accountants in Italy still is rather heavily regulated and liberalisation reforms in most cases have been opposed by the relevant professions. The regulations that still occur e.g. in respect of advertising and especially in respect of business forms may impede a more dynamic development of the market. It is obvious that they contribute to the perpetuation of a rather small-scale market structure that may be sub-optimal in respect of innovation in the professional field, as scale-effects stay unused, which may lead to only limited product innovation.

## 8.2 Accounting professions in the Netherlands: an overview

The Dutch accountancy profession was officially created when the Netherlands *Instituut van Accountants* (NivA) was founded in 1895.

Two bodies currently represent the accounting profession in the Netherlands: Royal NivRA (*Nederlands Instituut van Registeraccountants*), whose members use the title RA (*Registeraccountants*), and NOvAA (*Nederlandse Orde van Accountants-Administratieconsulenten*), whose members use the title AA (*Accountants-Administratieconsulenten*). Both have the status of public bodies and both are responsible for parts of the qualifications and regulation of the profession. The title of both bodies is covered by law.

The accounting profession in the Netherlands was regulated by law under the “*Registeraccountants*”-Act (*Wet op de Register accountants*) in 1967, which, inter alia, authorised the incorporation of the Royal NivRA. A subsequent law was enacted in 1974, authorising the incorporation of NOvAA.

Although both professions in principle fulfil the same tasks, for a long time there have been some differences between them. The activity field of accountants organised with NivRA traditionally includes the auditing of large enterprises, whereas the AA (members of NOvAA) concentrates on small- and medium-sized firms (SMEs) and apart from auditing do lots of advice work and consultancy in that field. But things have begun to change in recent years. Also 98 percent of statutory audits are still performed by an RA but the role of adviser to small and medium-sized enterprises is getting more important for this profession as well.

Up to August 1993, NivRA members were the only professional accountants who could give an audit opinion on the truth and fairness of financial statements (statutory audit). Since August 1993, NOvAA members also have been authorised, as a result of the incorporation into Dutch law of the 8th Directive. For this the nature of NOvAA has been changed from a private certification authority to a quasi-public licensing professional organisation. AAs who qualified before August 1993 are also entitled to issue audit reports if they have appropriate practical experience and pass an additional examination. Membership in NOvAA is compulsory for *all Accountants-Administratieconsulent*, and is, together with enrolment in the official register of AA's, an essential prerequisite for using the AA title. For the RA a membership in the NivRA is compulsory.

The rigidity of regulations concerning market entry in the Netherlands lies – from an international point of view – in the medium field. Our entry index is 3,08. It is higher than in England & Wales, Sweden or Denmark, but at the same time considerably lower than, for example, in Austria, Germany or Belgium. The entry index and also the conduct index

are of medium level. With a value of 1,425 it is higher than in England & Wales, Ireland, Denmark or Sweden but much lower than in Italy, Austria, Belgium or Germany.

As mentioned above, nowadays for both bodies of accountants membership is compulsory for the respective professionals and only members of one of the both professions are authorised to offer statutory audits. The internal organisation of both professional bodies is rather similar. The highest body in both organisations is the general meeting, held yearly. The general meeting elects the members of the executive board as well as the president. At the same time the general meeting defines rules for the members through decree. The executive board consists of members of the general meeting. They are elected for a period of 4 years and responsible to the general meeting.

## **Market Entry**

### ***Tasks and exclusive tasks provided by accounting professions in the Netherlands***

In the Netherlands statutory auditing is reserved to the two categories of professional public accountants: *Registeraccountants* and *Accountants-Administratieconsulenten*. Apart from this, two other fields of activity appear to be exclusive tasks of the RA and the AA: Audit of mergers and contributions in kind as well as public sector audit. Contrary to this, non-statutory audit, accounting (incl. public-sector accounting and book-keeping), insolvency practise, tax advice and tax representation, management consultancy, investment advice as well as expert witness in accounting may be performed by any profession. These fields of activity are not exclusive tasks reserved to accountants. For the professions of *Administrateur* (bookkeeper), *Belasting-adviseur* (tax consultant) as well as Organisational advisor (management consultant) no legal qualification requirements exist in the Netherlands.

Unfortunately none of the two professional organisations of accountants in the Netherlands returned a completed questionnaire. Therefore we are not able to give any further details.

### ***Education and entrance to the profession***

To qualify as a *Registeraccountant* (NivRA) as a principle requires a university-level education, which can be obtained through various streams:

- VWO (pre-university education) followed by a part-time accountancy course organised by NivRA and the Nijenrode University;

- for business school graduates, an accountancy course run by NivRA/Nijenrode University, or a post-graduate accountancy course at the university, and
- for graduates in economics, a post-graduate accountancy course that can be taken at the University of Amsterdam, Free University Amsterdam, University of Groningen, University of Limburg (Maastricht), Erasmus University (Rotterdam) or Brabant University (Tilburg). It takes four years to become a university graduate in economics, and another three years to do the post-graduate accountancy course.

Most candidates follow the recently revised NivRA/Nijenrode University Accounting and Auditing study programme, leading to the qualification of *doctorandus* and *Registeraccountant*. The course is structured to combine work and study, covering the various levels within the accountancy practice. The entire course takes seven and a half years.

In compliance with the EC 8th Directive, candidates studying to become Registeraccountant must have three years' practical experience, although this can run concurrently with the final phase of the accountancy course run by NivRA/Nijenrode University.

The educational programme required by candidates to become NOvAA members takes 4 years of theoretical training, followed by a period of practical training of 3 years, of which two years under the supervision of an *Accountant-Administratieconsulent*. There are moves to restructure the educational programme, stipulating a three-year full-time training course followed by a further 3 years of part-time theoretical studies. Given its particular exposure vis-à-vis the SME sector, the courses on small- and medium-sized enterprises comprise a major section of the training programme.

For both professions, would-be accountants at the end of their professional education have to take a specific professional entry examination (see Art 71ff of the Register Accountants Act, which can be found in English at <http://www.nivra.nl/>).

## **Conduct Regulation**

### ***Prices and Fees***

Prices and fees for accountants regarding all kinds of services are primarily a matter of free negotiation between the accountant and the client. The relevant rules only say that the price-performance payoff has to be acceptable according to the professional code. In cases of doubt clients can have the fees reviewed by the NivRA or the NOvAA.

### **Advertising**

In principle the advertising rules for accountants in the Netherlands are very liberal, especially from an international comparative point of view. According to information we collected earlier from the relevant professional organisations (NivRA, NOvAA) (c.f. Felderer et al. 1998), the uncalled direct contacting of clients (cold calling) is not allowed. The same regulations apply to lawyers. There have been negotiations concerning the abolition of this rule for accountants, but we are not sure about the final outcomes.

### **Forms of Business, Inter-professional Co-operation, Location and Diversification**

According to the information of the professional organisation, there exist no specific rules concerning the type of business. Therefore accountants can work as independent small-scale entrepreneurs, as employees as well as in a corporation, which can also be a private limited liability company. But as a general rule, up to now, in the case of a corporation, the majority of the owners/directors have to be accountants. At the same time statutory audit duties only can be done by a natural person although this can be an employee or a legal person, i.e. the owner of an accounting firm.

According to our current knowledge, as a general rule inter-professional co-operation is only possible with other liberal professions. But corporations combining accountants and lawyers are not allowed. According to wide-spread interpretation, the reason for this is the apprehension of lawyers for competition from the big accounting corporations. Anyhow corporations are possible with notaries, patent lawyers and tax-advisers which are members of a relevant professional organisation. As mentioned above, in the case of a corporation, accountants have to be the majority of the owners. Co-partnership with other professions is possible. In this case, however, the company is not allowed to act under a joint name.

In the Netherlands there is an ongoing discussion on the question of inter-professional co-operation. As the Annual report 2000-2001 of the NivRA states it:

„One of the more protracted issues concerns the opportunities for and barriers to interdisciplinary collaboration. NivRA has been discussing this for a considerable time with the professional organisations of tax advisers, attorneys at law and civil-law notaries. Collaboration between accountants and lawyers in particular is a delicate issue for the lawyers. NivRA's basic view is that such collaboration must be possible. (...)‘The essential test for collaboration is that it should allow each professional group involved to continue providing its professional services without any hindrance. If this can be safeguarded, we have no objection to collaboration. And this by no means implies that, as a professional group, you must always have a voting majority. (...) And there are no examples of harmful interdisciplinary collaboration. On the contrary, the available information indicates that the quality of the audit is in fact enhanced.“ (p. 5).

The operation of branch offices is, according to the information available, allowed. It is permissible to have offices in every *Arondissement* in the country, as well as abroad.

### ***Continuing Education***

The obligation for further education exists for both professions. Members of NOVAA have to prove 40 hours further education per year. There is no detailed information for members of NivRA.

### ***Specialisation in the Profession and Compulsory Indemnity Insurance***

As both professional organisations (NOVAA and NivRA) did not complete the questionnaire we have no specific information on these points.

## **Economic Characteristics**

### ***Netherlands – Structure and dynamics (NACE 7412)***

*Enterprises, Turnover, Employment*<sup>4</sup>: The nominal turnover of accountancy enterprises in the Netherlands reached a level over 5300 million Euro in 1999, equivalent to over 1.4% of GDP, which represents the third highest percentage share of GDP, just behind UK and the high outlier, Luxembourg, among other countries surveyed (c.f. Overview-tables in Chapter 5). Output of the sector thus rose at a yearly average of 7.2% during most of the 1990's, faster than the growth in GDP (an average of 5.1% p.a. over the same period 1993-1999). This represents a real growth in accountancy services of 6.5%, higher than the growth in employment of 3.5% over the same period, 1993 to 1999; so slight productivity gains have also been made. In fact, the real turnover per employed person rose 18% over the period.

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<sup>4</sup> EUROSTAT; Centraal Bureau voor de Statistiek

**Table 8-7 Firms, Turnover and Employment; Netherlands 7412**

	Number of Firms	Turnover in Mio EUR	Employment	No. of Professionals
1993	10 435	3 501	67 000	
1994	11 879	3 624	67 601	
1995		3 816		
1996	12 030	3 844	70 600	
1997	13 410	4 200	76 500	
1998	13 630	4 717	81 200	
1999	13 680	5 310	82 400	
2000				
2001				6 359

Source: EUROSTAT, Centraal Bureau voor de Statistiek, IHS

The number of firms increased from about 12,000 in 1996 to almost 13,700 in 1999, an average rate of 4.4% p.a. (see table). The corresponding yearly growth rates over the period 1996-1999 are 11.4% for turnover, and 5.3% for employment. The lower rate of increase in enterprises relative to employment is indicative of a slight trend towards concentration i.e. relatively fewer firms with more employees: indeed the average firm gave employment to 6 persons in 1999, up from an average of 5.7 at a low-point in 1997. The number of enterprises, over 13,600 since 1998, which represents over 860 firms per million of population, is somewhat above the median of 770 in our survey, but far less in relative terms than Luxembourg, Italy and Sweden among member states in our survey.

The average turnover (1999) per accountancy firm in the Netherlands of 388,000 Euro is less than the correspondingly figure for technical services (490,000 Euro) and far less than the corresponding value for legal services (959,000 Euro), resulting from average yearly growth levels of 2.5%, 1.8%, and a huge 12.8% in these respective branches over the period 1993-1999. This level of business of Dutch accountancy enterprises is the median of the 12 member states surveyed here.

The level of employment, at over 5.2 in 1000 of the population in 1999, is very high in international comparison (after only Luxembourg with its large finance sector). Nevertheless, the level of productivity, as measured by a turnover of around 64,000 Euro of per employed person, is above the median of our survey, having greatly increased in the 1990s. As mentioned above, it is, however, considerably lower than the corresponding figures for Luxembourg, Sweden and Denmark.

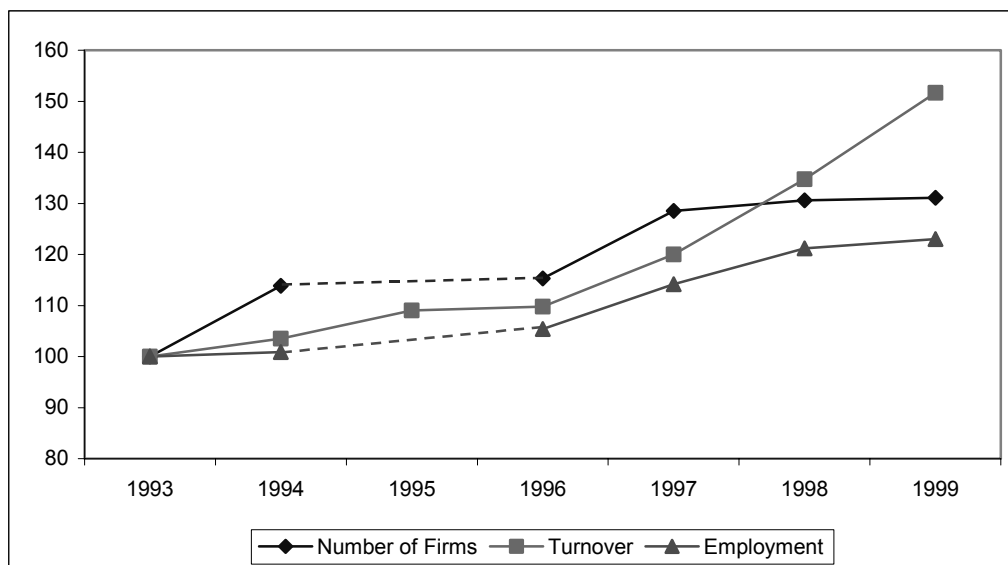


**Table 8-8 Key Statistics, Accountancy, Netherlands 7412**

	Turnover per Firm	Employment per 1000 firms	Turnover per person employed	Employment per Mio. of Pop	Firms per Mio. of Population
	1000 EURO		1000 EURO		
<b>1993</b>	335	6 421	52	4 397	685
<b>1994</b>	305	5 691	54	4 406	774
<b>1996</b>	320	5 869	54	4 557	776
<b>1997</b>	313	5 705	55	4 914	861
<b>1998</b>	346	5 957	58	5 187	871
<b>1999</b>	388	6 023	64	5 228	868

Source: Source: EUROSTAT, Centraal Bureau voor de Statistiek, IHS

The differential rates of growth in enterprises, turnover, and employment are illustrated in the chart, with the 1993 values indexed at 100.

**Chart 8-2 Relative Growth Rates, Netherlands 7412**

Source: Centraal Bureau voor de Statistiek

*Recent Performance:*<sup>5</sup> The costs of employment typically account for over 50% of turnover, nearly 80% of which covers remuneration, although this percentage was reduced in the years 1996-1999. The rate of growth of average wage and salaries, at just over 4% p.a. during the period, fell slightly behind the growth in employment in the branch. It is assumed that this effect is in part conditioned by the trend towards atypical employment, which has been a feature, especially in the Netherlands, in recent years.

<sup>5</sup> Centraal Bureau voor de Statistiek, IHS

Investment in accountancy accounts for around 6.5-7% of turnover, a substantial third of which is accounted for by investment in information technology.

**Table 8-9 Performance of Accountancy Services, Netherlands**

	Firms	Turnover	Employment	Profit Margin before Tax	Total Personnel Costs	Gross Wages and Salaries	Avg. Wage / Salary	Total Investment	Computers
		mio. euro		% of Turnover	% of Turnover	% of Personnel Costs	euro	% of Turnover	% of investments
<b>1996</b>	12 030	3 844	70 600	14.9	54	79.5	23 377	7.0	38.2
<b>1997</b>	13 410	4 200	76 500	15.5	54	79.8	23 784	6.9	29.6
<b>1998</b>	13 630	4 717	81 200	15.3	53	77	23 707	6.3	35.9
<b>1999</b>	13 680	5 310	82 400	13.6	53	76.9	26 336	6.4	37.2
<b>Change 96-99</b>	4.4	11.4	5.3	-3.0	-0.5	-1.1	4.1	-2.8	-0.9

Source: Centraal Bureau voor de Statistiek

*Concentration:* Trends in the development of accountancy firms in the Netherlands are apparent in the data from the late 1990s. As the table shows, the most notable change is the relative increase in the number of large firms that have a turnover exceeding one million Euro. Such firms have grown in number at a rate more than twice overall rate of 4.4% p.a. Interestingly, the number of small firms has more or less increased apace.

The relative decline of the number of middle sized firms, i.e. enterprises with an annual turnover of between 250,000 Euro and one million Euro, indicates that certain merger or acquisition activity has taken place. It is assumed that this fusion process is part of a longer enduring trend, but this will have to wait for confirmation when more recent data is available.

**Table 8-10 Netherlands Accountancy Firms and Employment by Turnover Size Class**

		1996	1997	1998	1999	% change 96-99
<b>Total</b>	Firms	12 030	13 410	13 630	13 680	4.4
	Employment	70 600	76 500	81 200	82 400	5.3
	E / F	5.9	5.7	6.0	6.0	
<b>less than 250 000 euro</b>	Firms	10 610	11 890	12 080	12 160	4.7
	Employment	19 000	21 300	21 700	20 100	1.9
	E / F	1.8	1.8	1.8	1.7	
<b>250 000 to 500 000 euro</b>	Firms	700	790	750	700	0.0
	Employment	5 100	6 100	5 600	4 700	-2.7
	E / F	7.3	7.7	7.5	6.7	
<b>500 000 to 1 000 000 euro</b>	Firms	420	420	440	440	1.6
	Employment	5 700	5 400	5 400	5 600	-0.6
	E / F	13.6	12.9	12.3	12.7	
<b>1 000 000 euro or more</b>	Firms	290	310	360	380	9.4
	Employment	40 900	43 700	48 500	51 900	8.3
	E / F	141.0	141.0	134.7	136.6	

Source: Centraal Bureau voor de Statistiek

*Legal Form:* In addition to a trend in concentration, some accompanying trends in the types of legal form in which accountancy firms take place are noticeable. The table shows that, although sole proprietors account for nearly half of all enterprises, the relative growth area over the last decade is partnerships of various kinds, as well as plc's.

**Table 8-11 Legal Form of Accountancy Enterprises, Netherlands**

	1993	1994	1995	1996	1997	1998	1999	2000	2001	2002	% in change 2002	% in change 93-02
<b>public limited companies</b>	35	50	45	50	55	65	65	80	85	85	0.1	10%
<b>limited liability partnerships</b>	15 150	15 810	16 285	18 510	18 930	22 635	25 815	27 850	29 540	32 380	33.5	9%
<b>general partnerships</b>	5 700	6 625	6 590	7 800	9 045	9 765	10 815	11 705	12 220	12 335	12.8	9%
<b>cooperative associations</b>	150	195	185	215	315	330	355	365	375	370	0.4	11%
<b>sole proprietors</b>	29 005	30 905	32 065	33 455	37 770	40 045	43 735	44 915	44 370	47 090	48.7	6%
<b>private company</b>	1 385	1 320	1 295	1 390	1 640	1 570	1 555	1 600	1 580	1 550	1.6	1%
<b>public authority</b>	30	10	40	10	15	10	10	10	15	15	0.0	-7%
<b>foundations</b>	880	970	995	1 070	1 180	1 115	1 070	1 105	1 230	1 225	1.3	4%
<b>other</b>	1 035	1 325	1 385	1 655	1 895	1 830	1 865	1 830	1 705	1 600	1.7	5%

Source: Centraal Bureau voor de Statistiek

*Entrance to the Accountancy Profession.*<sup>6</sup> Data available in a long time series from the 1980s to 1997 shows the extent to which the accountancy profession in the Netherlands opened itself to new members. The statistics refer to the largest of the accounting professional bodies NivRA, 'Registered Accountants'.

**Table 8-12 Entrance to the Accountancy Profession, Netherlands, NivRA**

	NIVRA Trainees	Newly Qualified Entrants	Entry Rate	Newly Qualified per Firm	Entrants as % of NIVRA Members	Trainees per Firm
1980	4 908	222	4.5%	0.82	4.9%	18.1
1981	5 457	230	4.2%	0.86	4.9%	20.4
1982	5 845	228	3.9%	0.81	4.7%	20.7
1983	5 423	230	4.2%	0.77	4.6%	18.1
1984	5 073	261	5.1%	0.80	5.0%	15.5
1985	5 611	287	5.1%	0.85	5.3%	16.6
1986	5 863	324	5.5%	0.93	5.7%	16.8
1987	5 962	341	5.7%	0.93	5.7%	16.2
1988	6 199	371	6.0%	0.93	5.9%	15.6
1989	6 091	412	6.8%	1.00	6.2%	14.8
1990	5 607	544	9.7%	1.14	7.6%	11.8
1991	5 689	551	9.7%	1.05	7.3%	10.8
1992	5 707	598	10.5%	1.01	7.4%	9.6
1993	4 988	479	9.6%	0.77	5.6%	8.1
1994	4 399	464	10.5%	0.69	5.2%	6.5
1995	3 679	683	18.6%	0.93	7.1%	5.0
1996	3 260	744	22.8%	0.96	7.3%	4.2
1997	3 169	651	20.5%	0.81	6.0%	3.9

Source: NIVRA, IHS

Although the number of NivRA trainees varies from year to year, and shows a decline in the mid 1990s, the number of newly qualified entrants to the profession increased continuously. The entry rate, i.e. the ratio of new entrants to trainees was under 5% in 1980 and successively increased to over 20% in 1996. As the number of firms increased, the ratio of trainees employed per firm went down, but significantly the ratio of new entrants per year to firms remained close to 1:1. Overall, the accountancy profession has been opened successively to new entrants, as witnessed by the gradual increase in the number of entrants as a percentage of the NivRA professional membership.

<sup>6</sup> NIVRA, IHS

## Summary

The regulatory systems for accountants in the Netherlands are a rather good example for a country where the market-entry regulations basically fulfil the minimum requirements of the EC 8th Directive on auditing, and where the conduct-regulations are rather liberal. This is especially true for regulation on fees and prices as well as advertising and, with some limitation, also for inter-professional co-operation. At the same time, in the case of the Netherlands, the co-existence of two professional bodies does not lead to specific problems of professional organisation (as has sometimes been argued in the case of Italy or for legal professions in the case of England & Wales). If the organisational separation of professions does not lead to monopoly structures regarding tasks provided by the two professions, some competition between the two professions may occur, which should certainly lead to a more dynamic market. From this example, it is evident that it is more the contents of regulations which make the difference, rather than the question of the number of professional bodies. Furthermore, the existence of more than one professional body may limit the lobbying-power of both of them and for this may help to prevent excessive economic and political power of the relevant professional organisations, c.f. Ogus (1995).

Both professional bodies (the NOvAA and the NivRA) appear to be rather open-minded as regards further liberalisation, especially concerning inter-professional co-operation. However, this, up to now, is strongly opposed by the Dutch lawyers, who worry about a possible market dominating position of the big accounting firms in legal services.

### 8.3 Accounting Professions in Germany

#### Accountants and sworn-in auditors

With the introduction compulsory auditing for incorporated companies („*Aktiengesellschaften*“) and other companies in 1931 the profession of accountancy was born and the legal form of the accounting firm was created. In 1943 the title of sworn-in auditor („*vereidigter Buchprüfer*“) was established and in 1961 the professional code of conduct for the accountants was enacted with the Accountants Ordinance („*Wirtschaftsprüferordnung*“ - WPO). Apart from the professional rules and regulations for accountants, the professional ordinance for a second occupation, that of sworn-in auditor, who has limited auditing authorisation, was also established and regulated uniformly for the whole Federal Republic. With this enactment the Chamber of Accountants („*Wirtschaftsprüferkammer*“) was also established as a self-governing and self-regulating body for the accounting profession. In 1961 the profession of sworn-in auditors was abolished, with the possibility for those affected to be appointed as accountants for seven years to come if they had already passed the exam as a chartered public accountant. However, this profession was again reinstated – albeit with other duties – in 1986 with the adoption of the Balance Sheet Directive Law („*Bilanzrichtliniengesetz*“). The occupational titles accountant and sworn-in auditor and the term accounting firm („*Wirtschaftsprüfungsgesellschaft*“) and auditing firm („*Buchprüfungsgesellschaft*“) are protected by law.

The accountants as well as the sworn-in auditors are obliged to organise themselves in the Chamber of Accountants („*Wirtschaftsprüferkammer*“ - WPK). The WPK is a public statutory body („*Körperschaft des öffentlichen Rechts*“). Besides this statutory association under public law there are two main private organisations of which accountants and auditors can become members: the Institute of Accountants („*Institut der Wirtschaftsprüfer in Deutschland e. V.*“) and the Federal Association of Sworn-in Auditors („*Bundesverband der vereidigten Buchprüfer e. V.*“)

#### Market Entry

##### **Tasks and exclusive tasks provided by German Accountants**

Fundamentally one has to distinguish between statutory professional duties of accountants according to § 2 WPO and those tasks that can still be regarded as similar with the accounting profession (§ 43 WPO).

The original professional duties of accountants encompass the field of annual auditing of financial statements, tax advising and legal consulting and representation relating to the profession.

The central exclusive task of accountants is the auditing of the financial statements as prescribed by law for companies. Accountants are entitled to audit all forms of companies, e.g. large incorporated companies, banks and credit institutions, insurance companies, cooperatives (*“Genossenschaften”*), public enterprises, to name the most important forms. Additionally legally required audits (*“Pflichtprüfungen”*) of other companies and organisations that are subject to publication requirements are undertaken. Beside these audits required by law, accountants perform other audits and examinations that may be prescribed by other laws or that are done on a freely agreed contractual basis. The exclusivity of performance of audits (*“Tätigkeitsvorbehalt”*) however extends only to the audits prescribed by law. According to § 129 WPO sworn-in auditors also have authority to perform the statutory prescribed audits. This covers especially the auditing of so called “medium sized companies” (*“mittelgroße GmbHs”*). Sworn-in auditors are however not entitled to audit those companies (“GmbHs”) that fall under the company disclosure law (*“Publizitätsgesetz”*) and those medium sized companies that have to be audited according to the Insurance Supervision Law (*“Versicherungsaufsichtsgesetz”*) or the Banking Law (*“Kreditwesengesetz”*). Exempt are public enterprises (*“Wirtschaftsbetriebe der öffentlichen Hand”*) and other private enterprises.

Accountants are also entitled, according to § 2 Abs. 2 WPO, to function as consultants and representatives in tax related issues (cp. Wasilewski 1997: 221). Generally this field of activity is reserved for sworn-in auditors and tax advisers (cp. in detail the chapter on tax advisers). In criminal tax-law cases professionals of these two groups (accountants and sworn-in auditors) can appear as defence counsel, but only together with a lawyer. This is however not the case if the revenue service conducts the case on its own.

Besides this, accountants can be consulting experts in general economic and commercial issues, law advisers (allowed, when the consulting is done in fields relating to accounting, financial statements etc.) as well as trustees (§ 43 Abs. 4 Nr. 4 WPO). These activities do not fall within the exclusive activities and thus they are freely negotiable services.

### ***Education and Entrance to the Profession***

There is no uniform education for accountants, however, but there are pre-requisites laid down by law for taking the accountant exam (*“Wirtschaftsprüferexamen”*).

The conditions for taking the exam for applicants with a university degree (which form by far the biggest group) are stipulated in the WPO. According to these specifications the candidate

must have a university degree in business economics, law, engineering or agriculture or another university course with emphasis on economic and business matters. A second pre-condition for admission to the examination is that the candidate has at least 3 years experience in auditing, of these two years under supervision of a licensed auditor. The obligatory practising times have been reduced recently. Previously at least five years experience, of these two years under the supervision of a licensed auditor, were compulsory.

The proof that a university course has been successfully completed obtains if:

a) the candidate has successfully completed a curriculum in business economics or another curriculum with emphasis on business matters at higher technical colleges (*“Fachhochschulen”*) and has completed in addition at least six years service at the organisations/persons mentioned in b) or has completed this education with another curriculum with emphasis on business matters at higher technical colleges (*“Fachhochschulen”*) and graduation as a "Master" or "Magister";

b) the candidate has completed at least ten years service with an accountant (*“Wirtschaftsprüfer”*), an accounting firm (*“Wirtschaftsprüfungsgesellschaft”*), a Cooperative Audit Association (*“genossenschaftlicher Prüfungsverband”*), a sworn-in auditor (*“Vereidigter Buchprüfer”*) or a firm of licensed auditors, the cooperative auditing office of the German Public Savings Bank (*“Prüfungsstelle des Sparkassen- und Giroverbands”*) or a nationwide auditing body for public statutory institutions (*“überörtliche Prüfungseinrichtung für Körperschaften und Anstalten des öffentlichen Rechts”*);

c) the candidate has served at least five years as a tax adviser (*“Steuerberater”*) or as sworn-in auditor (*“Vereidigter Buchprüfer”*). In this case it is again a pre-condition for admission to the examination that the candidate has at least 3 years experience in auditing, of these 2 years under the supervision of a licensed auditor. No proof of auditing experience has to be submitted by applicants that have practised at least 15 years as tax advisers or sworn-in auditors. A maximum of ten years can be accredited towards these years for time worked as “tax authorised person” (*“Steuerbevollmächtigter”*).

This exam has to be taken before a board of examiners that is constituted by the relevant provincial authority and comprises the following persons: a representative of the provincial authority, a university lecturer for business management, a jurist qualified for becoming a judge, a representative of the tax authorities (*“Finanzverwaltung”*), a representative of the business community, three chartered accountants, one of which must have experiences in auditing cooperatives (*“genossenschaftliches Prüfungswesen”*).

To cite Klos (1991: 363), the accounting exam (*“Wirtschaftsprüferexamen”*) is one of the most difficult and challenging vocational exams in Germany. The pass rate is only about 50 – 60 % (cp. Bartels 1996: 217), however nearly half of the failed candidates are granted a



second chance, the so called supplementary exam (“*Ergänzungsprüfung*”) (cp. Bartels 1996: 217).

The requirements to take the exam for a sworn-in auditor are that the candidate is a tax adviser (“*Steuerberater*”) or lawyer and that he has worked as such for at least five years and that he has at least 3 years experience in auditing (§ 131 Abs 1 WPO). No proof of auditing experience has to be submitted by applicants who have practised at least 15 years as tax advisers or sworn-in auditors. A maximum of ten years can be accredited towards these years for time worked as tax authorised person (“*Steuerbevollmächtigter*”).

This exam takes place before a board of examiners that comprises the following persons: a representative of the provincial government finance department (“*Landeswirtschaftsbehörde*”) as chairperson, a representative of the business community, one chartered accountant and one sworn-in auditor or a second accountant who also is a tax adviser or lawyer.

## **Conduct Regulation**

### ***Prices and Fees***

For the auditing profession there exists no special fee regulation or tariff as for the lawyers in the BRAGO or for tax advisers in the StBGebV (see the chapters on lawyers and tax advisers in Germany for details). The fees are freely negotiable (except if tax advice is part of the service offered); there is – theoretically – a price-competition in the market. Provision for a uniform fee-scale have been made in § 55 *Wirtschaftsprüferordnung* (WPO): the Federal Ministry of Economics with the approval of the Federal Council and after consultation with the Chamber of Accountants (“*Wirtschaftsprüferkammer*”) and the working party on financial auditing may issue a scale of fees for statutory audits. Such a scale has however not yet been issued. However for tax advice given there is a general tariff, the “*Steuerberatergebührenverordnung*”.

In addition the accountant is not permitted to enter into an agreement whereby the amount of his remuneration is dependent on the result of his work as accountant and he is not permitted to receive commissions for referrals and other such services.

### ***Advertising***

Advertising by accountants is regulated in § 52 WPO („*Wirtschaftsprüferordnung*”). With the 1995 enacted “Third Law to Change the Accountants Regulation” (“*Dritte Gesetz zur Änderung der Wirtschaftsprüferordnung*”) the ban on advertising by accountants has been eased. The WPO now stipulates that it is only forbidden to engage in advertising that is

“contrary to the ethics of the profession” (“*berufswidrige Werbung*”). § 57 (4) Nr. 4 WPO stipulates that rules and regulations regarding advertising can be prescribed by the professional chambers in the form of a professional ordinance. This ordinance however defines advertising that is contrary to the professional ethics fairly broadly. For example § 34 paragraph 2 of this ordinance prohibits the use of “commercial methods” (“*gewerbsmässiger Methoden*”) in advertising. Further fairly rigid rules of the professional ordinance (§ 33 *Berufssatzung*) imply that advertising is still largely forbidden for members of the Chamber of Accountants. This means that the advertising possibilities for accountants are fairly wide as far as the law is concerned, but largely restricted by the self-imposed rules of the Chamber of Accountants.

### **Forms of Business and inter-professional Co-operation**

According to § 27 WPO accounting firms can have the legal form of a public limited liability company (“*Aktiengesellschaft*”), a limited partnership company based on shares (“*Kommanditgesellschaft auf Aktien*”), limited liability company (“*Gesellschaft mit beschränkter Haftung – GmbH*”), an ordinary partnership company (“*Offene Handelsgesellschaft – OHG*”), a limited partnership company (“*Kommanditgesellschaft*”) and partnership (“*Partnerschaftsgesellschaften*”). This means that virtually any form of company is possible.

Pre-requisite for approval is that all members of the board, the executives, the partners liable to unlimited extent (“*persönlich haftenden Gesellschafter*”) or the partners are accountants. At least one accountant who is also a member of the board, CEO or partner must have his practise at the registered domicile of the company. Apart from accountants, sworn-in auditors, tax advisers and lawyers are permitted to be members of the board, to be chief executive officer or partner of the accounting firm. The Chamber of Accountants can approve that specially qualified persons, that are not accountants, sworn-in auditors, tax advisers or lawyers and whose occupation is closely related to the one of accounting can become members of the board, executives, the partners liable to unlimited extent or partners of the firm.

The number of members of the board, executives, partners liable to unlimited extent or normal partners that are not accountants may not rise above that of those that are accountants. If the firm has only two members of the board, executives or partners, then at least one must be an accountant.

### **Location and Diversification**

Until 1995 accountants were only allowed to open a single branch (previously § 3 paragraph 2 WPO). Accounting firms however were already permitted to have an unlimited number of

branches before 1995. Since 1995 this “privilege” has also been extended to single accountants.

### ***Continuing Education***

Accountants are obliged to extend and enhance their professional knowledge continually. The obligation of permanent education is stipulated in the Quality Assurance Standards (VO 1/1995 and VO 1/1993) and the Rules of the Professional Conduct of the profession.

### ***Specialisation in the Profession***

There are no specific forms of specialisation for accountants and sworn-in auditors comparable to those of German lawyers (*Fachanwälte*). According to §32 Professional Charter of the *Wirtschaftsprüferkammer*, both professions are only entitled to use designations of professional specialisation which they have legally acquired by the statutory prescribed process. They may publicise certain fields of specialisation in their professional activities. Other areas of specialisation may not be publicised.

### ***Compulsory Indemnity Insurance***

For accountants and sworn-in auditors in Germany an indemnity insurance is compulsory (*Wirtschaftsprüfer-Berufshauptpflichtversicherungsordnung* – WPHBV, enacted December 18, 1998). The minimum amount for which professionals must be insured is 1 Million Euro per case (§ 323 Commercial Code).

### ***Actual challenges and recent changes in regulations***

Until now the appointment as certified public accountant or as sworn-in auditor, as well as the accreditation of the respective professional associations, were done by the provincial ministries of commerce. With the fourth amendment of the Accountants Ordinance (*Wirtschaftsprüferordnung*), effective as from January 1, 2002, this duty was transferred to the professional organisations of the accountants and sworn-in auditors.

## Tax advisers

The profession of tax advisers is still a „young” liberal profession, a first legal basis can be found in the “*Reichsabgabenordnung*” from 1919. The original job title ‘tax adviser’ was first used in 1933. Compared with most of the other EU member countries the services of tax advisers in Germany (as well as in Austria, Luxembourg and France) are subject to special regulations, through which relevant exclusive tasks are established.

With regard to the organisation of tax advisers in Germany, there exists a compulsory membership of a profession chamber. The compulsory membership in one of corresponding regional Tax Adviser Chambers (“*Steuerberaterkammer*”) is stipulated in § 73 StBerG. The membership automatically begins with the appointment to tax adviser, or to be precise, with the acknowledgement of the tax adviser. The 21 regional Tax Adviser Chambers (“*Steuerberaterkammer*”) (16 in the old and five in the new federal states) build the Federal Tax Adviser Chamber (“*Bundessteuerberaterkammer*”). The Federal Tax Adviser Chamber is the professional association and elaborates such rules.

The *Bundessteuerberaterkammer* – a public law corporation – is the statutory umbrella organisation for all tax advisers, authorised tax representatives and tax consultancies in Germany. The *Steuerberatungsgesetz* (“Tax Consultancy Act”) lays down and authorises its status and duties.

The *Bundessteuerberaterkammer* has, in its capacity as a professional self-regulating association, been representing the interests of over 72,000 (Sept. 2002) German tax advisers at federal and European level since 1961 and adopts an active stance when any professional and tax law issues arise.

## Market Entry

### ***Tasks and exclusive tasks provided by German Tax Advisers***

The right for commercial help with tax questions “*geschäftsmäßigen Hilfe in Steuersachen*” is determined by §§ 2 and 3 StBerG. The main task of tax advisers is the tax declaration advice (help with the tax return and other declaration obligations: making of the bookkeeping, making of annual accounts, making of payroll accounting and wage-slip, making of tax return, list of all balance sheets, and so on). For the enforcement of tax advice belongs essentially the assistance when having an argument with the Inland Revenue or the Court dealing with tax disputes. As a third “*Vorbehaltspflicht*” (reserved task) we have to mention the arranging of the tax advice. It should be emphasized that tasks of day-to-day accountancy do not count as primary tasks for a tax adviser in Germany, in contrast to Austria.

Besides tax advisers also lawyers, established European lawyers, auditors, sworn-in auditors, as well as corresponding profession societies are authorised according to § 2 Abs 1 StBERG. This authorisation is described by the phrase “unlimited help in tax issues” (“*unbeschränkter Hilfeleistung in Steuersachen*“). A restrictive authorisation for help with tax issues has existed for some other professions and organisations. The corresponding regulations are stipulated in § 4 StBERG. According to the Federal Notary Rules (*Bundesnotarordnung*) notaries are allowed to act as tax advisers in correspondence with their authorities. Almost the same applies to patent attorneys, to public corporations or cooperative auditorial.

A general exception to the prohibition of unauthorised help with tax issues exists for the following activities (compare § 6 StBERG):

- The reimbursement of scientifically based expert opinions,
- The help of relatives in tax affairs free of charge in terms of the § 15 of the General Tax Code (“*Abgabenordnung*“),
- The execution of mechanical processes to keep accounts and records, which are important for taxation; this does not include the assignment of documents, receipts and the assignation of accounting instructions,
- Under certain conditions the accounting of current business transactions, the current payroll accounting and the making of the wage-tax return.

### ***Education and Entrance to the Profession***

According to § 36 StBERG, aspirants for the tax adviser examination can choose between the following qualification possibilities in order to fulfil the admission standards: On the one hand a university education on the condition that the aspirant has finished a jurisprudential or economical study; alternatively another study at university with the field in economics and afterwards working as the main occupation in the area of taxation for two years (until the end of the nineties three years) (with a weekly work schedule of at least 16 hours). For alumni of a college of higher education with a jurisprudential study the time of their main occupation increases up to three years (before four years). On the other hand this profession can be achieved with a professional training / vocational education. Here, persons fulfil the requirements if they pass a final examination in tax and economical advising or a pursue a commercial career with working afterwards for ten years as a main occupation in the taxation field.

After a successful examination for a „*Sturfachwirt*“ or to a certified balance-sheet auditor there are at least seven years practical work. On the other hand the prerequisites are also fulfilled by civil servants or employees of higher services of public finance departments

(*gehobener Dienst*) ( § 36 StBerG), which have been occupied in the field of taxation for at least ten years.

The examinations is organised according to the relevant prior education Accountants and sworn-in auditors are allowed a shortened tax adviser examination on application. There is no tax examination necessary for: university professors, with relevant teaching for at least ten years, former finance judges with ten years relevant experience, former civil servants or employees of the finance departments or other fields of public services with years of relevant experience.

All others have to pass a full examination. The examination is divided into a written part of three supervised workings and an oral examination. The examination committee consists of two tax advisers, three civil servants of higher services of public finance departments and a deputy of the economy. The tax adviser members of the examination committee are proposed by the Tax Adviser Chamber.

### **Conduct Regulation**

#### ***Prices and Fees***

Tax advisers in Germany, in principle, are tied to a legal tariff, which is given by the Ministry of Finance via executive order with acceptance of the Federal Assembly. Pestke (1997a: 13) states that such a legal regulation for tax advisers is exceptional for Europe.

On the substantial level the Tax Adviser Tariff Regulation (*Steuerberatergebührenverordnung*, StBGebV) – similar to the former Austrian regulation – constitutes a lower limit of the charge.

An upper tariff limit is only effective if there is no written acceptance by the client for a free charge contract (§4 StBGebV). A contract with regard to a successful activity is – similar to Austria – not allowed. The same is true for relating payment to outcome, i.e. for the charge as a part of the tax savings to be achieved.

Basically the charge be commensurate and has to reflect time expenses, value of the object and nature of the task. In principle there are three ways for accounting charges: value and time fees and a lump sum charge.

#### ***Advertising***

Tax advisers have to exercise their profession according to § 57 StBerG independently, , faithfully, discreetly and without advertising § 57a StBerG only allows advertising if it is

reporting in form and substance about the professional activity and if it is not directed to a single determination.

More details are given by the article assembly of the Federal Tax Adviser Chamber in their profession's regulations. This "*Satzung über die Rechte und Pflichten bei der Ausübung der Berufe der Steuerberater und der Steuerbevollmächtigten*" was changed at last October 24, 2001.

Tax advisers are allowed to provide information about their profession and their activities. The information, however, must be technically correct. The description has not to be ostentatious. Comparing, evaluating or misleading statements are not allowed. Advertising is not allowed if it is directed to a single determination. This is the case in particular if the directed person needs consulting or representation and this is the reason for the advertising. Tax advisers are allowed to make public areas of their professional fields or activities.

In general the regulations on advertising were significantly liberalised for tax advisers in Germany in the 1990s. The former regulations were much more rigid.

### ***Forms of Business and Inter-Professional Co-operation***

Most of the tax adviser offices are offices of single tax advisers. Professional societies are allowed. Corporations, associations limited by shares, ltd. associations, general partnerships, limited partnerships and partnerships according the partnership associations are allowed to be tax adviser associations. .

To be accepted by the Tax Adviser Chamber, the members of the board or the chairman has to be a tax adviser. At least one tax adviser which is a member of the board, a chair man or a personal liable chair man has to have its professional domicile where the organisation is based or in its vicinity. In this case the number of its members of the board, chair men and personal liable chair men has not to exceed the tax advisers in the board, within the chair men and within personal liable chair men. Besides tax advisers, also lawyers, settled European lawyers, accountants, sworn-in auditors and tax authorised persons ("*Steuerbevollmächtigte*") are allowed to be members of the board, chair men or personal liable chair men.

By a capital obligation ("*Kapitalbindung*") (§ 50a StBerG) it should be assured that tax adviser associations are not controlled by externals. Associates therefore can be only tax advisers, lawyers, accountants, sworn-in auditors, tax authorised persons, tax adviser associations or persons occupied within the association.

### ***Location and Diversification***

Basically a tax adviser can have only one place of business. However, he can maintain another place of business, if the head of the other place of business is a tax adviser. This is the custom in particular with tax adviser associations. There is the possibility of an exemption to be the head of the other place of business.

Localisation regulations, like those for lawyers in Germany, are not imposed on tax advisers.

### ***Continuing Education***

The tax adviser is obliged to undertake continuing education in an appropriate manner (§ 4 Abs. 2 BOSTB). However, there are no distinct legal guidelines. No certification is required for attending continuing education.

### ***Specialisation in the Profession***

There are no specific forms of specialisation for tax advisers comparable to those of German lawyers (*Fachanwälte*). Tax advisers are allowed to advertise with their main tasks /offered areas of specialisation.

### ***Compulsory Indemnity Insurance***

For tax advisers in Germany an indemnity insurance is compulsory. The minimum amount for which professionals must be insured is 250,000 Euro per case. The maximum amount insured may be fixed at 1,000,000 Euro per year.

### ***Actual challenges and recent changes in regulations***

The Federal Tax Adviser Chamber ("*Bundessteuerberaterkammer*") emphasizes by a recent letter to the members of the European Convention (September 5, 2002) that "in a future Europe, it is crucial to strike the right balance between state and its citizens. Structures therefore need to be developed which ensure that there is a proper balance between state regulation and freedom to exercise a profession. In Europe there is already a system which achieves this aim and which has also proved itself in the past, namely the professional chambers, which act as self-regulating and monitoring bodies for the liberal professions in Germany."



The “*Bundessteuerberaterkammer*” in this recent statement further emphasizes that the self-regulation system has crucial advantages over regulation by the state of total absence of regulation which recommend it as a model for the European Union.

With regard to the liberalisation in the field of advertising, several instructions in the professional regulations were revised (see 4.3.2 Advertising). With the adaptation to the last judgement of the Federal Court of Justice e.g. brochures may be sent to non clients also without their demand.

### Economic Characteristics (Accountants, Sworn-in Auditors and Tax advisers)

#### Germany – Structure and dynamics (NACE 7412)

*Enterprises, Turnover, Employment*<sup>7</sup>: The only data available for Germany at the 4-digit level are those recently made available by EUROSTAT for the year 2000.

**Table 8-13 Firms, Turnover and Employment; Germany 7412**

	Number of Firms	Turnover in Mio EUR	Employment	No. of Professionals
<b>2000</b>	35 070	17 038	283 087	14 078

Source:EUROSTAT, IHS

The key indicators are thus also restricted to the year 2000:

**Table 8-14 Key Statistics, Accountancy Services: Germany 7412**

	Turnover per Firm	Employment per 1000 firms	Turnover per person employed	Employment per Mio. of Pop	Firms per Mio. of Population
	1000 EURO		1000 EURO		
<b>2000</b>	486	8 072	60	3 445	427

Source: EUROSTAT; IHS

*Turnover and Expenditure*: Accountants and tax advisers (NACE 7412) together produced an turnover altogether of 17 Bill. EUR (17,038,727 in 1.000 EUR) in the year 2000. (See Tables – Accountancy Services 7411 - at end of this section.)

<sup>7</sup> EUROSTAT

The expenditures (i.e. costs of personnel, buildings etc.) in the accountancy services of about 12 Bill. EUR (12,383,780 in 1,000 EUR) amounts to 72.7% of the aggregate turnover. The dominant expenditure item is personal expenditure: their share of all expenditure is 64.8% with a total amount of 8 Bill. EUR (8,026 million EUR). The dominant part within personal expenditure is the wages and salaries with 82.7%; social expenditures counts for the remaining 17.3% (1,387,011 in 1,000 EUR).

### Accountants and Sworn-in Auditors

*Members of the Profession:* The development of the number of accountants, accountant societies (*Wirtschaftsprüfungsgesellschaften, WPG*) and sworn-in auditors and sworn-in auditors societies (*Buchprüfungsgesellschaften, BPG*) from 1980 to 2002 is shown below.

**Table 8-15 Quantitative development of accountants, accountants societies, sworn-in auditors and sworn-in auditors societies in Germany 1980 to 2002.**

Year*	Accountants	Accountants Societies	Sworn-in Auditors	Sworn-in Auditors Societies
1980	3 821	651	-	-
1985	4 637	920	-	-
1990	6 344	1 215	2 782	32
1991	6 680	1 301	3 421	50
1992	6 953	1 363	3 831	70
1993	7 313	1 409	4 094	83
1994	7 617	1 471	4 225	94
1995	7 994	1 541	4 233	108
1996	8 352	1 615	4 205	113
1997	8 707	1 683	4 217	121
1998	9 156	1 759	4 238	135
1999	9 611	1 829	4 205	146
2000	9 984	1 879	4 094	166
2001	10 355	1 949	4 091	169
2002	10 881	2 032	4 068	166

\* per 1.1. of each year, since 1992 with the new five federal states

Source: Federal Chamber of Accountants ([www.wpk.de](http://www.wpk.de), 2.1.2003) and Federal Chamber of Lawyers 1.1.2002

*Accountants:* As the table shows, there is a relatively small number of accountants in Germany. From 1990, the year of German's re-unification the number rose steadily to 10,881 accountants in 2002 by a remarkable growth of 71.5%. Note that according to the statistical information given by the Federal Chamber of Lawyers (which serves the accountants statistics as well) the five new federal states are accounted for only since 1992. However, the re-unification certainly has had consequences on the growing number of accountants in the early 1990s in Germany. The growth rate of the number of accountants in the 1990s is even higher than in the 1980s with 66% from 1980 to 1990.

With regard to accountants' firms, the number rose from 1990 to 2002 by 2,032, a growth rate of 67.2%.. However, this growth rate is less pronounced than in the 1980s from 1980 to 1990 with 86.6%. Thus, this development is in contrast to the developments of accountants with their higher growth rate in the 1990s than in the 1980s.

- *Sworn-in auditors:* Before 1986 there were only 89 sworn-in auditors in Germany. With the new opening of the profession according to the balance-sheet directions law

(*Bilanzrichtliniengesetz*) 1986 the number of sworn-in auditors increased significantly to 2,782 in 1990. This increase continued from 1990 to the mid 1990s with 4,233 sworn-in auditors by 52.2% and another peak 1998 with 4,238 auditors. Since 1998 the number of sworn-in auditors has stagnated. There is only a small number of sworn-in auditors firms which rose from 50 in 1990 to 166 in 2002 with almost no changes from 2000 onwards.

*Women in the profession:* The actual gender specific situation of accountants and sworn-in auditors, domestic and abroad, is shown in the table. The female quota for domestic sworn-in auditors with 15.2% is slightly higher than the female quota for the domestic accountants with 11.4%. In absolute numbers there are more than twice the number of female accountants (n = 1,150) compared to female sworn-in auditors (n = 537).

**Table 8-16 Women in the profession: accountants and sworn-in auditors in Germany, 2002**

Region	Accountants			Sworn-in Auditors		
	Men	Women	Female Quota %	Men	Women	Female Quota %
Domestic	10 101	1 150	11.4	3 530	537	15.2
Among them in own offices	6 053	549	9.1	3 256	489	15
Abroad	48	7	14.6	3	0	0
Among them in own offices	46	7	15.2	3	0	0
<b>Total</b>	10 149	1 157	11.4	3 533	537	15.2
<b>Among them in own offices</b>	6 099	556	9.1	3 259	489	15

Source: Federal Chamber of Accountants (www.wpk.de, 2.1.2003)

There are gender specific differences with regard to the numbers having their own office: the accountants' own office quota for men is 60%, for women 48%. Such a gender specific difference is not seen within the sworn-in auditors. There, more than 90% (men: 92%, women 91%) are active in their own office.

*Age structure - Accountants:* The accountants' age structure by gender in 2002 is shown in the table. According to a relatively long study time and additional practicing there are only some (3) accountants under 30 years. The modal age class, the age class with the highest frequency of accountants is 35-39 years, altogether (19.5% of all accountants) and both for men (17.6% of all male accountants) and women (36.7% of all female accountants).

As this age group demonstrates, there is a distinctly different age profile between male and female accountants. In the table and chart the differences in the relative age frequencies is

shown: in younger age group (up to 45 years) there are relatively more female accountants than in older age group.

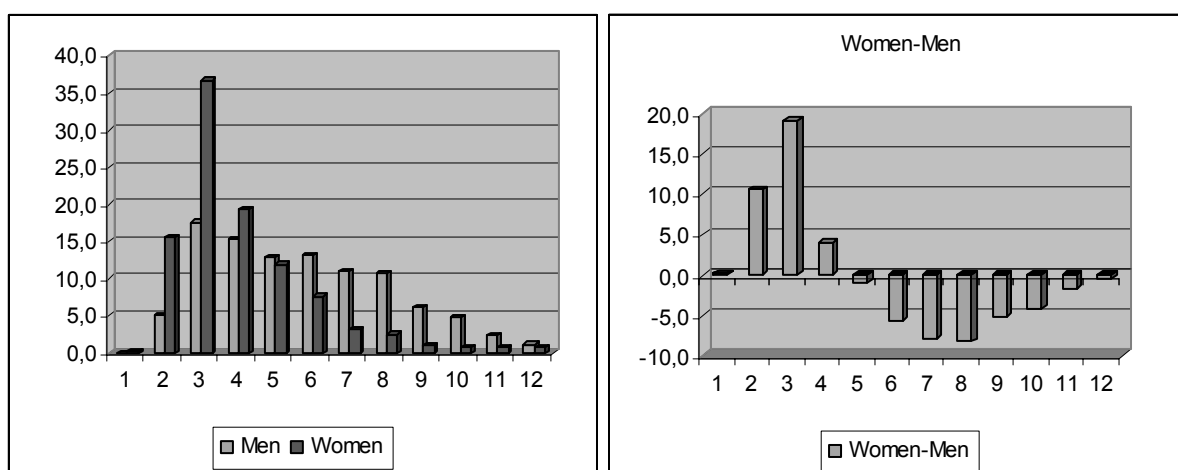
In particular, the peak of those differences in younger years is between 35 and 40 years where female accountants show 19,2 percentage points more than their male colleagues. Between 55 and 59 years, in contrast, female accountants show 8.2 percentage points less than their male colleagues.

**Table 8-17 Accountants: Age structure by gender in Germany 2002**

	Age	Absolute <i>n</i>			Relative %		
		All	Men	Women	All	Men	Women
1	under 30	3	1	2	0.0	0.0	0.2
2	30-34	693	512	181	6.1	5.0	15.6
3	35-39	2 209	1 783	426	19.5	17.6	36.7
4	40-44	1 772	1 548	224	15.7	15.3	19.3
5	45-49	1 446	1 308	138	12.8	12.9	11.9
6	50-54	1 427	1 339	88	12.6	13.2	7.6
7	55-59	1 155	1 119	36	10.2	11.0	3.1
8	60-64	1 114	1 085	29	9.9	10.7	2.5
9	65-69	627	615	12	5.5	6.1	1
10	70-74	488	480	8	4.3	4.7	0.7
11	75-79	253	245	8	2.2	2.4	0.7
12	80 and more	121	113	8	1.1	1.1	0.7
		11 308	10 148	1 160	100	100	100

Source: Federal Chamber of Accountants (www.wpk.de, 2.1.2003), own calculations

**Chart 8-3 Accountants: Age structure by gender in Germany 2002**



Note: x-axis according age classes of the table

Source: Federal Chamber of Accountants (www.wpk.de, 2.1.2003)

- *Sworn-in Auditors*: The age structure by gender in 2002 for sworn-in auditors is shown in the following table. Whereas for accountants the age frequencies are more or less declining

after 35 to 39 years (right skewed distribution), the age structure of sworn-in auditors is roughly bell shaped with a peak for all, and both for men and women, between 50 and 54.

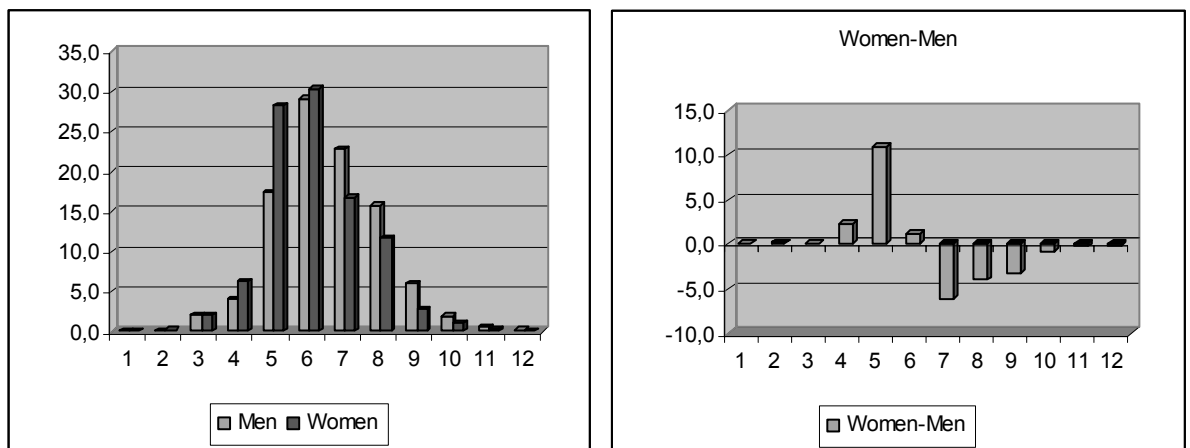
**Table 8-18 Sworn-in Auditors: Age structure by gender in Germany 2002**

Age	Absolute <i>n</i>			Percentage %		
	All	Men	Women	All	Men	Women
under 30	0	0	0	0.0	0.0	0.0
30-34	1	0	1	0.0	0.0	0.2
35-39	82	71	11	2.0	2.0	2.0
40-44	177	143	34	4.3	4.0	6.3
45-49	765	613	152	18.8	17.4	28.3
50-54	1 192	1 029	163	29.3	29.1	30.4
55-59	898	808	90	22.1	22.9	16.8
60-64	621	558	63	15.3	15.8	11.7
65-69	228	213	15	5.6	6.0	2.8
70-74	75	69	6	1.8	2.0	1.1
75-79	24	22	2	0.6	0.6	0.4
80 and more	7	7	0	0.2	0.2	0.0
	4 070	3 533	537	100.0	100.0	100.0

Source: Federal Chamber of Accountants (www.wpk.de, 2.1.2003), own calculations

According to the gender specific differences in the age profile the male and female age profile is more similar than for accountants. Nevertheless, there are distinct differences between 45 and 49 years (women minus men percentage points: 11%) and between 55 and 59 years (women minus men percentage points: -6.1%).

**Chart 8-4 Sworn-in auditors: Age structure by gender 2002 in Germany**



Note: x-axis according age classes of the table

Source: Federal Chamber of Accountants (www.wpk.de, 2.1.2003).

**Legal Form:** There are 25,405 firms in the dominant sole ownership category (84.5% of firms), followed by personal associations (*Personengesellschaften*) with 4,764 associations

(15.8%) and capital associations with 4,692 (15.6%) associations; associations of other legal forms counting 209 units (0.7%). These numbers of firms tally approximately with the overall total for the NACE 7412 classification for 2000 (35,070).

The total number of firms in the statistics certainly includes a large number of tax advising firms (c.f. the section following). According to the IHS questionnaires from the *Wirtschaftsprüferkammer* and the *Institut der Wirtschaftsprüfer in Deutschland* the number of auditing firms rose from 1,247 in 1990 to 2,118 in 2001, a total increase of nearly 70% in this period.<sup>8</sup> In 2002, just one such firm also had offices outwith Germany. The largest proportion of these firms have up to 4 qualified professionals (86.8%), 9.2% have 5-10 professionals, 2.3% have 11-20 professionals, 1.2% have 21-50 professionals, and 0.2% have 51-100 professionals.

*Function as employer and instructor.* The number of active persons in the accountancy services per September 30, 2000, is 283,087. Among them there are 85.6% wage and salary earners with 242,306 persons.

The Federal Chamber of Tax Advisers looks after the directive to the '*Fachgehilfen in wirtschafts- und steuerberatenden Berufen*'.

*Students:* Due to the heterogeneity of the recruitment areas – in accordance with the Federal Chamber of Accountants – no forecasts can be made.

### **Tax Advisers**

*Members of the profession:* The development of the number of tax advisers, tax lawyers ("*Steuerbevollmächtigte*") and tax advisory associations from 1980 to 2002 in Germany is given in the table and chart. After the re-unification the number of tax advisers increased by 52.5% from 39,997 in 1990 to 60,999 in 2002. Though this rate includes two more growth years, the growth rate in the 1980s was even higher: from 1980 to 1990 the growth rate was 90.2% from 21,030 to 39,997 tax advisers.

The number of tax lawyers strongly decreased. The reason: the profession of a tax attorney was abolished by the law of August 18, 1990 (BGBl., I, 1537, 1543). However, based on the Unification Contract Law (*Einigungsvertragsgesetz* – BGBl. 1990 II, 885, 970) for the new federal states tax lawyers are licensed again, but only preliminary.

Tax advisory associations increased by 65% from 3,901 in 1990 to 6,436 in 2002. As for tax advisers, the growth rate in the 1980s was even higher: the number of tax advisory associations in 1990 was almost three times as much (2.96) as in 1980 (1,319 associations).

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<sup>8</sup> This number appears to be comprised of 'capital associations' only.

**Table 8-19 Quantitative development of tax advisers, tax lawyers, others and tax advisory associations 1980 to 2002 in Germany**

Year*	Tax Advisers	Tax Attornies <sup>1</sup>	Others <sup>2</sup>	Tax Advisory Associations	Total: Members of the Chamber
1980	21 030	16 175	197	1 319	38 721
1985	28 882	14 373	214	2 600	46 069
1990	39 997	5 145	252	3 901	49 295
1991	40 927	4 969	353	4 059	50 308
1992	42 631	6 208	185	4 358	53 382
1993	43 939	6 012	216	4 539	54 706
1994	45 644	5 813	225	4 680	56 362
1995	47 067	5 440	242	4 877	57 626
1996	49 525	5 093	419	5 015	60 052
1997	51 217	4 677	386	5 206	61 486
1998	53 193	4 000	397	5 413	63 003
1999	55 702	3 833	403	5 748	65 686
2000	57 806	3 626	413	6 056	67 901
2001	59 702	3 475	411	6 257	69 845
2002	60 999	3 332	431	6 436	71 198

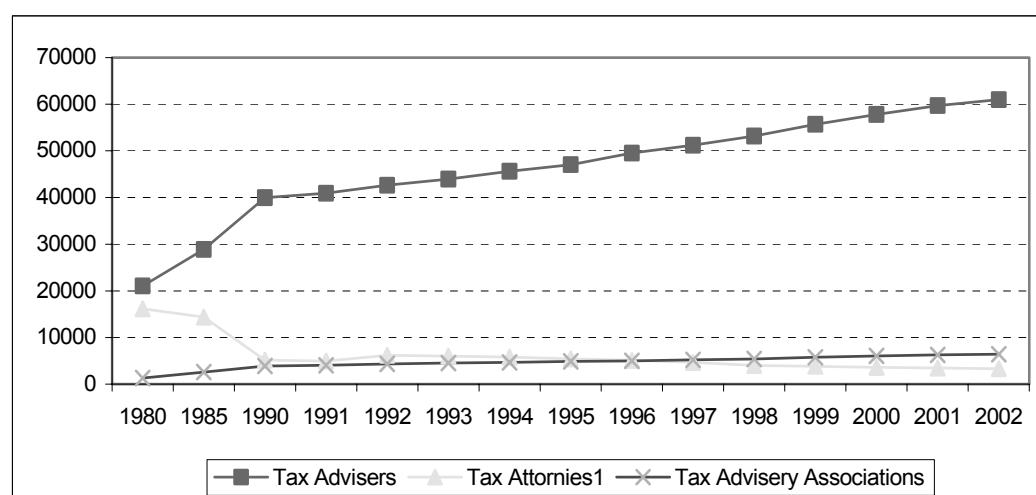
per 1.1. of each year, since 1992 with the new five Federal states

<sup>1</sup> (Steuerbevollmächtigte), the profession of a tax attorney was closed by law of August 18, 1980 (BGBl., 1, 1537, 1543). However, by the Unification Contract Law (Einigungsvertragsgesetz – BGBl. 1990 II, 885, 970) for the new Federal states tax lawyers are licensed again but preliminary only.

<sup>2</sup> Persons according § 74 Par. 2 StBerG

Source: Federal Chamber of Lawyers (Bundesrechtsanwaltskammer, BRAK) 1.1.2002 and Federal Chamber of Tax Advisers (Bundessteuerberaterkammer) 1.1.2002

**Chart 8-5 Development of tax advisers, tax lawyers and tax advisory associations 1980 to 2002 in Germany**



Source: Federal Chamber of Lawyers (Bundesrechtsanwaltskammer, BRAK) 1.1.2002 and Federal Chamber of Tax Advisers (Bundessteuerberaterkammer) 1.1.2002.

The table also includes the category „Others“, which means persons allowed to provide limited help in tax affairs (*„Befugnis zu beschränkter Hilfeleistung in Steuersachen“*)



according § 74 Par. 2 StBerG. Though the number of these persons also increased in the 1990s by 71%, the total amount is relatively small with 431 in 2002.

*Practices:* There are different types of offices (practices, *Praxen*). Tax advisers are organized: as a single office (*Einzelpraxis*), as a company (*Sozietät*) or as a tax advisory association (*Steuerberatungsgesellschaft*).

The table provides current information about the number of such offices. Dominant are single offices with 32,351 offices in 2002; this is 75% of all office types. Next in line are tax advisory associations with a number of 6,436 units (14.9%) followed by companies with 4,320 units (10%). The relative strongest change to 2001 is seen for companies (+3.6%), whereas single societies slightly decreased by -0.3%.

**Table 8-20 Offices of tax advisers in Germany 2001 and 2002**

Office Type	01.01.2001	01.01.2002	
Single Offices	32 446	32 351	-0.3
Companies (Sozietäten)	4 172	4 320	3.6
Tax Advisory Associations	6 257	6 436	2.9
<b>Total</b>	<b>42 875</b>	<b>43 107</b>	<b>0.5</b>

Source: Federal Chamber of Tax Advisers (Bundessteuerberaterkammer) ([www.stbk.de](http://www.stbk.de), January 2, 2003)

Per 1.1.2002 360 so called partnership association (*Partnerschaftsgesellschaften*) were registered according the appropriate law.

*Women in the profession:* The tax adviser female quota 1991 (per 31.12.1990) was 22.3%. The available actual quotas are 27.8% in 2001 and still increased to 28.2% in 2002.

There is a wide range over the 16 German Federal states: Sachsen-Anhalt shows the highest tax adviser female quota with 45,5%, the lowest quota is shown in the Saarland with 20.3% (Federal Chamber of Tax Advisers (*Bundessteuerberaterkammer*) ([www.stbk.de](http://www.stbk.de), January 2, 2003).

*Age structure - tax advisers\*:* The actual age structure of tax advisers\*<sup>9</sup> is provided in the table. The most frequented age category is 41 to 50, closely followed by the thirties.

The mean over all age of tax advisers\* is 49 years.

<sup>9</sup>Only here tax advisers\* encompasses tax advisers, tax lawyers and others as persons according § 74 Par. 2 StBerG.

**Table 8-21 Age structure of tax advisers\*<sup>1</sup> 2002 in Germany**

Tax advisers* 01.01.2002		
Age Classes	Absolute n	Age Class Quota %
Under 30	68	1
30-40	1 893	28
41-50	1 961	29
51-60	1 623	24
61-70	811	12
70 and more	406	6
<b>Total</b>	<b>64 762</b>	<b>100</b>

<sup>1</sup> Only here tax advisers \* encompasses tax advisers,

tax lawyers and others as persons according § 74 Par. 2 StBerG

Source: Federal Chamber of Tax Advisers (Bundessteuerberaterkammer) ([www.stbk.de](http://www.stbk.de), January 2, 2003)

*Function as employer:* According to the Federal Chamber of Tax Advisers, the actual percentage of employed persons of all active persons within the tax adviser profession is 24.9% in 2002; the number is 21,472 employees out of 86,234: in other words: 75.1% are self-employed in the tax advisers profession.

Again there is a wide range and heterogeneity of all active persons in this profession: the lowest employee quota has Rheinland-Pfalz (16.6%), the highest employee quota has Mecklenburg-Vorpommern with 44.4%.

*Function as instructors:* Tax advisers and tax lawyers act as instructors for an assistants in tax and economic consulting professions (*Fachgehilfen in steuer- und wirtschaftsberatenden Berufen*).<sup>10</sup> Thus, the instruction is not only for tax advisers but also for accountants. The regular apprenticeship period is 3 years. According to the Profession Training Law (*Berufsbildungsgesetz*, § 89 BBiG) the single tax adviser chambers of the Federal states are responsible for the instruction.

As the next table shows, at the end of year 2001 there were 23,248 apprentices for an assistant in tax and economic consulting professions.

<sup>10</sup> Since 1992 assistants in tax and economic consulting professions with at least three years full professional work for a tax adviser, tax attorney, tax accountant or sworn-in auditor as well as the appropriate associations of these professions are allowed to yield an additional qualification as a specialized tax assistant (Steuerfachassistent). The tax advisory chamber of Rheinland-Pfalz is responsible for this continuing education examination.

**Table 8-22 Apprentices for an assistant in tax and economic consulting professions (*Fachgehilfen in steuer- und wirtschaftsberatenden Berufen*)\* in Germany 1980 to 2001 (end of year)**

Year 31.12.	Apprentices			
	Total	Men	Women	Female Quota %
1980	20 785	4 080	16 705	80.4
1982	23 560	4 243	19 317	82.0
1984	24 794	4 792	20 002	80.7
1986	24 212	4 811	19 401	80.1
1988	23 303	4 229	19 074	81.9
1990	23 496	4 796	18 700	79.6
1993	28 283	7 015	21 268	75.2
1994	28 740	7 430	21 310	74.1
1995	27 951	7 194	20 757	74.3
1996	26 908	6 974	19 934	74.1
1997	25 478	6 337	19 141	75.1
1998	23 546	5 974	17 572	74.6
1999	23 146	5 565	17 581	76.0
2000	23 325	5 381	17 944	76.9
2001	23 248	5 276	17 972	77.3

\*Since 1996 the new label is tax specialized employee (Steuerfachangestellte).

Because there is a new systematic about professions since 1992/1993, the information is not fully comparable with former years.

Source: Bundessteuerberaterkammer 1992, Federal Statistical Office.

An increase in the number of apprentices by 12.0% was observed in the 1980s: from 20,785 in 1980 to 23,496 in 1990. However, in the 1990s a decrease in apprentices from 28,283 in 1993 to 23,248 in 2001 by a remarkable 17.8% took place. This decrease is different according to gender: male apprentices decreased by 24.8% and female apprentices not as strong by 15.5%.

Though the female apprentice quota is quite high in the 1990s, around 75%, in the 1980s the female quota was even higher, about 80%.

*New members:* According to the IHS questionnaires<sup>11</sup> 2,772 new members were admitted in 2001. There were 2,250 persons who passed the final qualifying examinations, out of 4,693 examinees, i.e. the pass rate was 48%.

Because of the heterogeneous conditions in accessing the profession<sup>12</sup> no concrete statements on students can be given about their development.

<sup>11</sup> Bundessteuerberaterkammer and Bundessteuerberaterkammer.

<sup>12</sup> E.g. there were 23 different diploma of the active tax advisers and professional relatives in Rheinland-Pfalz already in the early 1990s.

**Accounting, Germany 7412****Table 8-23 Firms per legal form (2000)**

NACE	Branch	total	individual enterprise	Firms		
				business partnership in units	joint-stock company	other forms
74.12	Accountancy	30 070	25 405	4 764	4 692	209

Source: Statistisches Bundesamt

**Table 8-24 Turnover and persons employed (2000)**

NACE	Branch	Total turnover in 1 000 EUR	Total employment in units - point in time (Sept. 30th)		Employees in % of employment
			total	Employees	
74.12	Accountancy	17 038 727	283 087	242 306	86

Source: Statistisches Bundesamt

**Table 8-25 Total expenditure (2000)**

NACE	Branch	Total turnover in 1 000 EUR	Total employment in units - point in time (Sept. 30th)		Employees in % of employment
			total	Employees	
74.12	Accountancy	17 038 727	283 087	242 306	86

Source: Statistisches Bundesamt

**Table 8-26 Number of employees and personnel costs (2000)**

NACE	Branch	Number of employees (Sept. 30th) in units	total	personnel costs		social costs to employer as % of personnel costs in %
				gross wages and salaries in 1 000 EUR	social costs to employer	
74.12	Accountancy	242 306	8 026 617	6 639 607	1 387 011	17.3

Source: Statistisches Bundesamt

**Table 8-27 Turnover, stocks and material costs (2000)**

NACE	Branch	Total turnover	stocks in 1 000 EUR	
			at the beginning of the year	at the end
74.12	Accountancy	17 038 727	675 021	705 801

Source: Statistisches Bundesamt

**Table 8-28 Investment, taxes and subsidies (2000)**

NACE	material expenditure	total investment	all taxes	subsidies
74.12	681 406	110 858	8 541	74.12

Source: Statistisches Bundesamt

Table 8-29 Firms in turnover size classes (2000)

NACE 74.12	Firms in units	Turnover in 1 000 EUR	Employment - (Sept. 30th)		total expenditure	personnel costs	material expenditure	thereof leasing and renting	total investment	all taxes	subsidies	
			total	number of employees								
total			in units		in 1 000 EUR							
total	35 070	17 038 727	283 087	242 306	12 383 780	8 026 617	4 357 163	923 204	681 406	110 858	8 541	
more than	less than	thereof in turnover size classes										
16 620-	50 000	5 206	173 492	7 270	2 383	104 613	17 450	87 163	11 524	14 048	1 965	402
50 000-	100 000	4 902	353 482	9 252	4 557	134 785	55 722	79 063	20 953	14 284	2 853	431
100 000-	250 000	9 173	1 548 276	34 489	25 262	852 819	501 357	351 461	83 364	64 111	8 143	2 161
250 000-	500 000	7 990	2 894 862	59 661	50 331	1 873 306	1 232 732	640 574	145 259	108 593	17 137	2 251
500 000-	1 Mio.	5 246	3 589 093	67 510	60 325	2 520 900	1 717 132	803 767	195 046	121 353	16 399	1 839
1 Mio.-	2 Mio.	1 862	2 448 157	40 008	36 554	1 723 264	1 171 322	551 941	115 232	95 806	14 607	768
2 Mio.-	5 Mio.	574	1 724 631	23 759	22 346	1 241 340	796 464	444 876	84 864	62 161	11 964	301
5 Mio.-	10 Mio.	65	466 233	6 233	5 921	385 768	253 394	132 374	20 292	12 979	4 193	218
10 Mio. -	25 Mio.	35	520 239	6 851	6 678	405 582	281 585	123 997	25 775	22 329	9 755	85
25 Mio.	and more	15	3 320 262	28 053	27 948	3 141 403	1 999 458	1 141 946	220 894	165 743	23 840	85

Source: Statistisches Bundesamt

**Table 8-30 Firms in employment size classes (number of persons employed) (2000)**

NACE 74.12	Firms in units	Turnover in 1 000 EUR	Employment - (Sept. 30th)		total expenditure	personnel costs	material expenditure	thereof leasing and renting	total investment	all taxes	subsidies	
			total in units	number of employees								
total	35 070	17 038 727	283 087	242 306	12 383 780	8 026 617	4 357 163	923 204	681 406	110 858	8 541	
more than	less than	thereof in employment size classes										
bis	4	17 534	1 988 103	37 050	20 620	1 015 258	444 471	570 786	106 268	82 675	17 053	1 469
5-	9	9 434	3 311 941	63 800	53 107	2 089 086	1 342 018	747 068	171 507	121 384	16 343	2 574
10-	19	5 869	3 932 705	76 734	68 551	2 698 100	1 882 549	815 551	200 207	135 610	22 993	2 877
20-	49	1 959	3 069 067	53 306	48 628	2 171 686	1 4170 318	701 368	140 510	115 835	15 467	1 174
50-	99	197	757 456	13 030	12 630	705 220	499 037	206 183	46 753	31 241	4 338	181
100-	249	51	508 790	7 172	6 947	399 575	272 836	126 738	25 922	21 737	8 323	98
250-	499	15	264 565	5 100	5 034	244 144	176 197	67 947	13 307	10 523	3 387	82
500-	999	4	195 175	3 084	3 084	191 875	148 666	43 210	12 644	6 920	2 127	85
1000	and more	8	3 010 925	23 810	23 705	2 868 836	1 790 526	1 078 311	206 087	155 479	20 826	.

Source: Statistisches Bundesamt

#### 8.4 The Professions of Accountants and Auditors in France: an overview

The French accounting and auditing environment is divided into two separate professions, both of which are government regulated. French law prevents a statutory auditor and a public accountant from working for the same client. The auditing profession is regulated by the Institute of Statutory Auditors (*La Compagnie Nationale des Commissaires aux Comptes* – CNCC), and the accounting profession by the Order of Chartered Accountants (*l'Ordre des Experts-Comptables* - OEC). The *Ordre des experts-comptables* (OEC) is the professional body which regulates practising accountants in France who hold the title *Experts-Comptables*. The auditors are supervised by the Ministry of Justice (*Garde des Sceaux*) and accountants come under the supervision of the Ministry of Economy and Finance (see [www.acca.co.uk](http://www.acca.co.uk), January 7, 2003).

Although the *Commissariat aux Comptes* has existed as an institution since 1863, rapid economic expansion in the post-war period and the concomitant growth of the financial markets in France, established the obligation to inspect accounts, enforced under the Companies Act of 24 July 1966. A subsequent decree of 12 August 1969 created the *Compagnie Nationale des Commissaires aux Comptes* under the aegis of the Ministry of Justice.

All statutory auditors must be inscribed on the official list of the CNCC, although the majority of them are also members of the OEC. The CNCC is organised on a regional basis and members can be registered in any one of the 34 offices throughout France.

The CNCC has seen its role greatly enlarged over the years to cover inspection of accounts in all categories of organisations, both profit- and non-profit-generating concerns. Beyond the statutory mission of attesting that the financial statements are a true and fair presentation, the French auditor is also called upon to intervene when companies seek additional capital or to trigger an early warning procedure for companies likely to encounter financial difficulties.

The OEC is divided into eight sectors of professional interest under the aegis of a National Council made up of 66 members, 22 members of which represent the regional councils. The body has been mandated to represent the French accounting profession in its dealings with the other international accounting bodies, in particular the IASC (International Accounting Standards Committee).

The two bodies in France co-operate on issues of common professional interest, such as adopting a joint approach to the organisation and monitoring of peer reviews, and co-participate in a number of working parties. Both bodies are members of the *Fédération des Experts-Comptables Européens* (FEE).



The CNCC and the OEC formulate and enforce ethical standards, issue technical standards and recommendations in their respective fields, and oversee the peer reviews to ensure compliance with these standards. They also issue accounting and reporting recommendations, which they encourage their members to apply, and which have contributed to the updating and modification of existing regulations.

Other bodies associated with the accountancy profession include *the Institut des Diplômés d'Expertise Comptables en Entreprise* (ECE), which represents qualified accountants working in industry, and the *Union des Diplômés d'Expertise Comptable* (UDEC), which functions as the trade union of the ECE under the aegis of the IFEC-UNCC. The trainee accountants are represented by *the Association Nationale des Experts Comptables Stagiaires* (ANECS), who has become a powerful force in France of over 4400 members with 800 members in the Paris region alone. ANECS holds its own annual conference, and has links with other EU trainee accountants' bodies.

## **Market Entry**

### ***Tasks and exclusive tasks provided by French Accounting Professions***

The original professional duties of accountants encompass the field of year end auditing of financial statements, tax advising and juristic consulting and representation relating to the profession.

In both SMEs and large enterprises, French professional accountants have seen their role broadened beyond accounting and related tasks into areas associated with inheritance/transmission of firms, company restructuring, acquisitions and mergers, and IT projects. French regulation allows accountants to provide tax and legal advice only when they are retained as accounting advisers to a client. They play a major part in tax and labour law compliance and tax consultancy. Legal advice, contrary to statutory audit and tax advice, is not reserved to specific professions in France.

The statutory auditor fulfils a legal obligation to audit and give an opinion on the annual accounts of entities subject to audit, as well as on consolidated accounts where required to be drawn up. The standard statutory audit mission applicable to commercial enterprises comprises the following elements: expression of an audit opinion, specific verifications and review, presentation of an audit report, indicating of inaccuracies.

With the exception of local public sector enterprises, the statutory auditor in France may not exercise a statutory audit mission in the public sector.

### **Education and Entrance to the Profession**

To be a member of the *Ordre* (OEC) it is necessary to have passed the *diplôme d'expertise comptable*, a national diploma delivered by the Ministry of Education. The *diplôme d'expertise comptable* also gives automatic access to registration as a statutory auditor with the *Compagnie Nationale des Commissaires aux comptes* (CNCC).

Qualification as an *Expert-Comptable* involves passing a set of multi-stage exams and completing an internship. This requires a period of at least 7 years. The examination syllabus is co-managed by the State and the accountancy profession. The examinations are organised by the Ministry of Education but members of the *Ordre* and of the CNCC sit on the examination boards. The *Ordre* organises the traineeship ([www.experts-comptables.fr](http://www.experts-comptables.fr), January 7, 2003).

The accounting and auditing professions in France are accessible via a common study programme leading to the *Diplôme d'expertise-comptable*. It consists of a protracted period of multi-stage exams spread over a minimum of 7 years in both public and private institutions. The first level is the *DPECF* (*Diplôme préparatoire aux études comptables et financières*), requiring one to two years of study after secondary school; the *DECF* (*Diplôme d'études comptables et financières*), requiring a further two years upon completion of the *DPECF*; the *DESCF* (*Diplôme d'études supérieures comptables et financières*), which can be completed in one year. Having successfully passed the three exams, these qualifications provide access to careers as head of an accounting or finance unit or service within industrial and commercial corporations.

The last step, leading to the *diplôme d'expertise-comptable*, requires the candidate to undertake a three year traineeship in a professional accountancy firm monitored by a qualified principal, and the preparation of a thesis, a written exam and an oral test. Holders of the final *diplôme d'expertise-comptable*, who are in public practice are automatically eligible, once they have taken the professional oath, to enrol with the *Ordre*.

France is one of the EU states (along with Belgium, Germany and Greece) that restricts membership of professional associations to those working in public practice. Membership is thus associated with a given function and not with a certain educational background in accountancy or auditing; upon leaving public practice in France to work in industry or retire, the individual is obliged to rescind his/her membership of the OEC and CNCC.

The most popular route to the CNCC is by obtaining the *diplôme d'expertise-comptable*, thus explaining why the majority of practitioners belong to both bodies. Nevertheless, a specific and very restrictive route exists for French nationals to the CNCC, comprising of a qualifying examination open to persons holding a university degree or an equivalent degree from a higher commercial college (*Ecole Supérieur de Commerce*) and practical professional

training of at least three years, very similar to the traineeship required to obtain *the diplôme d'expertise-comptable*. Both streams can be undertaken at the same time.

### **Quality control**

Quality control of the auditing profession falls under the responsibility of the CNCC's Regional Councils, who have developed a peer review system for members registered with their designated regional institute. The Regional Council selects the auditors to carry out the quality control, under the denomination of "*contrôleurs article 66*", named after the section of company law which regulates the statutory audit profession. Each Regional Council appoints a member from its Board to supervise the control function at regional level. Reviews are carried out on individually registered auditors as well as the organisation of the audit firms in which they practice.

As a result of pressure from the COB, the French stock exchange watchdog, a separate external quality control function is directed at auditors of listed companies on a national level. This is also conducted as a peer review. Separate professional unions exist in France representing the two professions who take an active role in defending the interests of its members: first, there is the *Institut Français des Experts Comptables* (IFEC) and the *Union Nationale des Commissaires aux Comptes* (UNCC), which is a single trade union, with two branches of members. The second union is *Experts Comptables de France*, which is a member of EFAA (the European Federation of accountants & auditors of small to medium sized enterprises). Based on voluntary membership and considered as an optional extra to the obligatory OEC and/or CNCC membership, the unions hold annual conferences, provide technical information to members via their journals and seminars. Dual membership to both unions by practicing accountants is rare.

### **Conduct Regulation**

#### **Prices and Fees**

Generally, according to information provided by the OEC, in France there do not exist any general regulations on prices and fees of accountants and/or auditors. At the same time statutory auditors are required by law to be independent vis-à-vis their clients. This applies equally to an individual or a firm. Statutory auditors are forbidden to receive remuneration from any of the following sources: the audited company for services other than auditing; any company that holds 10% or more of the capital of the audited company; a company in which the audited company holds 10% or more of the capital.

**Advertising**

According to information provided by the OEC several forms of advertising are forbidden for accountants in France. These are: direct mailing, price advertising in any form (incl. comparative price advertising), as well as commercial advertising via print- or other media. All in all the regulations concerning advertising for French accountants appear to be rather restrictive. A re-regulation in the direction of liberalisation is currently under consideration.

**Forms of Business**

For cultural and historical reasons, individual statutory auditors have usually been designated rather than firms. Increasingly, however, firms are being appointed as statutory auditors, including French accounting companies and professional auditing partnerships.

The notion of a management accountant does not exist in France and has been the subject of much debate within the accountancy unions, anxious to introduce enhanced skills in management accounting in the mainstream accountancy curriculum.

Unlike the UK, there is only one category of membership of accountant in France: the individual who, having obtained the *diplôme d'expertise comptable* and works in public practice, is eligible for membership to the OEC. Those accountants working in industry and commerce may, however, refer to themselves as *diplômés experts comptables*. However, according to information provided by the OEC accountants in France can incorporate in different legal forms, whereby even public limited companies are allowed (but not limited liability companies).

**Location and Diversification**

According to information provided by the OEC there are no special regulations on location and diversification. This means that there are no restrictions regarding the geographical area of offering services, nor is it forbidden to open branch offices. However, for branch offices there is a prohibition of handling cash, prohibition of own commercial activities, and a prohibition of offering in subsidiaries services prohibited for the parent company.

**Inter-professional Co-operation**

According to information provided by the OEC, inter-professional co-operation for accountants in France is not generally forbidden. However, they are allowed to incorporate with other professions only under specific preconditions. To the best of our knowledge (OEC did not provide detailed information) firms must be owned at 75% by locally licensed professionals as regards companies in the form of SARL (see case study on technical

professions in France), at 66% as regards companies in the form of SA. In the case of a *Société d'Exercice Libéral* (professional corporation), 40% of capital must be with professionals active with the company, 25% with professionals, and 25% are entirely open. As for statutory audit, firms must be owned 75% by locally licensed *commissaires aux comptes* in the case of SARL or SA and 75% at least of the shareholders must be *licensed commissaires aux comptes*.

### **Continuing Education**

Membership to the *Ordre des Experts-Comptables* involves a commitment to continuing professional education. The relevant standard requires a minimum of 120 hours CPE per three year period. The *Ordre* provides continuing education seminars through its regional councils. Other courses are also available from various private organizations.

### **Specialisation in the Profession**

There are no specific regulations on specialisation in the profession.

### **Compulsory Indemnity Insurance**

In France professional indemnity insurance for accountants is mandatory. The minimum amount of coverage is 500.000 € per case and firm.

### **Recent Trends in regulation and conclusion**

Regulation for French auditors appears to be rather rigid in respect to entry regulation. The education takes a comparatively long time and the reserved areas of service are rather broad. At the same time conduct regulation appears to be *rather* liberal. This is especially true in respect of price regulation and partially as regards the form of firm and inter-professional co-operation. At the same time the profession has made large efforts in relation to professional quality management (peer reviews etc.) and continuing education.

According to ACCA in the field of public practice, the profession is dominated by the Big Five (Four) firms in France, whilst the smaller practices serving the SME sector have merged to strengthen their position vis-à-vis the former groups. In the past 30 years, the image of the local accountant and auditor serving the SME type of business has given way to the emergence of large practices. The Big Four have absorbed the smaller French firms and now certify the accounts of the French corporations listed on the French stock exchange. They have expanded into management consultancy and other advisory services, and have moved into the provincial regions of France in pursuit of the SME business.

## Economic Characteristics

### France – Structure and dynamics (NACE 7412)

*Enterprises, Turnover, Employment:*<sup>13</sup> In discussing the firms' turnover it is to be noted that only enterprises above 76.000 EUR turnover per year are included in the French statistics, for which data on average turnover are available. Furthermore, statistics on employment include only units with 1 or more employees, so that single-person self-employed enterprises are omitted.

For that reason the tables below contain 1994 data from Eurostat, and a 2000 figure based on extrapolation on the basis of growth rates from the INSEE statistics

**Table 8-31 Firms, Turnover and Employment; France 7412**

	Number of Firms	Turnover in Mio. EUR	Employment	No. of Professionals
<b>1994</b>	14 524	7 229	117 690	
<b>2000*</b>	15 800	9 023	135 476	14 800

\* extrapolated value based on INSEE definitions (except No. of Professionals)

Source: EUROSTAT, INSEE, IHS

**Table 8-32 Key Statistics, Accountancy Services: France 7412**

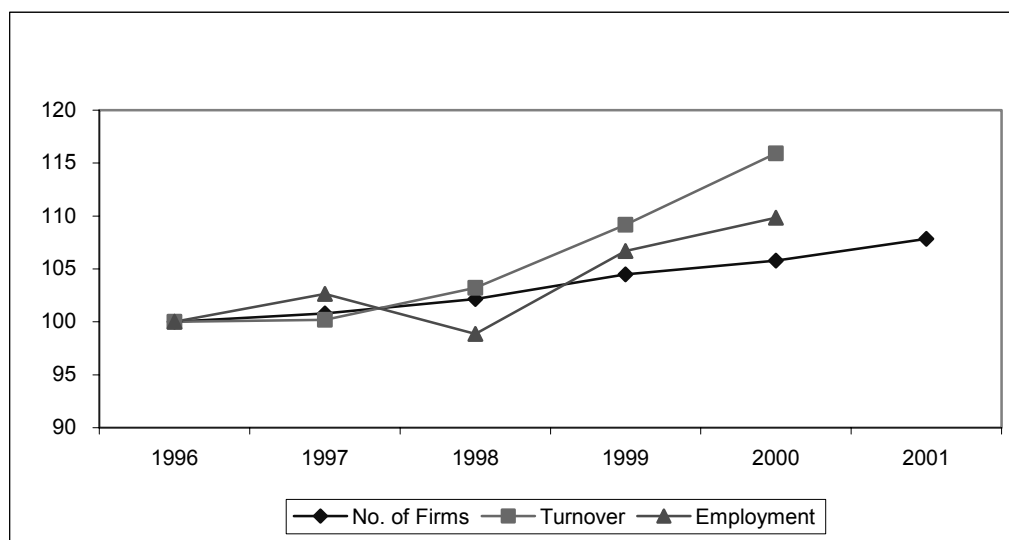
	Turnover per Firm 1000 EURO	Employment per 1000 firms	Turnover per person employed 1000 EURO	Employment per Mio. of Pop	Firms per Mio. of Population
<b>1994</b>	498	8 103	61	2 037	251
<b>2000*</b>	571	8 574	67	2 287	267

\* extrapolated value based on INSEE definitions (except No. of Professionals)

Source: EUROSTAT, INSEE, IHS

The differential rates of growth in enterprises, turnover, and employment are illustrated in the chart, with the 1996 values indexed at 100.

<sup>13</sup> EUROSTAT, SIRENE (Système informatique pour le répertoire des entreprises et des établissements - Computer system for the companies and establishments directory) (INSEE) 2002

**Chart 8-6 Relative Growth, France 7412**

Source: INSEE

\*based on INSEE definitions

The following analysis is based on the data obtained from INSEE

Accountancy services in France encompasses accounting, book-keeping, auditing services and tax advising.

**Table 8-33 Number of companies**

Year	Accounting active at 31/12	Enterprise demography <sup>1</sup>		
		Individual entrepreneur	Company	Other
1996	17 854	9 097	8 467	290
1997	17 995	8 941	8 775	279
1998	18 237	8 900	9 080	257
1999	18 654	9 058	9 336	260
2000	18 885	8 988	9 645	252
2001	19 254	8 991	10 018	245

<sup>1</sup> Number of companies economically active in the inventory at the end of year.

Source: SIRENE (INSEE) (2002)

As the table shows the number of accounting firms active increased by 7.8% from 17,854 in 1996 to 19,254 in 2001. Dominant groups are individual entrepreneurs and companies. Whereas in 1996 there were more individual entrepreneurs (9,097) than companies (8,467)

in 2001 this relation was reversed: in 2001 there are more accounting companies (10,018) than individual entrepreneurs (8,991). Other forms are relatively small and diminishing.

*Number of enterprises:* The development of accountancy enterprises in employee classes in France from 1996 to 2001 is shown in the table.

**Table 8-34 The number of accountancy enterprises in employee classes in France 1996 to 2001**

Year	Enterprise demography: Number of enterprises active at 31/12							Other
	0-5	Jun.19	20-49	50-249	250-499	500-1999	>=2000	
1996	12 997	4 014	710	116	9	6	2	0
1997	13 085	4 058	717	118	8	7	2	0
1998	13 301	4 112	697	110	9	6	2	0
1999	13 726	4 084	712	112	10	8	2	0
2000	13 784	4 244	719	117	9	10	2	0
2001	13 931	4 372	782	147	11	9	2	0

Source: SIRENE (INSEE) (2002)

In accountancy services small enterprises are obviously dominant, in particular enterprises with up to 5 employees. Their growth rate from 1996 to 2001 is 7.2% with 13,931 small enterprises in total. Next in line are enterprises with 6 - 19 employees. Their growth rate is 8.9% with 4,372 enterprises in this second class; a growth rate, which is higher than that of the group of small enterprises. An even higher growth rate of 10.1% is given for enterprises with 20 - 49 employees.

To summarize: in France from 1996 to 2001 larger accountancy enterprises grew faster than smaller ones.

*Average Turnover:* The accountancy services produced an average turnover of 734,300 EUR in 2000 (see table).

The accountancy services showed a growth rate of 9.6% from 670,000 in 1996. The larger the accountancy enterprises the larger is their average turnover: the highest turnover can be found in enterprises with more than 250 employees with a maximum of 85,559,650 EUR in 2000. In contrast: the smallest enterprises (0 - 9 employees) produced 310,880 EUR in 2000 as its highest average turnover from 1996 to 2000.



**Table 8-35 The average turnover in accountancy enterprises in employee classes in France 1996 to 2000**

Year	Average turnover					
	Accounting	0-9 employees	10-19 employees	20-49 employees	50-249 employees	>=250 employees
	EUR	EUR	EUR	EUR	EUR	EUR
1996	670 000	303 000	891 000	1 998 000	5 444 000	68 475 000
1997	666 000	300 000	896 000	1 912 000	6 343 000	70 887 000
1998	677 000	297 000	890 000	1 912 000	5 935 000	71 278 000
1999	700 000	305 000	906 000	2 098 000	6 416 000	77 109 000
2000	734 300	310 880	912 130	2 178 350	6 272 010	85 559 650

Threshold: Turnover > 76.000 EUR

Source: Système unifié de statistiques d'entreprises (SUSE-INSEE)

*Employment structure by gender.* The accountancy services employment structure measured as salaried staff by gender in France from 1996 to 2000 is shown in the table.

In 2000 there are 112,687 salaried staff altogether with a relatively high female quota of 64.3%, a quota lower than that of legal services. Employment grew by 9.8% with 102,595 salary receivers in 1996. The female quota in the mid 1990s of 64.1% is similar to the quota five years later. Thus – as in the legal services - the gender structure remained constant over the last years in French accountancy services employment.

**Table 8-36 Employment structure in accountancy enterprises by gender in France from 1996 to 2000**

Year	Total employee at 31/12		
	All	Men	Women
1996	102 595	36 857	65 738
1997	105 316	38 009	67 307
1998	101 415	37 087	64 328
1999	109 471	39 231	70 240
2000	112 687	40 173	72 514

Threshold: Enterprises with 1 or more employees

Source: Déclaration annuelle de données sociales (données d'entreprises) (DADS-INSEE)

*Enterprise Structure:* In the field of public practice, the profession is dominated by the Big Five firms in France, whilst the smaller practices serving the SME sector have merged to strengthen their position *vis-à-vis* the former groups. In the past 30 years, the image of the local accountant and auditor serving the SME type of business has given way to the emergence of large practices. The Big Five have absorbed the smaller French firms and now certify the accounts of the French corporations listed on the French stock exchange. They have expanded into management consultancy and other advisory services, and have moved into the provincial regions of France in pursuit of the SME business.

**Table 8-37 Size of Firms**

	Size of Firm		
	small	medium	large
% Firms	34.2%	46.0%	18.3%

Source: Le Figaro economie

The market shares of the Big Five audit and accountancy companies are: KPMG (34.5%), PWC (25.5%), AA (15.7%), E&Y (13.3%), DTT (11.0%)<sup>14</sup>

Despite the dominance of the Big Five, the bulk of the French accounting profession, numerically, remains as small to medium-sized firms serving the many owner-managed SME businesses in France. Over 10,000 accountancy firms employing 130,000 people now compete in France generating 20% of their fees from audit work and 80% from accountancy services. Overall, the fee split profiles have remained more or less consistent over the past few years, with a slight increase in consultancy arising from the conversion to the Euro, the impact of new technologies and the implementation of the 35-hour working week in France.

The focus has become one of achieving improved price/quality service in a highly competitive market. In response, small to medium-sized practices are offering a broader range of services, already enjoyed by the bigger firms, in areas like general business consultancy and investment advice. They have also forged regional partnerships, trimmed their overheads and looked beyond France to export their expertise.

But restrictions still exist in France, preventing accountants from offering certain services; for example, insolvency services - except in very limited circumstances - cannot be provided by accountants, as these activities are restricted to other professions.

**Table 8-38 Number of employees**

	Number of employees		
	< 10	11-100	> 100
% Firms	78%	18%	3.5%

Source: Le Figaro economie, May 1996

Most of the Big Five in France have downsized over the early part of the 1990's. In the past three years, French accountancy firms have shed 6,000 staff - over 5,000 alone between 1993 and 1994. The first signs of a revival in the recruitment of accountants and auditors appeared in 1996; a total of 1,195 new recruits were hired by the big firms, many of which were employed directly from the *grandes écoles* at entry level.

*Conseil supérieur de l'Ordre des Experts Comptables*: Complete structure data on accounting services to enterprises and other organisations (including statutory audit) was made available in the IHS questionnaire by the *Conseil supérieur de l'Ordre des Experts Comptables*. In addition to its 12,215 corporate members in 2001, the *Conseil supérieur* had a membership of 16,906 individual accountants. This figure is an increase of 64% over the number of members in 1990 (10,297). Approximately 90% of the *experts comptables* are self-employed. Only 10 members were practising abroad in 2001, 6 of these in non EU or EU-candidate countries. From 1990 to 2001 the number of professional trainees increased by 75% from 3,212 to 5,621. There have been around 1000 persons (+/- 25% ) annually passing the final qualification examinations – in 1990 this represented a pass rate of 74.4%. There were over 1,500 new trainee entrants in 2001, indicating that the period as trainee lasts for upwards of 4 years.

In 2001 there were 14,600 accountancy firms giving employment to a total of 120,000 professionals and non-professionals, this latter figure being up by just 9% on the corresponding figure for 1990. (Registration with the *Conseil supérieur* is high - 12,215 accountancy companies are registered, i.e. 84% of all firms.) Full-time employees account for 90% of the total. More than half, 58%, of firms have incorporated status. Large firms having more than 5 offices are rare, making up only 0.3% of the total - only 4 firms hold more than 50 offices throughout France - as are firms with more than 30 qualified professionals (2% of the total). There is, however, a broad distribution of small and medium sized firms – 35% single accountant firms, 30% with 2 professionals, 28% with 3-5 professionals, and 15% with between 5 and 30 professionals. Likewise, one quarter of firms consist only of the accountant, 22% have 1-2 non-professional employees, 36% have 3-10 other employees, 15% have 10-50 employees, whereas only 2% of firms have more than 50 employees.

Total turnover reported by the *Conseil supérieur* was 8.4 bill. Euro in 2001, up 58.5% in nominal terms since 1990. The five largest firms had a market share of 18% and the first 50 firms in size (0.3% of the number of practices) realize 31% of the total turnover of the profession in the regulated activities (accounting and auditing).

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<sup>14</sup> Source. Financial Times 1998.

## 9. Case Studies: Technical Professions

### 9.1 Technical Professions in Austria: an overview

The professional group of the “Civil Technicians” (*Ziviltechniker*) was first regulated in the *Staatsministerialverordnung 11. 12. 1860, Z. 36.413*. The main relevant law for a long time was the “Civil Technician Law”, BGBl. 1957/146 (“ZTG”). The last important amendment is of 1993 (“*Ziviltechnikergesetz 1993, ZTG 1993*” – “Civil Technician Law 1993”, BGBl. Nr. 156/1994).

Since this amendment “Civil Technicians” are divided into “Architects” and “Chartered Engineering Consultants” (§ 1 Abs. 2 ZTG). At the same time as this amendment, the profession of the “Civil Engineer” (*Zivilingenieur*) has been abolished: no new licenses are issued for this profession. In contrast to the Architects and Engineering Consultants this profession (the Civil Engineers) according to the “Civil Technician Law” 1957 (superseded through the ZTG 1993) was not only entitled to “planning and co-ordinating activities”, but also to “executive activities” (“*ausführende Tätigkeiten*”).

In comparison, the activities of “Architects” and “Engineering Consultants” are primarily of a planning, consulting and controlling character and they are not entitled to perform tasks of executive character. The aim of the more strict separation of planning and implementation activities is, according to the intention of the law, that the professional service provider should be active with the highest possible objectivity and independence. It should be mentioned that a multiplicity of Civil Technicians titles exists (not less than 35!). This is caused by the fact that there is a multitude of different types of Engineering Consultants. In respect of authorisation to offer services on the market, many of these titles have overlapping entitlements.

As demonstrated above, the regulatory situation for Engineers and Architects in the European Union appears to be bi-polar. On the one hand, there are several countries with very low, or, as in some cases, nearly no specific regulation on market entry and conduct. On the other hand there exist several countries, where the regulation for these professions is rather rigid. Austria is one of them. The total market entry index we computed for technical professions in Austria is as high as 3.84 and the highest of all countries compared. The conduct index, with a value of 1.175, lies in the medium field. However, only Luxembourg, Italy and Germany show higher conduct indexes (although figures for Spain and Portugal, two rather high-regulation countries, are not available).

The entry index is very high because there is a rather broad range of tasks that is reserved for Architects and Engineering Consultants (and sometimes some other professions) by law.<sup>1</sup> In respect of conduct in recent years several measures of liberalisation have been implemented.

Civil Technicians are members of the Chamber of Architects and Chartered Engineering Consultants. According to § 5 Abs. 1 of the “Chamber of Civil Technicians Law” (*Ziviltechnikerkammergesetz* 1993 (BGBl. Nr. 157/1994)) this membership is obligatory. The organisation of the profession shows some federal elements. Civil Technicians are members of the regional chamber (*Länderkammer*), according to the geographic area in which the relevant firm is located. Altogether four regional chambers (*Länderkammer*) exist. The provinces Lower Austria, Vienna and Burgenland are pooled in one chamber. The same applies to Styria and Carinthia, Upper Austria and Salzburg as well as Vorarlberg and Tyrol. These chambers, as well as the Federal Chamber of Architects and Chartered Engineering Consultants (below: “Federal Chamber”), which is incorporated in Vienna, are public corporations (*Körperschaften öffentlichen Rechts*) (§ 1 Abs. 3 “Chamber of Civil Technicians Law”). The Austrian regulation system for the profession of the “Civil Technicians” therefore follows the principle of obligatory membership in a professional association with licensing and not the principle of non-obligatory certification.

## **Market Entry**

### ***Tasks and exclusive tasks provided by Austrian technical professions***

With certification as a Civil Technician (Architect or Engineering Consultant) it is possible to offer a more or less wide range of specific tasks to third parties. Thereby the status as Civil Technician is normally a mandatory requirement for the independent practice of the respective service. But in several cases there are also other professions authorised to offer the same services. These professions include for example the technical bureaus and chartered builders, which are not liberal professions. These professions are “chartered craftsmen” (*Gewerbetreibende*) and the market entry for them is regulated as well through public law (via the *Gewerbeordnung*).

Different exclusive tasks exist for the professions of Civil Technicians. Before 1993 these tasks were directly listed in the law. Henceforth only general enumeration can be found in the law as well as some more detailed descriptions for a few professional services (Architects, Engineering Consultants for surveying, Engineering Consultants for subterranean geometry). For all the other types of Engineers the detailed regulations of entitlements to fulfil different

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<sup>1</sup> Notwithstanding with this some other professions may perform some of the respective tasks as well. Such professional groups are for example so-called Technical bureaus or chartered builders, which are no liberal professions. For details see below.

tasks can now be found in different relevant laws, concerning directly to the various activities.

Generally § 4 Abs. 1 ZTG provides that Civil Technicians, if there is no other entitlement defined by law, are authorised to carry out planning, consulting, co-ordinating, examining supervisory and fiduciary activities. Civil Technicians are particularly authorised to do measurements, prepare surveys, to take on functional representations and general planning mandates. Beside this Civil Technicians are acknowledged as public commissioner of deeds. This is an completely reserved activity, which chartered craftsmen (*Gewerbetreibende*) are not allowed to fulfil. Furthermore it is stated by law, that Architects, regardless of the appurtenant rights of chartered craftsmen for planning, are especially authorised for the planning of cultural and other public buildings (e.g. churches, schools, theatres).

### ***Education and Entry to the Profession***

Civil Technicians in Austria require a university education. The field of study has to correspond to the subject area for which the title is intended (§ 7 ZTG). This means that especially technical, scientific and mining studies qualify for the professions of the Civil Technician. The minimum study duration is 4 years. For Austrian Civil Technicians a relevant university degree is necessary. There are no other possibilities of entering the profession, for example after comparatively long periods of professional practice.

Would-be Civil Technicians require practical experience after finishing the university. Three years of such professional experience are obligatory. Of this three years, a minimum of one year has to be undertaken as a wage earner. The others – maximum two years – can be undertaken as an independent contractor. This practical experience has to be achieved in a full time position, which is appropriate to convey the necessary skills, but it does not make a difference in which economic sector and in which country this is done.

For architects, for “engineering consultants for building and construction”, “engineering consultants in the field of economics of building and construction” as well as for “engineering consultants in the field of economics of water supply and distribution and cultural techniques” a minimum of one year practice on a construction site is mandatory (§ 8 Abs. 2 ZTG). Comparable specific rules apply to the “Engineering consultants for surveying”. The fulfilment of the practical experiences have to be authenticated by a detailed testimonial.

If the requirements listed above are fulfilled (university degree and professional practise), the candidate can submit an application for admission to the professional exam to the relevant regional *Kammer für Architekten and Ingenieurkonsulenten*. The relevant regional Chamber is the one competent for the area where the candidate lives. The relevant dossier is – in several steps – transmitted to the Ministry of economics, which in the last instance decides if

the relevant preconditions are fulfilled. The examination is open to the public, held in German language and can be repeated only twice.

The examination commission is made up of two high grade civil servants, of whom one is the chairperson, and two Civil Technicians, active in the field of examination or in a nearby subject area (§ 10 Abs. 2 ZTG).

The contents of the examination are codified by § 9 Abs. 3 ZTG. These are:

- Austrian administrative law
- Business economics
- Legal and professional rules of the subject field
- Rules, Regulations and professional by-law applicable to the Civil Technician
- Particular objects, according to the practical and university experiences, can be taken into account.

After successful completion of the examination, the professional authorisation is given to work as a self-employed *Ziviltechniker* (Architect or Engineering Consultant) and/or establish a firm (§ 12 Abs. 1 ZTG). For this a registration with the relevant regional Chamber of Architects and Consulting Engineers is necessary. However, the license is valid all over Austria. Additionally the Civil Technician candidate has to give a professional oath (§ 13 Abs. 1 ZTG).

## **Conduct Regulation**

### ***Prices and Fees***

For “Architects” and “Engineers” different fee scales exist. These are prescribed, according to § 33 Abs. 1 ZTG by the Federal Chamber. However, today they have no binding effect any more. Before the law of 1993 came into force this professional fee directive was a de facto minimum price. The current directives have to be seen as guidelines. Price competition is therefore possible, the honorarium being a matter for negotiation. The code of ethics only provides that the calculated price has to be “on the basis of the various fee scales” and must not be disproportionate to the real output.

### ***Advertising***

Advertising in Austria for Civil Technicians is allowed. The relevant regulations state that Civil Technicians have to use their correct professional title. So it is forbidden to advertise without

giving notice of one's exact powers. Furthermore, disparaging advertising and misleading advertising are not allowed.

### **Forms of Business, Inter-professional Co-operation, Location and Diversification**

Since 1994 Civil Technicians may establish Civil Technician Corporations. Two different types of business organisation exist: incorporated enterprises (limited liability company or public limited company) and limited private partnerships/companies (*Eingetragene Erwerbsgesellschaft: Kommandit-Erwerbsgesellschaft* or *Offene Gesellschaft*). The founding of a private company in co-operation with chartered craftsmen is allowed only in cases where the latter are *not* authorised to carry out activities in the subject-field of the relevant Civil Technician. This rule applies due to the above mentioned principle of separation of planning and executive tasks, which was implemented as from 1993/94.

In the case of an incorporated firm, Civil Technicians have to hold more than 50% of the shares and it must be Civil Technicians with a valid license who fulfil the management and representation functions. If the corporation is a limited partnership (*Eingetragene Erwerbsgesellschaft*), shareholders that are not members of the profession may only be partners (*Kommanditisten*) (§ 28 Abs. 4 ZTG). Special regulations also exist for public companies (*Aktiengesellschaften*) (cf. § 28 Abs. 5 ZTG).

As a consequence of the regulations described above, the possibilities for inter-professional co-operation for Civil Technicians are – at least from an international comparative point of view – highly restricted. This applies in the first place to the prohibition of co-operation with chartered craftsmen if there are overlapping powers (i.e. if the respective chartered craftsmen are allowed to perform executive tasks in the respective field). Secondly, restrictions occur due to the regulation of shareholding and firm management. Nevertheless the possibilities for inter-professional co-operation for Civil Technicians in Austria have for a long time been broader than those for other liberal professions. According to information provided by the Federal Chamber of Architects and Chartered Engineering Consultants, a further liberalisation of respective rules is currently under consideration.

The opening of local branch offices is allowed since the implementation of ZTG 1993. The former restrictions have been abolished. Furthermore, the ZTG does not contain any specific rules concerning the management/guidance of such branch offices. It does not say that every branch office has to be managed by a licensed Civil Technician.



### ***Continuing Education***

Hitherto there has not been an obligation for continuing education for Architects and Chartered Engineering Consultants. A change of the relevant rules is currently under consideration.

### ***Specialisation in the Profession***

No measures exist which would allow a further job specialization beyond the rules set up by the ZTG. This would of course, in connection with the actual splitting-up of the professions and the high number of different kinds of Chartered Engineering Consultants, not make much sense. On the contrary, a consolidation of powers/different types of authorisation/licensing would maybe be beneficial.

### ***Compulsory Indemnity Insurance***

Up to now a professional indemnity insurance for Architects and the different types of Chartered Engineering Consultants is not mandatory. According to information provided by the Federal Chamber of Architects and Chartered Engineering Consultants, a reform of this subject is currently under consideration.

## **Economic Characteristics**

### ***Austria – Structure and dynamics (NACE 7420)***

*Enterprises, Turnover, Employment:*<sup>2</sup> The nominal turnover of architectural and engineering enterprises in Austria was around 4,500 million euro in 2000, equivalent to 2.2% of GDP, above the median value of the ten EU countries surveyed (c.f. Overview-tables in Chapter 5). Output of the sector rose at a very high yearly average of 15.1% from 1997 to 2000, a rate well above that of GDP in the same period (an average of 4.1% p.a.), as well as that of the rate of GDP growth in the 1990s (4.6%). This represents a real growth in architectural and engineering services of 13.6%, which is considerably higher than the growth in employment – 10.4% - over the same period, 1997 to 2000, so definitely productivity increased. In fact, the turnover per employed person rose 8.9% in total in real terms over this period. Unfortunately the rate of productivity growth in the early part of the 90s can not be calculated from the data – only the yearly average growth in employment is

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<sup>2</sup> Sources: EUROSTAT, Statistik Austria.

available, a considerably lower annual figure of 3.0% from 1991 to 1997. Altogether the average yearly increase in employment from 1991 to 2000 was 5.4%.

**Table 9-1 Firms, Turnover and Employment, Austria 7420**

	Number of Firms	Turnover in Mio. EUR	Employment	No. of Professionals
1991	5 739		23 306	
1997	6 009	2 959	27 805	
1998	7 131	3 185	31 648	
1999	7 610	3 294	33 598	
2000	7 932	4 517	37 385	7 673

Source: EUROSTAT, Statistik Austria, IHS

The number of firms increased correspondingly from over 5,700 in 1991 to over 7,900 in 2000, an average rate of 3.7% p.a. (see Table). The higher rate of increase in the number of enterprises relative to employment is indicative of a trend towards concentration i.e. relatively fewer firms with more employees: indeed the average firm gave employment to 4.7 persons in 2000, up a little from an average of 4.1 persons in 1993. However the total number of enterprises in this branch, now certainly exceeding 8,000, is not high in international comparison, being less than median value.

The average turnover per firm (in 2000) of almost 569,000 euro was considerably higher than the correspondingly value for accounting services (390,000 euro) in Austria, but closer to the turnover for legal services firms - 442,000 euro<sup>3</sup>. This is a relatively high level of business, only firms in Denmark and the UK of the countries in our survey having higher valued outputs. In fact when adjusted for level of prices and output of the whole economy, only the UK has a higher volume per firm in the sample; unlike the UK, however, Austria does not have an exceptionally high level of architectural and engineering business measured in per capita volume.

The level of employment is somewhat low for the branch, at nearly 4,600 persons per million of the population in 2000 below the median value, whereas the level of productivity, as measured by the turnover per employed person is, at 121,000 euro in 2000 in absolute terms among the highest of countries included in our survey. Even when adjusted for price levels as well as for economic output level (in terms of GDP in PPS per capita), the volume per employee of the architectural and engineering consultancy branch in Austria is second only to that of Sweden; unlike Sweden, however, as mentioned above, Austria does not have an exceptionally high level of architectural and engineering business measured in per capita volume.

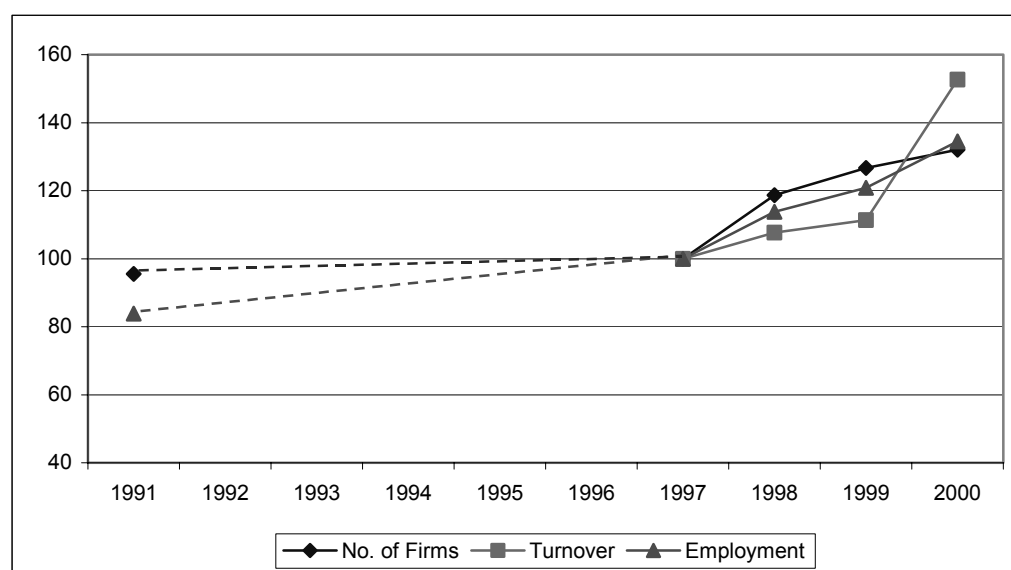
<sup>3</sup> Note: Value Added is typically 70-75% of turnover for legal and accounting services, 50-55% of turnover for technical services.

**Table 9-2 Key Statistics, Legal Services; Austria 7420**

	Turnover per Firm	Employment per 1000 firms	Turnover per person employed	Employment per Mio. of Pop	Firms per Mio. of Population
	1000 EURO		1000 EURO		
<b>1991</b>		4 061		3 000	739
<b>1997</b>	492	4 627	106	3 446	745
<b>1998</b>	447	4 438	101	3 919	883
<b>1999</b>	433	4 415	98	4 157	942
<b>2000</b>	569	4 713	121	4 614	979

Source: EUROSTAT, Statistik Austria, IHS

The differential rates of growth in enterprises, turnover, and employment are illustrated in the chart, with the 1997 values indexed at 100.

**Chart 9-1 Relative Growth Rates, Austria 7420**

Source: EUROSTAT, Statistik Austria, IHS

*Relative to other professions:* the next table shows the size and structure of the technical services branch in Austria relative to other related professional services (NACE 2-digit 74). Architects and engineering consultants account for the highest share of the professional services.<sup>4</sup> Altogether technical services account for 26% of firms, 27% of turnover, and 18% of employment in the 74-branch.

<sup>4</sup> The only larger 4-digit category is cleaning services.

Along with the legal services professions and accountancy services, other non liberal professions such as market and opinion research and advertising are included. The productive output of the branch is also relatively high: 120 Euro per employee, in comparison to 109 Euro per employee in the consulting branch (7414) – a non-regulated branch employing a high proportion of highly qualified persons.

*Professionals:* The *Bundeskammer der Architekten und Ingenieurkonsulenten* provided statistics on membership of its two sections, i.e. architects and chartered engineering consultants (IHS questionnaire). These two sections have almost identical strength of membership and show parallel changes in membership structure (since 1990 at least). Whereas there were 3,158 architects in 2000 (up by 39.5% from 2,263 in 1990, there were 3,056 consulting engineers in 2000 (up by 30.5% from 2,341 in 1990. Of this number, However, only 67% of architects (2,112), and 64% of chartered consulting engineers (1,961) were practising in 2000. (It should be noted that there are also 4,480 members of the *Fachverband Technische Büros* (as of 2000/01), not classed as a liberal profession, and this number has increased by 262% since 1990.)

There were 220 newly admitted architects in 2000, 26% more than in 1990, out of a total of 950 trainees, indicating that persons have the trainee status upwards of 5 years. Correspondingly, There were 210 newly admitted consulting engineers qualifying through entrance examinations in 2000, 24% more than in 1990, out of a total of 900 trainees, indicating a similar period of trainee status. The pass rates in final qualifying examinations are high for both architects and consulting engineers – these were, for example, 96% and 93% respectively in 2000.

Table 9-3 Structure data for professional services. Austria 2000

NACE	Branch	firms	Employment (31.12.2000)		personnel costs	Earnings	Revenues	Production value	Buying of goods and services		gross value added	gross investment
			total	therof employees					total	thereof for resale		
in 1.000 EURO												
k74	Other business activities	29 977	202 903	173 504	5 299 770	18 390 508	16 574 163	12 461 094	8 298 126	3 421 786	7 566 824	893 245
k7411	Legal activities	2 791	16 456	12 694	331 817	1 236 027	1 234 123	1 204 625	348 450	30 265	884 885	46 503
k7412	Account., book-keep. & audit. activities; tax consult.	3 529	22 663	19 260	630 430	1 386 672	1 377 419	1 243 830	456 291	136 659	921 469	68 246
k7413	Market research and public opinion polling	186	1 182	1 016	44 847	163 461	161 805	119 471	94 861	43 305	67 133	6 915
k7414	Business and management consultancy activities	3 126	10 394	7 239	335 197	1 154 865	1 134 178	893 396	623 862	245 692	513 608	79 262
k7415	Management activities of holding companies	381	3 956	3 861	272 786	2 395 385	861 307	742 057	493 535	123 002	369 532	182 358
k7420	<b>Architectural and engineering activities</b>	7 932	37 385	28 807	1 176 154	4 677 756	4 516 539	2 763 938	2 556 186	1 058 610	1 259 284	169 437
k743	Technical testing and analysis	1 588	5 818	4 361	164 623	440 671	431 842	384 748	179 950	45 702	252 432	54 040
k744	Advertising	3 553	13 935	10 934	389 863	2 724 974	2 691 709	1 342 432	1 911 667	1 357 541	783 252	82 834

Source: Statistik Austria

*Size of Firms, Legal Form, Self-employment*<sup>5</sup>: The following table shows that both architects' and engineers' enterprises overwhelmingly consist of small business with less than four employees. A slight trend towards slightly bigger companies is just discernable, mainly to the size category, 5-9 employees.

**Table 9-4 Firms by Number of Employees – Technical Services. Austria**

Year	Number of Employees									Sum
	1-4	5-9	10-19	20-49	50-99	100-249	250-499	500-999	> 1000	
1997	4 660	873	321	128	19	6	0	0	2	6 009
1998	5 464	1 004	479	154	22	6	0	0	2	7 131
1999	5 749	1 228	449	140	29	14	0	0	1	7 610
2000	5 946	1 327	409	214	24	10	0	0	2	7 932
% in 1997	78%	15%	5%	2.1%	0.3%	0.1%	0%	0%	0.03%	100%
% in 1998	77%	14%	7%	2.2%	0.3%	0.1%	0%	0%	0.03%	100%
% in 1999	76%	16%	6%	1.8%	0.4%	0.2%	0%	0%	0.01%	100%
% in 2000	75%	17%	5%	2.7%	0.3%	0.1%	0%	0%	0.03%	100%

Source: Statistik Austria, IHS

The proportion of self-employed professionals has remained more or less constant in recent years, at around 22-23% of total employment in the branch.

**Table 9-5 Self-employed professionals, Technical services, Austria**

	Total	Employees	Self-employed	as %
1997	27 805	21 275	6 531	23.5%
1998	31 648	24 311	7 337	23.2%
1999	33 598	25 686	7 913	23.6%
2000	37 385	28 807	8 579	22.9%

Source: Statistik Austria, IHS

Data on legal form only exists for one year, and the statistical basis used was different<sup>6</sup>, but it offers an insight into the types of firms present in the market for technical services (see table following).

It is interesting that there are proportionately more sole proprietors (83% of all technical services firms) than in the accountancy, legal or pharmacy professions. This indeed characterises the enterprise structure among the liberal professions in Austria.

<sup>5</sup> Source: Statistik Austria; IHS

<sup>6</sup> Data from 1995, ÖNACE norm.

**Table 9-6 Types of Firm Ownership**

1995	Pharmacy	%	Accountancy Services	%	Legal Services	%	Technical Services	%
<b>Sole Proprietors</b>	450	50%	2 491	69%	2 348	81%	5 182	83%
<b>Private company</b>	444	49%	264	7%	554	19%	311	5%
<b>Limited Liability Partnerships</b>	13	1%	856	24%	4	0.1%	740	12%
<b>Public limited companies</b>	0		8		0		1	
<b>others</b>	1		1		0		3	
<b>Totals</b>	908		3 620		2 906		6 237	

Source: Statistik Austria, IHS

**Summary**

Austria is one of the Countries in the European Union where Technical professions are highly regulated. This is especially true concerning market entry. Architects and Consulting Engineers in Austria are equipped with broad exclusive tasks (whereby some of them may be provided by selective licensed chartered craftsmen as well) and the regulations concerning educational preconditions to enter the relevant professions are very rigid. At the same time for Engineering Consultants there exists a multitude of different titles and rules concerning the (exclusive) tasks that the relevant type of Engineering Consultant may provide. This leads to a high level of non-transparency which may retard an even more dynamic development of the sector (not only in quantitative but also in qualitative measures). Conduct regulation for technical professions has been liberalised to a certain degree in recent years. This is especially true for prices and fees, and, to lesser degree, forms of business.

A first step in reforming the market could be to advance transparency by reducing the large number of different kinds of Engineering Consultants. Specialisation is not *per se* a bad thing, but it should be understandable for the public. At the same time the exclusive tasks reserved to technical professions should be displayed in a clear form. Furthermore, from an international-comparative point of view it is not clear why licensed technical professions should be equipped with such a multitude of exclusive tasks, as is the case in Austria.

## 9.2 Technical Professions in Finland: an overview

As already stated above the field of technical professions in the European Union shows up as a kind of bi-polar phenomenon. On the one hand, there are countries with rather “comprehensive” systems of regulation; on the other hand, there are several countries where such regulations do not exist at all. Finland is part of the latter group with a rather liberal professional regime.

It occurs for both Architects and Engineers that not even their professional title is protected and according to the questionnaires provided to us no exclusive or shared exclusive tasks exist for these professions. So specific market entry regulation is not, or, as will be shown below, nearly non-existent. The same is true for conduct regulation.

Both professionals are not obliged to become members of or be registered with a professional association. The associations of architects (SAFA), construction engineers and architects (RIA) as well as civil engineers (RIL) have been set up on a voluntary basis.

The Finnish Association of Architects, SAFA, is a non-profit, professional organisation which is open to all architects with a university degree from a Finnish university or equivalent qualifications. Membership of SAFA accounts for approx. 85% of all Finnish architects with a university degree. The Association of Finnish Construction Engineers and Architects RIA is a professional organisation for the construction engineers (B.Sc.), architects (B.Sc.) and environmental engineers (B.Sc.) graduated from technical colleges and polytechnics. There are 17 local associations and 1 labour market organisation that belongs to RIA. In those associations there are about 8,500 members. RIL, the Association of Finnish Civil Engineers, is an organisation for civil engineers with Master of Science degree and university students of civil engineering. RIL has more than 5,000 members. Over 60% of all who have a MSc degree in civil engineering in Finland belong to the Association. Nearly 100% of the civil engineering students are enrolled as junior members of RIL.

### Market Entry

#### ***Tasks and exclusive tasks provided by Finnish Engineers and Architects***

Engineers and Architects in Finland generally provide the same services as they do in other countries. Main fields of activity are for example design and planning, project management including execution management, preparation and monitoring of constructions, urban and landscape planning, requests for construction permits etc. Generally these tasks are not reserved to Architects or Engineers. This is stated unanimously by different sources (the questionnaires returned to us, publications by the OECD, different web-pages etc.).



Notwithstanding this, we found the following rules in the Use and Building Decree Issued in Helsinki, September 10, 1999:

“Section 48

#### Qualifications of planners

Persons drawing up a building design or special design shall have a construction-related university degree appropriate for the planning functions in question, or an earlier construction-related higher-level vocational or other degree, and sufficient experience of working on the type of planning in question.

Buildings that are small or have ordinary technical properties may also be designed by persons with a college-level qualification in construction or in the relevant line of special study, or a corresponding earlier qualification if they are sufficiently experienced.

In addition, a person who does not possess one of the aforementioned qualifications but is deemed to have the skill required in view of the type and extent of the construction work or design task may also carry out minor design works.”

Although the formulation of this rule is rather “open”, it appears to be clear, that there exists a kind of exclusive or shared exclusive task for engineers and architects at least in the field of planning. Similar rules can be found in Section 70. The relevant paragraphs say that “the site manager of a construction works shall have a construction-related university degree or a degree required of a responsible foreman in sections (...), hereinafter earlier decree, that is appropriate for the task. In addition, the site manager shall have the construction experience required in view of the type and extent of the construction project. When the building in question is smallish and structurally straightforward, the site manager may also be a person who does not possess one of the aforementioned qualifications but is otherwise deemed to meet the preconditions for the task”.

All in all this points in the direction that there are areas in the field of technical professions in Finland that require more or less specific qualifications on the grounds of public law. At the same time these regulations seem to be handled rather flexibly. For that, we gave Finland a rather low market entry regulation index in chapter 2.

#### ***Education and Entrance to the Profession***

In Finland there are three levels of engineering qualifications:

- the highest level is the one of *diplomi-Insinööri* - MSc equivalent - which may be taken at one of five universities. In principle the course lasts for five years with 3 - 6 months of practical training: in practice it lasts seven years on average;
- in the non-university sector there are institutes of technology and polytechnics which offer the equivalent of a BSc after a nominal four years of study including 20 weeks of 'practical training'. Education toward an engineering diploma is given at 23 polytechnics in Finland, out of a total of 29. The number of starting places is over 9,000, of which close to 8,000 are at the undergraduate level and the rest are for adult education;
- at the lowest level, Technician courses are also available at the polytechnics: they take four years with 20 - 40 weeks of practical training.

As already mentioned, there is no register of engineers, nor is there any protection of title. Professional engineers may start to practice as soon as they graduate.

The same is true for the profession of Architects. Courses in Architecture are offered at Helsinki University of Technology, the University of Oulu, and Tampere University of Technology. Places are limited and placement is highly competitive. There is a pre-test for admission. The program takes 4.5 – 5.5 years, depending on the university. An unification to a 5-year course is envisaged (2+3 years). A short-term training is envisaged during the course, but it is not compulsory for the membership in the SAFA (which is not obligatory after all, see above).

### **Conduct Regulation**

#### ***Prices and Fees***

According to our present knowledge there are no specific price regulations for technical professions in Finland. There are no minimum, maximum or in any other way fixed prices. Additionally, no systems of reference prices exist. Fees and prices of technical professions are freely negotiable.

#### ***Advertising***

No special regulations for marketing and advertising apply to technical professions in Finland.

### ***Forms of Business, Inter-professional Co-operation, Location and Diversification***

There are no special regulations in respect of these points. Technical professions are allowed to establish all forms of business. Inter-professional Co-operation is allowed in all kinds and there are no special rules on Location and Diversification.

### ***Continuing Education***

Continuing education is not compulsory for Architects and Engineers in Finland.

### ***Specialisation in the Profession***

There are no special rules for specialisation in technical professions in Finland (as there are for example for lawyers in Germany). But since 2002 several postgraduate degree programmes are available for polytechnic graduates. The admission criteria for postgraduate studies is a polytechnic degree and three years' related practical experience after graduation.

### ***Compulsory Indemnity Insurance***

In Finland an obligation for a compulsory indemnity insurance does not exist.

## **Economic Characteristics**

### ***Finland – Structure and dynamics (NACE 7420)***

*Enterprises, Turnover, Employment:*<sup>7</sup> The nominal turnover of architectural and engineering enterprises in Finland reached a level approaching 2,800 million euro in 2000, equivalent to over 2.1% of GDP, which represents the fifth highest share of GDP, after Sweden, the UK, Austria and Denmark, among the 13 EU member states surveyed (c.f. Overview-tables in Chapter 5). Output of the sector thus rose at a yearly compounded average of 10.1% during most of the 1990's, faster than the growth in GDP (an average of 8.7% p.a.). This represents a real growth in architectural and engineering services in Finland of 7.8%, which is higher than the growth in employment - 5.5% - over the same period, 1993 to 2000, so productivity gains have also been made. In fact, the turnover per employed person rose in total 17% in real terms over this period.

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<sup>7</sup> Sources: EUROSTAT, Tilastokeskus – Statistics Finland.

**Table 9-7 Firms, Turnover and Employment; Finland 7420**

	Number of Firms	Turnover in Mio. EUR	Employment	No. of Professionals
1993	4 818	1 423	18 115	
1994	4 928	1 671	18 174	
1995	5 150	1 853	19 341	
1996	5 642	2 032	20 525	
1997	5 997	1 980	22 767	
1998	6 275	2 199	24 277	
1999	6 222	2 396	25 120	
2000	6 337	2 784	26 355	
2001				6 500

Source: Statistics Finland

The number of firms increased correspondingly from about 4,800 in 1993 to over 6,300 in 2000, an average compound rate of 4.0% p.a. (see above Table). The lower rate of increase in the number of enterprises relative to employment is indicative of a slight trend towards concentration i.e. relatively fewer firms with more employees: indeed the average firm gave employment to 4.2 persons in 2000, up from an average of 3.8 in 1993.

The total number of enterprises in this branch, over 6,000 since 1998, is relatively high, however, at 1,225 per million of population compared to the median value in our survey of 1,073 – although Italy, Sweden, Spain, Luxembourg and Belgium have a greater density of architecture and engineering firms in our survey relative to the size of population.

**Table 9-8 Key Statistics, Technical Services; Finland 7420**

	Turnover per Firm 1000 EURO	Employment per 1000 firms	Turnover per person employed 1000 EURO	Employment per Mio. of Pop	Firms per Mio. of Population
1993	295	3 760	79	3 584	953
1994	339	3 688	92	3 579	970
1995	360	3 756	96	3 793	1 010
1996	360	3 638	99	4 011	1 103
1997	330	3 796	87	4 436	1 168
1998	350	3 869	91	4 716	1 219
1999	385	4 037	95	4 869	1 206
2000	439	4 159	106	5 097	1 225

Source: Statistics Finland; IHS

The average turnover per firm (in 2000) over 439,000 euro is considerably higher than the correspondingly value for firms offering accounting services (140,000 euro) or legal services

(247,000 euro) in Finland, but this level of business is typical, being the median value in our survey and well below the turnover per architecture/engineering firm in Austria, Denmark, Ireland and UK<sup>8</sup>.

Although the level of employment, approximately 5,100 persons per million of the population in 2000 is somewhat high in international comparison (after Sweden, the Netherlands, the UK and Denmark) the turnover per employed person is, at 106,000 euro in 2000, well above the median but equally well below the equivalent values for Sweden, Denmark, Austria and the UK, the leaders in terms of this indicator in our survey.

The differential rates of growth in enterprises, turnover and employment are illustrated in the chart with the 1993 values indexed at 100.

**Chart 9-2 Relative Growth Rates, Finland 7420**



Source: Statistics Finland

*Engineering*<sup>9</sup>: 85 per cent of engineers in Finland are employed in the private sector, 12% in the public sector (state, local authorities) whereas 3% are self-employed. A more detailed breakdown of employment by task is shown in the graphic.

<sup>8</sup> Note: Value Added is typically 70-75% of turnover for legal and accounting services, 50-55% of turnover for technical services.

<sup>9</sup> Source: Insinööriliitto - the Union of Professional Engineers in Finland



Source: Insinööriliitto - Union of Professional Engineers in Finland

The average age at which an engineer in Finland had completed his/her education is 26. The median monthly gross salary of qualified engineers, 10% of whom are women, is ca. 3,000 euro. A breakdown of positions held by engineers is shown in the chart.



Source: Insinööriliitto - Union of Professional Engineers in Finland

*The Finnish Association of Consulting Firms SKOL*.<sup>10</sup> SKOL is a professional and employers' organization for independent and private consulting companies. SKOL has a membership of 257 consulting engineering, architect and management consulting firms. Member firms are independent from commercial, manufacturing and contracting interests and must have practised in independent engineering, architecture or other consulting for at least one year. The executives and leading consultants of a member firm must be full-time consultants and have an adequate education and experience in their special fields.

<sup>10</sup> Sources: IHS-Questionnaire; SKOLry website

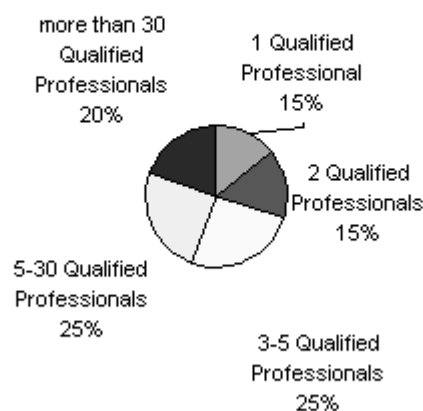
Currently, the yearly invoicing of members of SKOL amounts to about 700 M €. About one third of this amount (220 M €). comes from foreign operations, of which 80 M € originates in other EU or EU candidate countries, and 140 M € in other countries. Building construction accounts for 35% of Finnish consulting, municipal engineering 25% , and industrial projects 40%. SKOL capacity represents two thirds of the total consulting engineering capacity in Finland. SKOL members offer services in the 33 fields defined by SKOL. About 70 per cent of the personnel in the member companies have a university or technical college degree.

The five largest firms have a market share of 28%; altogether the top 10% of large firms account for 60%, and 30% of firms for 80% of the market. Ten companies have offices outside Finland, half of these in EU or EU candidate countries. Swedish (head-office) firms have the largest number of offices in Finland, followed by UK enterprises.

The SKOL member companies employ about 9,500 people in Finland and their sixty foreign subsidiaries employ some 5,000 people abroad. Compared to the 6,400 or so firms in the architectural and engineering branch in Finland, which altogether give employment to ca. 30,000 people altogether (cf. Enterprises, Turnover, Employment), it is evident that large companies are proportionately higher represented in this organisation. Over a third of firms has only one or two employees, half employ less than 10 people, but 10% of firms have 10 - 50 employees, and 5% employ more than 50 persons. Correspondingly 80% of firms operate from a single office, 15% have between 2 and 5 offices, and 5% of firms have 5 - 20 offices.

The typical number of professionals employed by the enterprises is shown in the chart below.

### Size of Firms (in terms of Professionals)



Source: IHS-Questionnaire, SKOLry

*Architects:*<sup>11</sup> The Finnish Association of Architects, SAFA: had 2500 members at the beginning of 2001, split 63% male and 37% female., encompassing 85% of all Finnish architects with a university degree. Membership is voluntary, and is not a condition for practising in the profession.

*Students and Graduates:*<sup>12</sup> There were 1,400 students of architecture in Finland in 2001, i.e. 1% out of a university student population of 140,000. The population of graduates (degree holders) in Civil Engineering was estimated at 13,000.

*The Architecture and Consulting Engineering Sector:*<sup>13</sup> The large Finnish consulting firms have generally had a good market for their services in 2000 and expanded rapidly. The giant Jaakko Pöyry Group has, however, mainly expanded on the international market – almost 70% of its turnover is attributable to markets outside the Nordic region. The areas expanding most were the energy and forestry sectors. Jaakko Pöyry is also setting up business on the world's third largest market for forest products, Japan.

The Jaakko Pöyry Group, with a turnover of 475 mill. €, twelve times the size of the next largest consulting firm in Finland, is not only the largest Scandinavian consulting firm but is also the seventh largest in Europe and seventeenth in the world in terms of its workforce (over 4,700 employees). In general, however the employment in Finland of consulting groups, compared to other Scandinavian countries, is more or less proportionate to the size of it's population (see graphic)



Nevertheless, altogether 11 consulting firms are listed in the top 200 European architectural and consulting engineering companies (by number of employees).

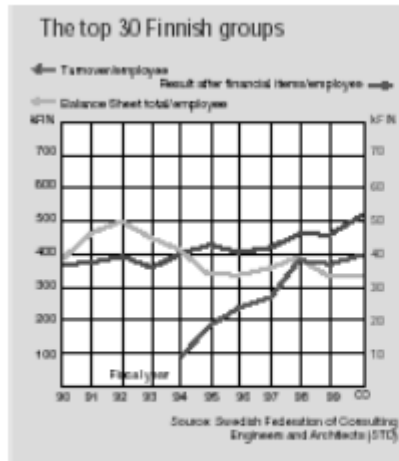
<sup>11</sup> Source: The Finnish Association of Architects, SAFA

<sup>12</sup> Source: ArchiWorld Network Website.

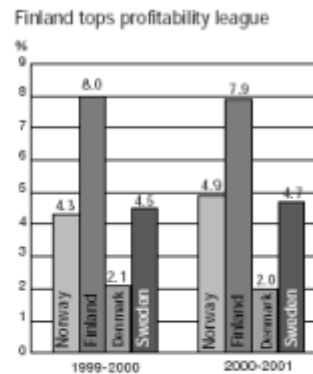
<sup>13</sup> Source: Swedish Federation of Consulting Engineers and Architects (STD Svensk Teknik och Design), Sector Report 2001.



In the Scandinavian context alone, the relative strength of the Finnish architectural and consulting engineering sector is evidence in the following graphics:



Source: Swedish Federation of Consulting Engineers and Architects (STD)



The Finnish consulting firms are more profitable than consulting firms in the other Nordic countries. The diagram shows profit margins, measured in terms of pre-tax profit in relation to turnover, for the 30 largest groups.

Source: Swedish Federation of Consulting Engineers and Architects (STD)

It is notable that the relatively high profitability of the sector by no means is due only to the performance of the dominating consulting engineering group, as the table below bears witness to.

**Table 9-9 Turnover Top 30 groups**

Key figures 2000/2001	for the top 30 groups		for the top 30 groups	
	all	excl. JP*		
Turnover/employee in 1000 EUR	84.9	70.5	505	419
Result after financial items/employee in 1000 EUR	6.7	6.6	40	39

\* Excluding Jaakko Pöyry Group

Source: Swedish Federation of Consulting Engineers and Architects (STD)

The total turnover for the top 30 groups increased with some 15% during 2000/01 (previous year 6%). If Jaakko Pöyry Group is excluded the turnover increased with some 4,5% (previous year 7%).

## Summary

Finland is one of the Countries in the European Union with very liberal regulations in the field of Technical Services. It is a good example for the fact that the quality of services may be guided by market mechanisms instead of extensive professional regulations without obvious sub-optimal outcomes or, as some argue, even a “breakdown” of the market due to adverse selection.

The Finnish regulatory system is also a good example for the fact that the phenomenon of path-dependency (meaning that a system is hard to change once it is in place, and any changes that do occur are made up of gradual moves from the initial start position) not only occurs in respect of rigid regulations but also regarding relatively liberal ones. Up to now there have not been any serious far-going attempts to reform the technical professions in Finland in the sense of setting up more rigid rules. However, from our point of view, no good reasons occur to do so.

## 9.3 Technical Professions in France

### Architects

France has today more than 28,000 architects registered in the “*tableau de l'Ordre*”; that corresponds to approximately 4.7 architects per 1,000 inhabitant.

The profession of the architect is exercised in France under the job title “architect”. Only the persons, who are registered in the occupation register of the architects (*tableau régional des architectes*), are allowed to call themselves “architect”; and only “architects” may assume architectural tasks (exclusion principle). The occupational register is kept by the established *conseils régionaux* on a local level, which should not be confused with the chambers (“*ordres*” see below).

This profession is strictly regulated in France. The laws, rules and regulations tend to protect the monopoly of architects on one hand, and the title of Architect on the other (Law 77-2 of January 3, 1977 amended by the Law of July 12, 1985; Ordinance 78-67 of January 19, 1978; Ordinance 80-217 of March 20, 1980, establishing a Code of Professional Responsibility of Architects).

Architects are required to obtain insurance covering their professional responsibility (see chapter Compulsory Indemnity Insurance).

### Market Entry

A condition for the entry is that the applicant possesses either the French nationality or belongs to a member country of the European Union. Furthermore the applicant must show either a diploma or another French degree of architecture; if he comes from the European Union, he must be in the possession of an equivalent and recognized diploma. Exceptionally also an acknowledgement is sufficient by the Minister of Education, as far as the candidate has on suggestion of a commission sufficient vocational experiences. An applicant coming from another country has only access to the profession of the architect, if a mutual agreement exists with the country of origin and if he can submit an appropriate diploma.

### ***Tasks and exclusive tasks provided by French Architects***

The architect, according to French Law, is defined as the prime contractor to whom the owner must address himself for any construction or renovation job which requires a building permit. In all cases where a building permit is necessary (i.e., for all new constructions, for all changes in the purpose of an existing construction or all modifications carried out on its

volume or its outer appearance), the architect has to establish an architectural plan before such permit can be issued.

Such a plan consists of drawings and documents defining “the positions of the building, their content, organization and volume, as well as the choice of materials and colours”. The execution of the work may be entrusted to a contractor, but the architect must always ensure that the project is being followed as it has been approved by the authorities who have issued the building permit.

Furthermore, the architect may participate in the following exclusive tasks: Town planning and development including preparation of drawings, allotment of land, preparation of programs, consulting of firms, preparation of public calls for bids, coordination and direction of works, providing assistance to owners, consultancy and expert appraisal, teaching.

### **Education and Entry to the profession**

There are three types of diplomas which give access to the profession of architect:

- D.P.L.G. (*diplômé par le Gouvernement*; graduate by the Government) delivered by one of the 24 schools of architecture which depend on the *Ministère de la Culture*,
- E.N.S.A.I.S. (*l'Ecole Nationale Supérieure des Arts et Industries de Strasbourg* which depends on the *Ministère de l'Education Nationale*),
- D.E.S.A. (*Diplôme de l'Ecole Spéciale d'Architecture*, which is a private school).

The teaching in the schools of architecture has been reformed. From now on the studies are organized in three cycles:

- A first cycle of two years of general studies leading to the diploma of first cycle of the studies of architecture: It is a national diploma of the higher education (DEUG en architecture). It has the aim of initiating the student in architecture and its methods, to give him the bases of its architectural culture, and to enable him to work out a simplified project. At the end of the first cycle, the student will be able, either to continue his formation in the second cycle, or to direct himself towards other higher education or towards short professional trainings leading to the working life.
- A second cycle of two years fundamental studies leading to the diploma of 2nd cycle of the studies of architecture. It is a national diploma of the higher education (*maîtrise en architecture*). It has the aim of giving to the student the mastery of essential concepts, tools and methods of the architectural work. It allows the student, either to continue his formation

in the third cycle leading to diploma D.P.L.G., or to orientate towards other formations of 3rd cycle of the higher education in the respect of the particular conditions of access to these dies.

- A third cycle of deepening of knowledge leading either to the D.P.L.G., or to a national diploma of the higher education in the fields of architecture (D.E.S.S., D.E.A., *Doctorat*). The 3rd cycle leading to the D.P.L.G. takes two years. It includes a practical training course of six months which can be carried out in France or abroad, in an agency, in a local authority, in an administration, in a company, or with other partners with whom the schools of architecture undertake an agreement.

This reform whose decrees of application were published at the end of November 1997, came into force, for all the courses, in 1999/2000.

The *formation continue* of the architects is one of the axes of study and priority reflexion of the *Conseil National de l'Ordre des Architectes* (National Council of the Order of the Architects). In accordance with the legislation in force (Art 26 de la Loi de 77 et Décret du 20/03/80, Art. 4 du *Code des Devoirs Professionnels*) the architect maintains and improves his competence and takes part for this purpose with activities of information, training and improvement. The *Conseils régionaux de l'Ordre des architectes* (regional Councils of the Order of the architects) are, either by internal delegation, or by creation under their aegis of independent structures, on the initiative of actions or organizations of *formation professionnelle continue* (vocational continuous training) which answer by their expected programs and the requests of their professional colleagues. These organisations of formation also endeavour to answer the invitations to tender launched by FAF PL (*pour la formation des collaborateurs d'architectes*; for the training of the collaborators of architects) by FIF PL (*pour la formation des architectes eux-mêmes*; for the training of the architects themselves) or by the *Direction de l'Architecture et du patrimoine du Ministère de la Culture* (Management of the Architecture and the inheritance of the Ministry for the Culture), in particular for the training of the applicant for work architects.

### **Protection of the title**

The illegal use of the title of architect is subject to criminal sanction. To ensure the protection of the title, there is a professional body which guarantees the application of professional rules and regulations. It has the authority to take disciplinary action and controls the access to the profession through inscription on the Roll.

Furthermore, a code of ethics enumerates the architect's obligations.

Thus, in principle, to join this profession, three conditions must be fulfilled: (1) To possess one's civil rights and provide evidence of good moral character. (2) To have obtained a degree, certificate, or other title recognized by the French government. (3) To be French, or the national of another Member State of the European Community, or the national of a third country which has signed a convention of reciprocity with France. There is no such convention between France and Canada, or the United States. A North American cannot therefore practice as an architect in France, unless he has dual nationality, one of which is of an EU country. In the latter case, the degree he or she holds must appear on the list of foreign degrees recognized as being equivalent to French diplomas by an order of the *Ministre de l'Urbanisme, du Logement et des Transports* (Ministry of Urbanism, Housing and Transport).

Nevertheless, the Law of January 3, 1977 and the Ordinance of January 16, 1978, mention four exceptions to the condition regarding French nationality:

(1) A foreign architect can be authorized to practice by a decision of *the Ministre de l'Urbanisme*, whose decision is taken after hearing the opinion of *the Ministre des Relations Extérieures* (Secretary of State). But in practice, the *Ministre des Relations Extérieures* bases his decision mainly on the existence of a convention of reciprocity with the country of origin of the candidate.

(2) The *Ministre de l'Urbanisme* may allow a foreign architect to register in France, upon presentation of professional references, and after taking into account the opinion of a national commission. But this rule only concerns exceptional cases, where the candidate has already completed works of great importance.

(3) The *Ministre de l'Urbanisme* can authorize an architect to carry out a specific project in France, either after hearing the opinion of the *Conseil National de l'Ordre des Architectes*, or as a result of a contest of which he or she was the prize-winner. Within this context, then, the authorization of the Minister is practically automatic. It is to be noted that competitions are advertised in the bulletin of the *Union Internationale des Architectes* (U.I.A. - International Union of Architects).

(4) Finally, the law provides for persons having effectively practiced as architects in France before 1977 to be recognized and approved by the *Ministre de l'Urbanisme*, after receiving the opinion of a regional commission, and on these grounds to be authorized to work as an architect. However, this procedure seems quite impractical at the moment as 2,000 applications have already been submitted, and *l'Ordre des Architectes* is not at all favourable to this procedure. The application to register should be made to *the Conseil Régional de l'Ordre des Architectes* of the area in which the candidate wishes to practice.

In cases (1), (2), and (3), however, if the candidate is the prize-winner of a competition, the application should be made directly to the *Direction de l' Architecture du Ministère de l'Urbanisme*.

In all cases, the application must be accompanied by the documents which prove that the candidate fulfils the statutory conditions.

In practice, foreign architects in France practice in partnership with French architects. Indeed, the real problem is not the access to the profession, but the lack of knowledge of French rules and regulations and of French practice, especially regarding the employment of salaried workers, the making of contracts, the technical regulations (control of materials, etc.) and the possibility of entering into a partnership with an engineering firm.

### **Conduct Regulation**

#### ***Prices and Fees***

There is no regulation of charges for architects. Rather the remuneration of the architect between the parties is in principle freely agreed upon. The “*Union Nationale des Syndicats Français d'Architectes*” however developed principles, which should be considered with the calculation and fixing of the architect fee. Since there are no restrictions of co-operation for architects, they have a competition advantage opposite other self-employed persons, which can lie in particular in the capital applying by financially strong partners.

#### ***Advertising (publicité)***

Art. 26-4 du décret n° 80-217 of March 20, 1980 which regulated in a restrictive way the possibility for an architect of making advertising was repealed by Art. 2-II du décret of September 17, 1992 carrying various regulations concerning the profession of architects. This decree, on the other hand, introduced with the *Code des devoirs professionnels*, a new article “10 bis” (10 a) authorizing the architects to turn towards advertising.

Thus the recourse to advertising is to practise under the conditions of the common right which, according to Art. 44 de la loi n° 73-1193 of December 27, 1973, prohibits any misleading or comparative advertising.

The architect is, in addition, supposed to continue to comply with the rules enacted by the *Code des devoirs professionnels*.

In addition to opinions and advice, the architect must provide to his customer the explanations necessary to comprehension and judgement of the services. He must thus announce all the risks and disadvantages which the project of construction may imply.

### **Forms of Business and Inter-professional Co-operation**

Architects can group themselves and form a partnership with others of different means or professions, or form a corporation for which they will work. In the latter case the partners must comply with the following rules: (1) the shares of the company must be nominative shares, (2) more than 50% of the nominative capital must be held by architects, (3) the membership of a new partner is subject to the prior agreement of the General Meeting of shareholders; the decision must be taken by a two-third majority, (4) none of the partners can hold more than 50% of the nominative capital, (5) the chairman of the board of directors, the general manager (if he is alone), at least half of the managers and members of the board of directors, as well as the majority of the board of directors and administrators must be architects.

According to the *Loi de l'Architecture* architects can operate according to one or several of the following legal forms:

- (1) Individually, in liberal form (on a liberal basis)
- (2) As *associé* (joint-proprietor) of a private company of architecture
- (3) As *salaré* (employee) of a private company of architecture
- (4) As civil/public servant or employee by the government
- (5) As *salaré d'organismes d'études* carrying on their activities for the account of the state or the local communities in the field of arrangement and urban development.
- (6) As *associé* (joint-proprietor) or *salaré* (employee) of a person that is making constructions for its characteristic and exclusive use and whose area of responsibility does not correspond with the blueprint of projects, the financing, the construction, the restoration, the sale or the hiring of buildings, or the buying and the sale of grounds or materials and structural components
- (7) As *salaré* (employee) of a *société d'intérêt collectif agricole d'habitat rural* (kind of co-operative)



The large majority of the architects exerts on a purely liberal basis, but the practise in a company, in particular in the form of limited liability company (SARL= *société à responsabilité limitée*) which offers many advantages, becomes more and more successful. These companies obey a certain number of common rules:

- They are registered in the *tableau de l'Ordre*.
- They may exercise the professional service of architects; even when their form is commercial, their object remains civil and for this reason, they cannot concern e.g. the exercise of financial or commercial real activities.
- The companies of architecture must be mainly made up by architects (physical people). One architect cannot hold more than 50% of the capital.
- On decision of the *assemblée générale*, an associated architect can continue to follow his occupation on a purely liberal basis or as *associé* of another architecture company.

### ***Location and Diversification***

Architects in France are not subject of any restrictions concerning this point.

### ***Continuing Education***

The architect is not obliged to continue his professional education as there does not exist any legal arrangement as far as this is concerned.

### ***Compulsory Indemnity Insurance***

Each occupation carrier is obligated to acquire an occupation liability insurance.

Any architect, person or entity, who has responsibility for his/her own professional actions or of the actions of his/her employees, must be covered by an insurance. A certificate of insurance is joined, in all the cases, with the contract signed between the architect and building owner or, if necessary, his employer.

Whatever the adopted form, any company of architecture is jointly responsible for the accomplished professional acts for its account by architects.

### **Actual challenges and recent changes in regulations**

The text of the proposed reform of the French *Loi de l'architecture* of January 1977 covers new areas of practice for architects, the conditions governing practice, and reform of the organisation of the profession. A few of the proposals are highlighted:

#### (1) Legal requirement to commission an architect

The legal requirement to commission an architect for planning and listed building consent applications will apply to buildings with a gross surface area in excess of 20 m<sup>2</sup> instead of the previous threshold of 170 m<sup>2</sup> of net surface area, providing in effect a complete monopoly on all such work for architects. This will now also apply to all categories of buildings, including private dwellings and agricultural buildings. The legal requirement will not be met (and the application will then be refused) unless the architect has been entrusted with a complete mission, except where agreed otherwise under contract (in which instance, this would exempt the architect, in the event of litigation, from the risk of joint condemnation).

#### (2) Outline and full planning consents

The role of the architect will also be reinforced with respect to applications for outline planning consent to build and to demolish. These would be subject to the presentation of a study of the architecture and heritage of the buildings. Again, full planning consents (this is a proposal annexed to the proposed law) would evolve towards a consent in two stages, the "planning consent" and the "building consent", the latter corresponding to the stage when contract documentation has been prepared in order to obtain competitive tenders.

Finally, a "transformation consent" (rehabilitation etc.) would also be created. This would have to be accompanied by a study on interior and exterior architecture and on insertion. This new concern for the interior of buildings reflects the desire not only to increase potential areas of work for architects generally but also to recognise and regulate interior designers known in France as *architecte d'intérieur*. The text also proposes in exchange that interior designers should be able to intervene on works subject to the proposed new "building consent". Their activity would be carried out (without a monopoly) under the same conditions affecting architects with registration under a separate panel managed by the *Ordre des Architectes*.

#### (3) Contract administrators registered by the *Ordre des Architectes*

These developments are accompanied by new measures in the organisation of the professional role known as the *Maitre d'Oeuvre* or contract administrator and, more specifically, in the registration and regulation of the different professions fulfilling this role with registration under further separate panels managed by the *Ordre des Architectes*.

Amongst these professions, the *agrés en architecture* and the *détenteurs de récépissé* constitute two groups of professionals which are allowed to practice as if they were registered architects. The *agrés en architecture* and the *détenteurs de récépissé* may continue to practise as before and benefit from the same rights under certain conditions (valid decennial PI insurance and the payment of the tax levied on this professional role). These 600 to 700 professionals concerned would be registered under the title of *équivalents agrés en architecture*.

As for the other 10,000 *maitres d'oeuvre* offering full “building works” services and contract administration on projects involving buildings up to 170 m<sup>2</sup> (and 800 m<sup>2</sup> on agricultural buildings), they would also be registered under another separate panel within the *Ordre des Architectes* but which would allow them to pursue practice until retirement subject to the same limits on the size of the buildings.

The registration of this last category of professionals would also be subject to conditions and, more specifically, be limited to those *maitres d'oeuvres* who have exercised a design activity in France for at least two years prior to the application of the new law.

#### (4) French architects in building contracting and in estate agency

The areas of practice open to this profession are also increased. Architects will be able to organise themselves as architectural practices with commercial subsidiaries in order that they could work, amongst other activities, as general building contractors, as estate agents or as management agents, the last thanks to a bank offering financial guarantee deposit bonding.

### Engineers

The comprehensive term for all engineers is the *ingénieur diplômé*. The profession advisory engineer in France is practised under the term *ingénieur conseil*. The title *ingénieur diplômé* is legally protected since 1934. The diploma is awarded either as national diploma, or of nationally recognized training centres.

There is not any list obligation for *ingénieurs diplômés* and no market admission limiting obligation membership in a chamber mechanism. But there is a distinction between prohibition and certification models. One who is not certified, but who is independently active as a consulting engineer, in whatever speciality, may practise. Even without certificate he is accepted as member of a *profession libérale* in different regard.

In France the title *ingénieur* is used in a much more holistic sense than in German speaking countries. It is therefore not surprising that members of this profession have attained leading

positions in both business and politics with a great operational range. The total market for engineering services in France can be split up into the areas building/construction trade (*ingénierie bâtiment*), infrastructure (*ingénierie infrastructure*) and industry (*ingénierie industrie*). Most of the employed as well as two-thirds of the total turnover are concentrated in the industry sector. Characteristic for the French educational system we find here a highly differentiated university landscape in spite of a very centralistic organised educational system.

## **Market Entry**

### ***Tasks and exclusive tasks provided by French Engineers***

The profession of engineer comprises one or more of the following tasks: The engineer ensures the design, the realization, the exploitation, maintenance, the distribution, the technical sale or the after-sales service of equipments, of products, processes, logical systems or services with dominant technique. The engineer takes part in research relating to sciences and technology or uses the new knowledge obtained in these fields for the search and the development for new equipment, products or services. Moreover the engineer transmits his knowledge to other people and the assistance to use their capacities for better exerting their professional or civic functions, and allowing them to reach the functions corresponding best to their potential and the needs for the company.

### ***Education and Entrance to the Profession***

After the highest school leaving examination (*baccalauréat*) those willing to study have a number of alternatives regarding engineering education: Universities, *Instituts Universitaires de Technologie* (IUT), *Instituts Universitaires Professionnalisés* (IUP), 120 smaller engineering schools (*Ecoles d'Ingénieurs*) as well as a few *Grandes Ecoles* which are under government supervision by the ministry of Education and around 60 further *Ecoles d'Ingénieurs* that are administrated by other ministries or private owners. Parallel to and often in competition with state education the other *Grandes Ecoles* and *Sections des Techniciens Supérieurs* have developed their educational programmes. The central instances in France exercise a strong influence on university education. However, the provisions of this centrally organised French education system don't apply equally to all sectors of university education.

Due to the fact that the universities managed by separate ministries often boast a high financial backing and autonomy in terms of political decision making the French university landscape is characterised by a broad variety of institutions. It is therefore more difficult to assess the quality of the different French degrees and diplomas. For this reason an

independent and very successful evaluating commission, the *Comité National d'Evaluation* was instituted in 1985 to conduct a quality review of all French Universities.

Intellectually gifted school leavers have the opportunity to prepare themselves for the difficult entrance exam (*Concours d'entrée*) of the distinguished *Grandes Ecoles* by means of a two years course ("CPGE"). The *Grandes Ecoles* deliberately position themselves as elitist educational institutions to prepare candidates for leading positions in industry, business, military and the public service. Mass education in France is a task assigned to the universities. Entrance to the universities long-time courses (five years) is not regulated in principle and therefore an entrance exam is not mandatory. The first three year-end exams are however highly selective and low pass rates are not uncommon. A high increase in the number of students has however led to the introduction of a *numerus clausus* in many courses.

Furthermore there is the possibility to be trained as a higher-qualified technician, the *Technicien Supérieur* after completing the *baccalauréat*. This two-year job related educational course is offered by technical schools (STS) and has been positively accepted by both students and industry alike. The work scope of the *Technicien Supérieur* is centred around technical problem solving. The equally practically oriented *Diplôme Universitaire de Technologie* (DUT) can be attained after two years at *Instituts Universitaires de Technologie* (IUT).

Due to the strict separation of research, elitist and mass education in the French system, higher positions on the corporate ladder remain unattainable to the *Technicien Supérieur*. Despite extensive practical experience these positions are the exclusive domain of the Diploma Engineer. Especially when changing companies the rank-value of an Engineering Diploma becomes evident. Notwithstanding this fact students that have completed the *Technicien Supérieur* outnumber those with an university diploma. Above that, the importance of the *Technicien Supérieur* for the industrial sector has increased due to the fact that academically schooled graduates from the *Grandes Ecoles* more often than not don't see their role as that of practical problem solvers.

The studies at the *Ecoles d'Ingénieurs* in France follow a very generalist conception, mainly focussing on Theoretical Mathematics and Physics, institutions in other EU countries emphasize the importance of technical disciplines and early specialisation in the complete spectrum of Engineering Sciences from manufacturing system to chemical engineering. Coupled with that, the idea that research and teaching should be conducted in parallel is underdeveloped in France. For a long time now, a stronger orientation towards the problems encountered in business has been called for. Due to the fact that students are too closely accustomed to academic thinking they have lost the pragmatism required in order to solve practical problems.

In recent time there have been efforts to intensify the cooperation between industry and university. Under the impression of an engineer-deficit in the late eighties a few governmental bodies have initiated the foundation of *Instituts Universitaires Professionnalisés* (IUP) against the opposition of engineering associations. After completion of their *baccalauréat* students can attain the title of *Ingénieur Maître* in a job related course at these Institutions. This Diploma, which is not academically approved by the *Commission des Titres* is awarded to students who have specialised in either Engineering or Management for example after completing one year of general education.

After completing this four year course students have the opportunity to go on to engineering school where they can attain the title of *Ingénieur Diplôme*. In doing this, it was hoped to counteract the lack of practically oriented junior executives below the level of the *Grandes Ecoles* graduates.

In closing one can say, that the French educational system is characterised by a large variety of admission standards and study regulations of the different institutions which in turn leads to a very dynamic vitality in the educational landscape. Only those courses instituted in the last couples of years are more oriented towards the needs of the job market and the everyday vocational requirements.

### **Conduct Regulation**

#### ***Prices and Fees***

For professional services offered in the public service sector there has been a legally fixed scale of charges and fees *Maîtrise d'Ouvrage Publique* ("MOP") in existence since 1988. Its concrete application however is not precisely defined. In general the remuneration is still calculated in accordance with a decree from 1974, which was used for a basis for calculating detailed remuneration scales and tables. There is always a lump-sum payment accorded to the whole team responsible for a project with the individual split-up amongst the team members calculated according to a separate set of rules and regulations – known as the "Guide GELI-REC".

In the private sector however no state-regulated tariff scales are known. The remuneration is always individually negotiated for every project. Only in the case of para-statal or state-subsidised parties entering the contract negotiations, administrative regulations such as the *Code des Marchés Publics* for example come into application. Contracts with consultant engineers are mostly calculated on a blanket payment basis.

### **Advertising**

As the relevant professional bodies did not send back a completed questionnaire we do not have any reliable information on this point at the time of writing.

### **Forms of Business and inter-professional Co-operation**

In France two forms of legal accreditation dominate amongst engineering consultancies, the *Bureaux d'Etudes Techniques* (BET) and the free-lance engineering consultancies.

The term "BET" includes all professional operations from simple drawing offices to highly qualified engineering practices excluding the building and construction industry where specialists from very different skill fields work in combined teams. In comparison to the independently operating free-lance consultancies the "BET" are mostly offshoots of big construction, finance or industrial corporations.

Therefore the total of 11,000 total employees in engineering is dominated by ten large corporations, covering mostly the vast field of industry needs. Ninety percent of all engineering consultancies have 50 employees or less and are mostly engaged in the areas of construction and infrastructure planning. The more regionalised need for engineering consulting in the construction industry outside of the large cities is mainly covered by many smaller firms. But also in this sector some concentration tendencies could be observed over the last couple of years.

The *Chambre des Ingénieurs-Conseils de France*, according to their own figures, represents approximately 1,000 independent Engineers and Consulting Engineers with about 6,000 employees and a revenue of 3 Billion francs in total.

Problems arise mainly in areas related to tariff and liability issues because in public works infrastructure projects the project responsibility has to be shared equally between architects and engineers. Possible cases of conflict are therefore discussed prior to project commencement by way of informal arrangements.

### **Continuing Education**

The future prospects for engineers are not all that bad. The job-market in France at present offers both engineers and *Technicien Supérieurs* ample opportunities. University graduates, especially those from *Grandes Ecoles*, currently find sufficient job opportunities in the private sector. Engineers with work experiences ranging from 3 to 5 years are specifically much sought after. Especially the Radio and Telecommunication industries are diagnosed as

having the highest potential for growth, providing engineers with the appropriate specialisation in this field with countless job opportunities.

As can be witnessed in other European countries also, the occupational image of the engineer in France has changed a lot. Only a few engineers are able to distinguish themselves solely on the grounds of technical competence. Geographical flexibility and company-internal mobility as well as sound management knowledge have become part of the day-to-day working routine of most French engineers and becoming even more important prerequisites for success in the future. Many companies are urging their employees to participate in continuing education programmes aimed at furthering management skills.

Due to the fact that most French companies have less pronounced hierarchies, engineers are continuously forced to deal with a number of problems not related to their field of expertise or specialisation. As their careers progress, more and more French engineers realise that their academic training has not sufficiently prepared them for the specific requirements their job-reality entails, i.e. with regard to solving problems relating to management and financing issues.

Many engineers in France therefore opt for enrolling in a commercial college to address their knowledge deficits in the areas already mentioned above. That a number of engineers have already decided to pursue this option is evident from the fact that nearly fifty percent of participants in evening classes at said colleges are engineers.

### ***Specialisation in the Profession***

Candidates who are planning a career as consultant engineer must, according to the provisions of the chamber of consultant engineers of France (*Chambre des Ingénieurs-Conseils de France*), be in possession of an engineering diploma in addition to providing proof about numerous years practical experience. A membership in this representative body is mandatory for all free-lance consultant engineers. The title *Ingenieur Conseil* (Consultant Engineer) is not legally protected in France and in comparison to Architects for instance there exists no formal professional code of conduct.

### ***Compulsory Indemnity Insurance***

If there is a problem involving dissatisfactory project delivery in the construction industry, the Provisions of the *Code Civil* (last amended in 1978) apply: a twelve months liability is set for the completeness of building construction, two years for the ascertainment of satisfactory functionality as well as a ten year liability in conjunction with the general planning and project responsibility.



A legal clarification of contractual liabilities usually takes years to complete. Above the mandatory insurance for the Executor (*Maitre d'Oeuvre*) therefore exists an additional obligation for the awarding authority (*Maitre d'ouvrage*) to cover possible events of damage or loss by means of insurance. As far as projects outside of the construction industry are concerned no proof of special insurance is required, usually however there is a voluntary insurance against possible damage claims arising from the project liabilities entered into.

In order to objectively clarify liability matters a number of independent and state-approved consulting engineers offer their services such as Bureaux Veritas, SOCETEC or CEP for example.

### ***Actual challenges and Conclusion***

Due to the fierce competition within the French market itself, foreign companies have not been able to make substantial inroads. This can be further attributed to the fact, that foreign participants in infrastructure planning procedures are often required to submit additional documentation for approval.

A positive signal for foreign contractors can be seen in the fact that public works development projects are no longer solely handled by state owned or para-statal technical divisions but that the market has increasingly been opened up to private tenders.

### **Economic Characteristics**

#### ***France – Structure and dynamics (NACE 7420)***

*Enterprises, Turnover, Employment*.<sup>14</sup>: In discussing the firms' turnover it is to be noted that only enterprises above 76,000 EUR turnover per year are included in the French statistics, for which data on average turnover are available. Furthermore, statistics on employment include only units with 1 or more employees, so that single-person self-employed enterprises are left out.

For that reason the tables below contain 1993 and 1994 data from Eurostat, and a 2000 figure based on extrapolation on the basis of growth rates from the INSEE statistics

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<sup>14</sup> EUROSTAT, SIRENE (Système informatique pour le répertoire des entreprises et des établissements - Computer system for the companies and establishments directory) (INSEE) 2002

**Table 9-10 Firms, Turnover and Employment; France 7420**

	Number of Firms	Turnover in Mio. EUR	Employment	No. of Professionals
1993	44 559	18 503	194 625	
1994	43 704	18 796	202 151	
2000*	50 376	29 662	287 698	80 300

\* extrapolated value based on INSEE definitions (except No. of Professionals)

Source: EUROSTAT, INSEE, IHS

**Table 9-11 Key Statistics, Accountancy Services: France 7420**

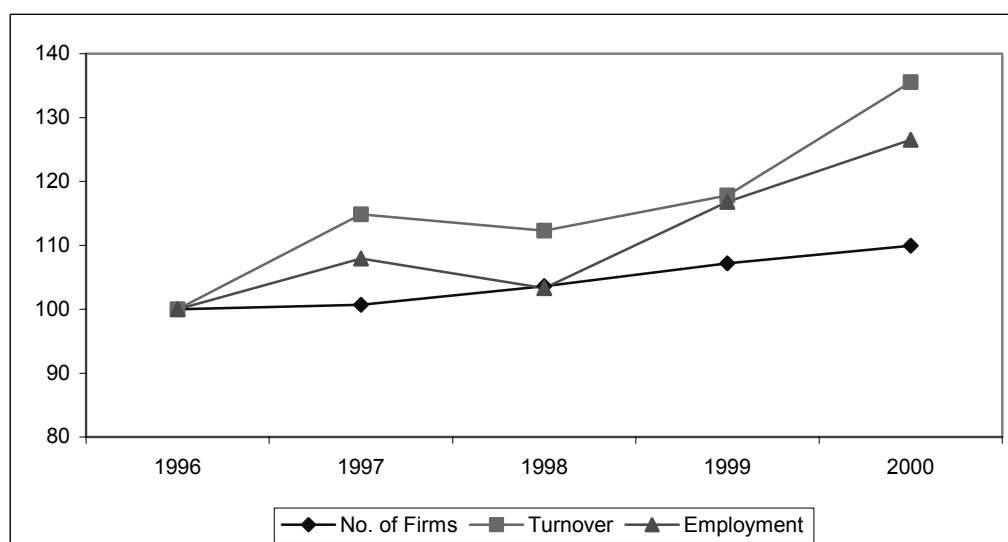
	Turnover per Firm 1000 EURO	Employment per 1000 firms	Turnover per person employed 1000 EURO	Employment per Mio. of Pop	Firms per Mio. of Population
1993	415	4 368	95	3 383	775
1994	430	4 625	93	3 499	756
2000*	589	5 711	103	4 858	851

\* extrapolated value based on INSEE definitions (except No. of Professionals)

Source: EUROSTAT, INSEE, IHS

The differential rates of growth in enterprises, turnover, and employment are illustrated in the chart, with the 1996 values indexed at 100.

**Chart 9-3 Relative Growth Rates, France 7420**



Source: INSEE

The following analysis is based on the data obtained from INSEE.

In France there were 28.212 architects active working in 2001 (see table)<sup>15</sup>. About 21,449 (76%) architects work as individual entrepreneur, about 5,611 (19.9%) work in a company, and about 1,152 (4.1%) in other categories (end of year 2001).

**Table 9-12 Number of Architects active in France 1996 to 2001**

End of Year	Architects active at 31/12	Enterprise demography <sup>1</sup>		
		Individual entrepreneur	Company	Other
1996	25 228	19 886	4 074	1 268
1997	25 421	19 876	4 321	1 224
1998	26 151	20 318	4 630	1 203
1999	27 085	21 018	4 866	1 201
2000	27 517	21 190	5 150	1 177
2001	28 212	21 449	5 611	1 152

<sup>1</sup>Number of companies economically active in the inventory at the end of year.

Source: SIRENE (INSEE) 2002.

This structure has not changed substantially as compared with six years ago: From all architects at the end of year 1996 about 78.8% worked in the single firm category, 16.1% in a company and about 5% in other organisations.

In fact there was almost exactly the same number members newly admitted to the architects profession in 2000/1 i.e. 985, as in 1990 – 984 (IHS questionnaire from *Ministère Culture - Direction de l'architecture et du patrimoine - Bureau des professions*) The number of architecture graduates was, however, 2,861, an increase of approx 250% over the numbers for each of the years 1990 and 1995.

Regarding engineers, the sector engineering and technical studies does not contain land surveyors, building consultants and building supervisors. In the following table the quantitative development of engineers active in France from 1996 to 2001 is shown.

Altogether the 31,813 engineering enterprises in 2001 show a growth rate of 15.9% from 1996 onwards. Dominant are companies with 20,862 enterprises in 2001, which is almost the double compared to individual entrepreneurs. The companies' growth rate is 21.2%, the growth rate of individual entrepreneurs is much lower with 6.9%.

<sup>15</sup> The number of architects in this statistic agrees broadly with the figures supplied by the *Conseil national de l'ordre des architectes* (IHS Questionnaire).

**Table 9-13 Number of engineers active in France 1996 to 2001 (on 31/12)**

Year	Engineers active at 31/12 Enterprise demography <sup>1</sup>			
	All	Individual entrepreneur	Company	Other
1996	27 453	9 839	17 199	415
1997	27 619	9 491	17 716	412
1998	28 437	9 719	18 312	406
1999	29 365	10 033	18 896	436
2000	30 398	10 174	19 785	439
2001	31 813	10 516	20 862	435

<sup>1</sup>Number of companies economically active in the inventory at the end of year.

Source: SIRENE (INSEE) 2002.

Thus, the main quantitative development occurred for engineering companies in France from 1996 to 2001.

*Ordre des Geometres-Experts*: In 2001 there were 1.937 chartered land surveyors, a decrease in number –10% since 1990 (data from IHS questionnaire). It appears that typically less than 100 new members have been admitted each year: in 2001 there were 69 new members and 83 new *stagiaires*. The number of surveyors' firms has also decreased to 1,528 over this period by 17% from 1,848 in 1990. At the same time the proportion of firms with incorporated status has risen from 16% to 40%. However, the distribution of firms size by non-professional employees has shown just a slight trend towards larger enterprises. In 2001 there were 45% of firms with 1-2 employees (47% in 1990), 41% with 3-10 employees (40% in 1990), and 14% with 10-50 employees (115 in 1990). Branch turnover was 427 million Euro (3.8 Bill. FRF) in 2001, up in nominal terms by 22.5% from the corresponding figure of 1990. The *Ordre* estimates the breakdown of turnover in 2001 as follows: remuneration of professionals - 24%, other salaries and wages - 42%, cover for professional insurance and risk – 6%, investment in office premises – 5%, investment in technology (computers) - 3%. on-going professional education (courses) - 3% , and other costs - 17%.

*Number of enterprises*: the development of engineering enterprises in employee classes in France from 1996 to 2001 is shown in the following table.

**Table 9-14 The number of engineers enterprises in employee classes in France 1996 to 2001**

Year	Enterprise demography: Number of enterprises active at 31/12							
	0-5	Jun.19	20-49	50-249	250-499	500-1999	>2000	Other
1996	23 779	2 697	650	268	38	20	1	0
1997	23 781	2 834	660	278	42	23	1	0
1998	24 523	2 873	704	273	40	23	1	0
1999	25 308	2 966	750	282	32	25	2	0
2000	25 989	3 248	782	308	41	28	2	0
2001	27 166	3 367	864	342	42	29	3	0

SIRENE (INSEE) (2002)

There were 27,166 engineer enterprises in 2001. Small enterprises in the engineering services are obviously dominant, in particular enterprises with up to 5 employees. Their growth rate from 1996 to 2001 was 14.2% with 23,779 small enterprises in 1996. Next in line are enterprises with 6-19 employees. Their growth rate is 24.8% with 3,367 enterprises in this second class in 2001, a growth rate which is higher than that of the smallest group. An even higher growth rate of 32.9% was achieved by enterprises with 20-49 employees. Note however, the relatively small number of enterprises in this third class. Beyond 250 employees only a small number of firms are apparent.

To summarize: larger engineering enterprises grew faster than smaller engineering enterprises in France from 1996 to 2001. Compared to the other services enterprises' results. Further, there is also general tendency that larger firms grow faster than smaller firms in the legal services and in the accountancy services.

*Average Turnover:* The engineering services produced an average turnover of 1,935,890 EUR in 2000 (see table). They showed a growth rate of 26.4% in 1996 with an average turnover of 1,532,000 EUR.

**Table 9-15 The average turnover of engineering enterprises in employee classes in France 1996 to 2000**

Year	Average turnover					
	0-9 employees	10-19 employees	20-49 employees	50-249 employees	>250 employees	
	EUR	EUR	EUR	EUR	EUR	
1996	1 532 000	513 000	1 524 000	3 520 000	11 985 000	106 579 000
1997	1 788 000	536 000	2 721 000	3 567 000	12 321 000	125 155 000
1998	1 684 000	504 000	1 621 000	4 947 000	12 358 000	109 329 000
1999	1 705 000	601 000	1 989 000	4 164 000	11 680 000	108 188 000
2000	1 935 890	685 490	2 096 120	4 387 150	16 529 580	97 605 760

Threshold: Turnover > 76.000 EUR

Source: Système unifié de statistiques d'entreprises (SUSE-INSEE)

The highest turnover can be found in enterprises with more than 250 employees with a maximum of 109,329,000 EUR in 1998. In contrast: the smallest enterprises (0-9 employees) produced 685,490 EUR in 2000 as its highest average turnover between 1996 and 2000.

*Employment structure by gender:* The engineering services employment structure by gender in France from 1996 to 2000 is shown in the following table.

**Table 9-16 Employment structure in engineering enterprises by gender in France**

Year	Total employee at 31/12		
	All	Men	Women
1996	123 002	90 532	32 470
1997	133 104	97 889	35 215
1998	126 599	93 804	32 795
1999	143 452	106 891	36 561
2000	156 274	116 462	39 813

Threshold: Enterprises with 1 or more employees

Source: Déclaration annuelle de données sociales (données d'entreprises) (DADS-INSEE)

In 2000 there were 156,274 employees altogether with a relatively high male quota of 74.5%. The employment grew by 27.1% with 123,002 employees in 1996. The male quota in the mid 1990s of 73.6% is similar to the quota five years later. Thus, the gender structure remained constant over the last years in the French accountancy services employment. Compared to the legal and accountancy services where it is the female quota, here the male quota is pronounced.

**Architectural and engineering services, France 7420****Table 9-17 Number of companies economically active at the end of year**

NACE	Branch	Year	active at 31.12	Enterprise demography		
				Individual entrepreneur	Company in units	Other
74.2	Architectural and engineering activities	1996	52 681	29 725	21 273	1 683
74.2	Architectural and engineering activities	1997	53 040	29 367	22 037	1 636
74.2	Architectural and engineering activities	1998	54 588	30 037	22 942	1 609
74.2	Architectural and engineering activities	1999	56 450	31 051	23 762	1 637
74.2	Architectural and engineering activities	2000	57 915	31 364	24 935	1 616
74.2	Architectural and engineering activities	2001	60 025	31 965	26 473	1 587

Source: INSEE

**Table 9-18 Number of employees**

NACE	Branch	Year	number of employees (31.12)	Men Women	
				in units	
74.2	Architectural and engineering activities	1996	143 767	101 409	42 358
74.2	Architectural and engineering activities	1997	155 187	109 488	45 699
74.2	Architectural and engineering activities	1998	148 531	105 427	43 104
74.2	Architectural and engineering activities	1999	167 912	119 688	48 224
74.2	Architectural and engineering activities	2000	181 900	129 753	52 148

Threshold: Enterprises with 1 or more employees

Source: INSEE

**Table 9-19 Average turnover by size class of employment**

NACE	Branch	Year	Average turnover				
			Average turnover	0-9 employees	10-19 employees	20-49 employees	50-249 employees
			EUR	EUR	EUR	EUR	EUR
74.2	Architectural and engineering activities	1996	1 822 000	750 000	2 655 000	6 284 000	16 645 000
74.2	Architectural and engineering activities	1997	2 078 000	773 000	3 860 000	7 190 000	16 663 000
74.2	Architectural and engineering activities	1998	1 974 000	741 000	2 669 000	7 670 000	16 602 000
74.2	Architectural and engineering activities	1999	2 003 000	845 000	3 135 000	7 007 000	16 884 000
74.2	Architectural and engineering activities	2000	2 246 510	934 910	3 255 440	7 226 050	21 511 880

Threshold: Turnover >76 000 EUR

Source: INSEE

**Table 9-20 Enterprise demography**

NACE	Branch	Year	Enterprise demography: Nber of enterprises active at 31/12							
			0-5	6-19	20-49	50-249	250-499	500-1999	>=2000	Other
74.2	Architectural and engineering activities	1996	48 051	3 607	691	273	38	20	1	0
74.2	Architectural and engineering activities	1997	48 230	3 760	700	284	42	23	1	0
74.2	Architectural and engineering activities	1998	49 682	3 812	752	278	40	23	1	0
74.2	Architectural and engineering activities	1999	51 365	3 940	797	289	32	25	2	0
74.2	Architectural and engineering activities	2000	52 382	4 314	831	317	41	28	2	0
74.2	Architectural and engineering activities	2001	54 045	4 612	943	351	42	29	3	0

Source: INSEE



## 9.4 Technical Professions in Spain

### Technical professions in Spain: an overview

As in other European countries technical professions in Spain are divided into architects and engineers. But - and this makes the overall picture rather complicated in respect of engineers - several sub-categories exist. .

For engineers one at first has to differentiate between “superior engineers” and “technical engineers”. The following types of superior engineers are known:

#### *Ingeniero*

- *Caminos, Canales y Puertos*
- *de Telecomunicaciones*
- *Aeronautico*
- *Industrial*
- *Informatico*
- *Agrícola*
- *de Montes*
- *Naval.*

Apart from this there exist several types of “technical engineers” (*Ingeniero Tecnico*).

The profession of Architects is divided into two professions only: architects and technical architects.

For all these professions a membership in the relevant professional association is compulsory. There exists a rather large number of respective bodies for engineers – organised by type of title and by regional differentiation. For architects and technical architects the situation is less complicated, as there are only two types of respective professions.

### Market Entry

#### ***Tasks and exclusive tasks provided by Spanish Engineers and Architects***

The regulations concerning tasks and exclusive tasks of engineers and architects in Spain are, as to our knowledge at the time of writing, very restrictive. Tasks like design and planning, project management including monitoring of execution, feasibility studies, environmental assessments, tender and contract administration, representation for obtaining permits, requests for construction permits, construction cost management, planning and managing maintenance, urban and landscape planning and even interior design are exclusive tasks of the relevant professions. In fact, in respect of exclusive tasks from an

international comparative point of view Spain (possibly together with Greece) appears to be the most regulated case in all the European Union.

As a general rule, engineers and architects are allowed to practise in the fields related to their previous studies. However, Superior Engineers have competence related to all academic courses and specialities taught in their Universities, even if they have not taken these courses as specialization (when optional). In contrast, technical engineers have their competence limited to their respective academic training and specialities.

The architect generally speaking may fulfil all tasks related to building and planning. The technical architect is normally the manager of the building construction, under the instructions of the architect, in charge of the supervision of the construction in order to achieve the quality and costs specified in a project. However, the technical architect may also have the competencies that in principle are reserved for architects, if works do not require an architectural plan (i.e. minor works, consolidations etc.).

### ***Education and Entrance to the Profession***

Superior Engineers have to obtain a relevant University degree, for which the studies normally take five years. Once the university degree is obtained, professionals may practice in the fields related to their studies. No further professional practice or examinations are required. The same is true for technical engineers, for whom studies at the university take a minimum of three years. The education system for architects and engineers follows the same structure: 5 years University education for architects, three years for technical architects. No further professional training or professional entry examinations are required. In all cases the studies at University are normally finalised with a "*proyecto*" (something like a practical thesis).

As already mentioned above, there is a general requisite of membership to the pertinent professional body. This membership is territorial, but the *Real Decreto-Ley 6/2000, de 23 de junio, de Medidas Urgentes de Intensificación de la Competencia en los Mercados de Bienes y Servicios* codifies, for all professional bodies organised on a territorial basis, that membership to one territorial body is enough to practice in the entire State.

## **Conduct Regulation**

### ***Prices and Fees***

The *Ley 7/1997, de 14 de abril, de medidas liberalizadoras en materia de Suelo y Colegios Profesionales* for engineers and architects abolished all precedent fix prices scales of a State nature. However some professional bodies issue recommended prices for some particular works (although this may well not be longer the case). According to information provided by Tecniberia currently no special regulations on fees and prices exist for engineers and architects in Spain.

### ***Advertising***

According to information provided by Tecniberia currently no special regulations on advertising exist for engineers and architects in Spain. All forms of advertising are allowed.

### ***Forms of Business, inter-professional Co-operation, location and diversification***

Engineers and Architects can, (and do) enter into associations of all forms with other professionals, but a *Société anonyme* (public limited company) cannot provide for engineers' or architects' services (accurately speaking: it can provide for the services, but it is always the engineer or architect who undertakes all the responsibility, not the society). The respective firm has to inform the customer of the fact that they have entered into such associations.

There are no special regulations concerning branch offices and regulations restricting the offering of services in geographical terms have been abolished recently. *Real Decreto-Ley 6/2000, de 23 de junio, de Medidas Urgentes de Intensificación de la Competencia en los Mercados de Bienes y Servicios* codifies, for all professional bodies organised on a territorial basis, that membership to one territorial body is enough to practice in the entire state.

### ***Continuing Education***

As to information provided by Tecniberia continuing education for architects and engineers in Spain is not mandatory.

### ***Specialisation in the Profession***

No measures exist, which would allow a further job specialization beyond the different types of engineers and architects described above. This would of course, in connection with the actual splitting-up of the professions and the high number of different kinds of engineers

make not much sense. On the contrary, a consolidation of powers/different types of authorisation/licensing would maybe be beneficial.

### ***Compulsory Indemnity Insurance***

For engineers as well as for architects a professional indemnity insurance is mandatory.

### ***Actual challenges and Conclusion***

The most important regulatory changes for engineers and architects in Spain were the 1997 and 2000 Acts (mentioned above) that abolished fixed prices and regulations restricting the offering of services in geographical terms.. They were enacted following a report of the Spanish National Competition Authority. These reforms intended to promote more competition in the field of technical professions (as well as other liberal professions). However, as regards to market entry regulation technical professions in Spain are still heavily regulated. This is especially true in respect of the extremely broad exclusive rights possessed by engineers and architects. In fact, the sector is completely reserved to the respective professions, whereas in other countries, like Finland or Sweden, no equivalent market entry regulations are in place. At the same time the regulatory system for the engineering sector (not so much for architects) in Spain appears to be very fragmented and non-transparent.

On the other hand conduct regulation for architects and engineers now is rather liberal, as regulations on prices and location have been abolished by the end of the 90s and only few specific regulations exist in respect of business forms etc.

## **Economic Characteristics**

### ***Spain – Structure and dynamics (NACE 7420)***

*Enterprises, Turnover, Employment:*<sup>16</sup> The nominal turnover of architectural and engineering enterprises in Spain was more than 11,900 million euro in 2000, equivalent to nearly 2% of GDP, the median value of the ten EU countries surveyed. (c.f. Overview-tables in Chapter 5). Output of the sector rose at a yearly average of 7.6% during most of the 1990's, at a rate more than twice that of GDP (an average of 3.5% p.a.). This represents a real growth in architectural and engineering services of 5.6%, which is a little higher than the growth in employment - 5.1%. - over the same period, 1992 to 2000; therefore modest productivity

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<sup>16</sup> Sources: EUROSTAT, INE -Instituto Nacional de Estadística, Spain

gains have also been made, but less than the gains in Finland or Austria. In fact, the turnover per employed person rose 4.5% in total in real terms over this period.

**Table 9-21 Firms, Turnover and Employment; Spain 7420**

	Number of Firms	Turnover in Mio EUR	Employment	No. of Professionals
1992	57 634	6 644	124 491	
1994	61 020			
1997	70 841	7 824	151 195	
1999	77 378	10 457	170 232	
2000	79 679	11 911	184 682	
2001				48 723

Source: EUROSTAT, Instituto Nacional de Estadística, IHS

The number of firms increased correspondingly from about 57,600 in 1992 to almost 79,700 in 2000, an average rate of 4.1% p.a. (see Table). The lower rate of increase in enterprises relative to employment is indicative of a slight trend towards concentration i.e. relatively fewer firms with more employees: indeed the average firm gave employment to 2.3 persons in 2000, up a little from an average of 2.2 persons in 1993. However the total number of enterprises in this branch, now certainly upwards of 80,000, is very high – only Italy has a higher density of architecture and engineering firms in our survey – so that the market structure is dominated by small firms of consultants.

The average turnover per firm (in 2000) of almost 150,000 euro was not much higher than the correspondingly value for accounting services (136,000 euro) in Spain - turnover for legal services' firms was 63,000 thousand euro. Only Italy has a lower level of business in the member states in our survey<sup>17</sup>.

The level of employment is typical for the branch, at nearly 4700 persons per million of the population in 2000 whereas the level of productivity, as measured by the turnover per employed person is, at 65,000 euro in 2000 in absolute terms well below the median value of countries included in our survey. However, when adjusted for the lower price levels in Spain, as well as for the lower output of the whole economy (in terms of GDP in PPS per capita), the relative volume per employee of the architectural and engineering consultancy branch in Spain is the highest among the member states surveyed.

<sup>17</sup> Note: Value Added is typically 70-75% of turnover for legal and accounting services, 50-55% of turnover for technical services.

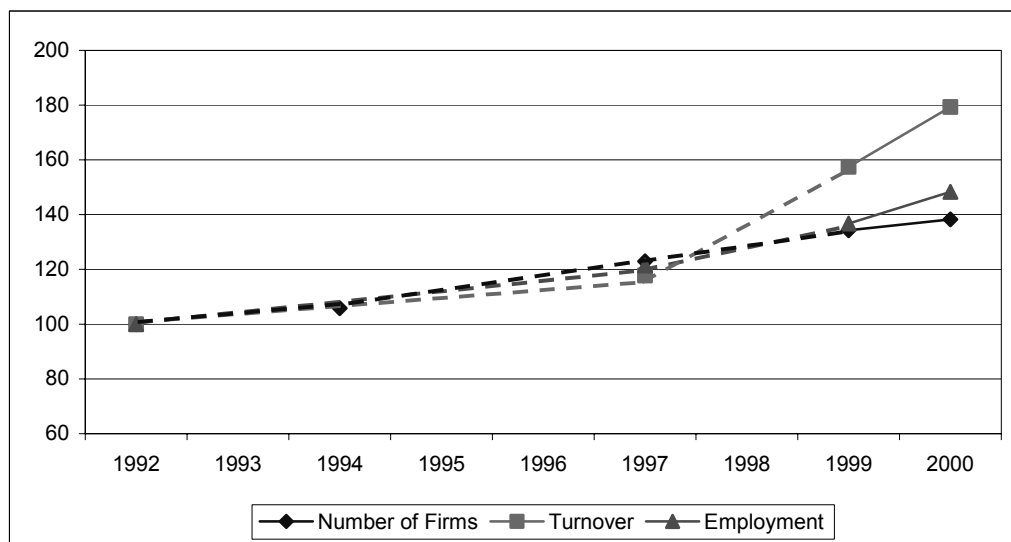
**Table 9-22 Key Statistics, Technical Services; Spain 7420**

	Turnover per Firm  1000 EURO	Employment per 1000 firms	Turnover per person employed  1000 EURO	Employment per Mio. of Pop	Firms per Mio. of Population
1992	115	2 160	53	3 195	1 479
1994					1 560
1997	110	2 134	52	3 847	1 803
1999	135	2 200	61	4 321	1 964
2000	149	2 318	64	4 682	2 020

Source: EUROSTAT, Instituto Nacional de Estadística, IHS

The differential rates of growth in enterprises, turnover, and employment are illustrated in the chart, with the 1992 values indexed at 100:

**Chart 9-4 Relative Growth Rates, Spain 7420**



Source: EUROSTAT, Instituto Nacional de Estadística, IHS

*Architects and Engineers*<sup>18</sup>: The following table for 1997 shows clearly that both architects' and engineers' enterprises consist overwhelmingly of single office units. The large percentage of unremunerated employment includes not only self-employed professionals, but is conjectured that it includes a relatively higher proportion of family members than in other countries in these case-studies.

<sup>18</sup> Source: INE - Instituto Nacional de Estadística, Spain

**Table 9-23 Architects and engineers, 1997**

1997	Architects		Engineers		
		%		%	
<b>Number of Firms</b>	70 841	47 085	66.5	23 757	33.5
<b>Number of Offices</b>	72 646	47 507	65.4	25 140	34.6
<b>Employment</b>	151 195	66 143	43.7	85 052	56.3
<b>Paid Employment</b>	81 753	18 261	22.3	63 492	77.7
<b>Turnover in Mio. Euros</b>	7 824	2 731	34.9	5 093	65.1
<b>Value Added in Mio. Euros</b>	6 155	2 273	36.9	3 882	63.1

Source: INE

Although consulting engineers account for only a third of the branch, their economic output in terms employment and value added is much higher than for architects: this observation is of course not only specific to Spain. Unfortunately the breakdown between architects and engineers is not generally available for the member states in our survey.

Likewise the economies of scale measured by turnover per employee are illustrated in the following breakdown of enterprises in the 7420 sector by firm size (number of employees):

**Table 9-24 Breakdown of 7420 branch by Size of employment of firms**

	Breakdown of 7420 by Size of Employment of Firms					
	Total	1 or less	2 - 4	5 - 19	20 - 99	more than 99
<b>F</b>	79 679	64 224	11 266	3 430	646	112
%		80.6	14.1	4.3	0.8	0.1
<b>T</b>	11 910 515	2 719 201	1 851 762	1 965 295	2 249 562	3 124 695
%		22.8	15.5	16.5	18.9	26.2
<b>E</b>	184 682	62 960	30 422	28 923	26 207	36 171
%		34.1	16.5	15.7	14.2	19.6
<b>T/E</b>	64	43	61	68	86	86

Source: INE

The breakdown of firms by employment statistics shows that legal status as a physical person holds the balance with companies, limited or otherwise. Evidently the percentage of women working as self-employed professionals is considerably less than overall proportion of employees.

**Table 9-25 Legal Form of enterprises and employment**

	Total	Sole Practitioners	Private Companies	Limited Liability Partnerships	Others
<b>Total Employment</b>	151 195	67 558	44 635	30 015	8 987
<b>in percent</b>		45	30	20	6
<b>Paid Employment</b>	81 753	10 390	43 238	22 895	5 230
<b>Full-time</b>	54 678	6 830	28 558	15 231	4 059
<b>Men</b>	38 368	3 410	22 094	10 388	2 476
<b>Women</b>	16 309	3 421	6 463	4 843	1 583
<b>Part-time</b>	27 075	3 560	14 680	7 664	1 171
<b>Men</b>	19 314	2 138	11 242	5 210	724
<b>Women</b>	7 761	1 422	3 438	2 454	447
<b>Non-Paid Employment</b>	69 442	57 168	1 397	7 120	3 757
<b>Men</b>	61 346	51 253	1 226	5 689	3 179
<b>Women</b>	8 096	5 915	172	1 431	578

Source: INE

**Civil Engineering Consultants<sup>19</sup>:**

The membership of *Tecniberia Civil* has grown from 6000 in 1990, to 10,000 in 1995 and 15,000 in 2000/2001 a large yearly average increase of 9.6%. This growth has been driven by an upsurge in the intake of new trainees entrants and new members of over 20% per annum.

**Table 9-26 Professionals**

<b>Professionals :</b>	<b>1990</b>	<b>1995</b>	<b>2000/01</b>
<b>Total, with Professional Affiliation</b>	6 000	10 000	15 000
<b>Percentage of self-employed</b>	25	35	40
<b>Percentage of non-self-employed</b>	75	65	60
<b>No. of professionals with professional affiliation in Spain...</b>			
<b>... practicing abroad</b>	100	200	250
<b>... practicing in rest of EU or EU candidate countries</b>	50	125	180
<b>... practicing in other (non EU/Candidate) countries</b>	50	75	70

Source: TECNIBERIA CIVIL, IHS Questionnaire

These developments have also been accompanied by a strong increase in the proportion of self employed civil engineers. Corresponding increases in the number of firms and employment are shown below.

<sup>19</sup> Source: TECNIBERIA CIVIL - Asociación Espanola de Empresas Consultoras de Ingenieria Civil, IHS Questionnaire



**Table 9-27 Employees and Firms**

<i>Enterprises:</i>	1990	1995	2000/01
<b>Number of Firms</b>	12 000	15 000	20 000
<b>Percentage with</b>			
<b>non-incorporated status</b>	99	99	99
<b>incorporated status</b>	1	1	1
<b>Percentage of Firms with...</b>			
<b>1 Qualified Professional</b>	80	81	82
<b>2 Qualified Professionals</b>	15	15	14
<b>3-5 Qualified Professionals</b>	3	2	1
<b>5-30 Qualified Professionals</b>	2	2	2
<b>more than 30 Qualified Professionals</b>	1	1	1
<b>0 Employees</b>	50	50	50
<b>1-2 Employee</b>	40	40	40
<b>3-10 Employees</b>	7	7	7
<b>10-50 Employees</b>	2	2	2
<b>more than 50 Employees</b>	1	1	1
<b>1 Office</b>	84	84	84
<b>2-5 Offices</b>	15	15	15
<b>5-20 Offices</b>	1	1	1
<b>20-50 Offices</b>	0	0	0
<b>more than 50 Offices</b>	0	0	0

Source: TECNIBERIA CIVIL, IHS Questionnaire

According to these data, however the relative structure of firms in terms of legal status, and number of professionals or size has remained unchanged throughout the last decade.

The effects of internationalisation of architectural and engineering consulting business are also evident, particularly with other EU member countries.

**Table 9-28 Firms, International**

<i>International:</i>	1990	1995	2000/01
<b>Firms with offices outwith your country in...</b>			
<b>All countries</b>	10	15	40
<b>rest of EU or EU Candidate countries</b>	4	10	30
<b>other countries</b>	6	5	10
<b>Firms with head office in other countries:</b>			
<b>Country with largest no. of offices</b>	United States of America		
<b>Country with second largest no. of offices</b>	Netherlands		
<b>Country with third largest no. of offices</b>	France		

Source: TECNIBERIA CIVIL, IHS Questionnaire

Civil Engineering thus accounts for almost a quarter of the revenue of the architectural and civil engineering branch. And has apparently outstripped the growth in the branch as a whole (cf. data on turnover for the 7420 branch above).

A certain concentration process has also been observed, with the top five firms now accounting for 40% of the market.

Whereas the lion's share of expenditure still cover professionals' remuneration, a doubling in the share of technological investments from 4% to 8% of costs has also occurred in the previous ten years.

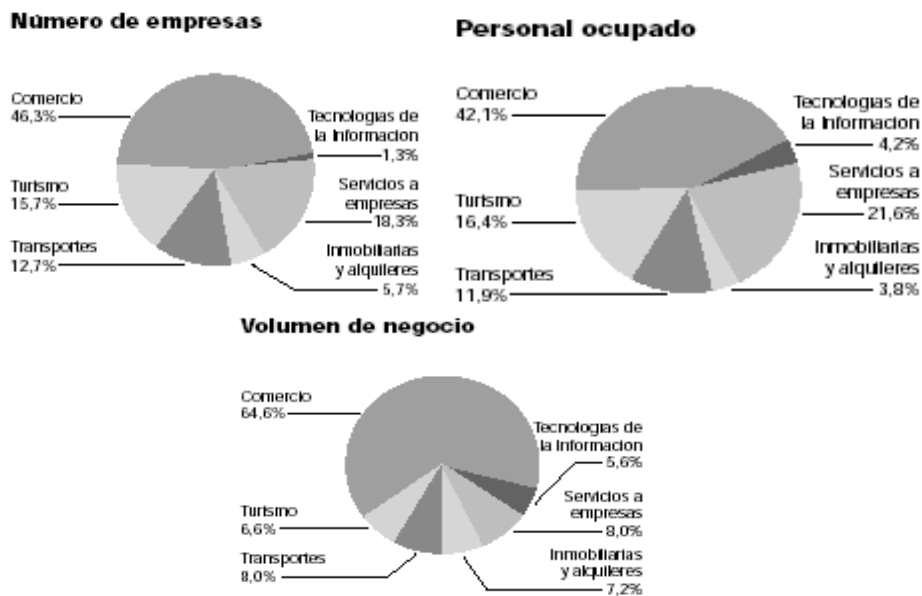
**Table 9-29 Output / Input**

	1990	1995	2000/01
<i>Turnover before tax of branch in...</i>	Mio. EUR	Mio. EUR	Mio. EUR
<b>Spain</b>	450	1 000	2 500
<b>Rest of EU and EU Candidate countries</b>	100	200	350
<b>other countries</b>	100	100	150
<b>Concentration :</b>	in percent		
<b>Market Share of the 5 (five) largest firms</b>	30	35	40
<b>Market Share of top 10% largest firms</b>	60	70	75
<b>Market Share of top 30% largest firms</b>	98	99	99
<b>Cost Structure of Firms :</b>	in percent		
<b>The 'median firm' has costs broken down into...</b>	in percent		
<b>Remuneration of Professionals</b>	70	68	65
<b>other Salaries and Wages</b>	5	5	5
<b>Cover for Professional Insurance and Risk</b>	0	1	2
<b>Investment in office premises</b>	10	12	15
<b>Investment in technology (Computers)</b>	4	6	8
<b>on-going professional education (courses)</b>	5	6	5
<b>other costs</b>	6	2	0

Source: TECNIBERIA CIVIL, IHS Questionnaire

*Legal, Accounting and Technical Services:*<sup>20</sup> This group of professional services, corresponding to the 4-digit codes, 7411, 7412 and 7420 accounted for 67% of firms, 43% of turnover, and 33% of employment of all *business services* in 2000. Only the advertising branch has a higher production value than these three groups of services. The overall standing of all business services is shown in the graphics.

<sup>20</sup> INE -Instituto Nacional de Estadística, Spain



Source: INE

The relatively high rate of employment generated by firms in the business services sector is clearly in evidence: only the (smaller number of) information technology enterprises employ higher numbers of persons. Taken together, legal, accounting and technical services account for 12,3% of all service enterprises in the economy, 3,4% of the turnover, and 7,2% of total employment in the service sector, whereas architectural and engineering services alone account for 4,7% of enterprises, 1,6% of the turnover, and 2,8% of total employment in the service sector of Spain.

*European Dimension*<sup>21</sup>: Eight enterprises in Spain are listed among the top 200 European architecture and engineering consulting firms (ranked by employment), the highest being Técnicas Reunidas, S.A, in 30<sup>th</sup> place. This firm is also among the top 100 architectural and engineering consulting firms in the world in 2000, along with another Spanish firm, Sener Group.

### Architects

The *Consejo Superior de los Colegios de Arquitectos de España*, CSCAE, reported the number of architects at 34,000, of which 1,600 were newly admitted, in 2002 (IHS questionnaire). About 95% of firms (actual total not specified) have between 1 and 5 professionals.

<sup>21</sup> Source: Swedish Federation of Consulting Engineers and Architects (STD Svensk Teknik och Design), Sector Report 2001.

## 10. Price Structure in EU Pharmaceutical Retail Markets

### Background

Unlike the other professional services in this study, pharmacy professionals are engaged in retail trade: Statistics on branch turnover thus reflect various stages in the production and distribution of pharmaceutical products, some parts of which are outwith the direct influence of pharmacists. In order to compare the market volume in pharmacy services in EU member states in the following section and chapter, we would rather focus on the value added at the pharmacy level.

In this section prices in the pharmaceutical area are surveyed in order to obtain an international comparison of relative pharmacy margins, from which related volume statistics on shares of turnover attributable to pharmacy activity can be derived. The country-specific analysis of price structure shows up differences in the level of ex-factory prices, wholesale margins, pharmacy margins and value added taxes.

The survey of the pharmaceutical market begins with a description in terms of market actors from production to point of sale. The structure of prices within and between member states is reviewed. The last stage covers pharmacists' share of retail price and turnover.

In general measures including quantities and those that are based on price alone have to be distinguished. Real comparisons in prices generally have to be viewed against the backdrop of different levels of consumption of medicines.

*Health Expenditures in Percent GDP:* Expenditures on health in member states show the specific background of pharmacy services in each country. The following chart (Share of Total/Public Healthcare Expenditures 2000 in % of GDP) shows the various proportions of the total and the public healthcare expenditures in 2000 in the EU member states. The highest share in terms of percent of the GDP for total as well public expenditures occurs in Germany. The data for Germany is from 1998, and although there has been a general trend since 1996 to reduce the public share in percent on health spending, Germany's share has been the highest of all EU members over the previous ten years.

In the following tables the development of expenditures on pharmaceuticals<sup>1</sup> in member states is shown for the period starting 1991 in terms of share of GDP and in euro PPP (i.e. relative to general price levels in each country).

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<sup>1</sup> Expenditure on pharmaceuticals and other medical non-durables (Total, Public, Private) = Total expenditure on prescription medicines + Total expenditure on over-the-counter medicines (OTCs) + Other medical non-durables.

**Table 10-1 Total Pharmaceutical Expenditure in % of GDP**

	1991	1992	1993	1994	1995	1996	1997	1998	1999	2000	2001
<b>Austria</b>									1.3		
<b>Belgium</b>	1.2	1.3	1.4	1.4	1.4	1.4	1.4				
<b>Denmark</b>	0.7	0.7	0.7	0.8	0.7	0.7	0.7	0.8	0.8	0.8	
<b>Finland</b>	0.9	1.0	1.0	1.0	1.1	1.1	1.1	1.0	1.0	1.0	
<b>France</b>	1.5	1.5	1.7	1.6	1.7	1.7	1.7	1.7	1.8	1.9	
<b>Germany</b>	1.3	1.4	1.2	1.2	1.3	1.3	1.3	1.3			
<b>Greece</b>	1.1	1.3	1.4	1.5	1.5	1.6	1.5	1.2	1.4	1.5	
<b>Ireland</b>	0.8	0.8	0.7	0.7	0.7	0.7	0.6	0.7	0.7	0.6	
<b>Italy</b>	1.7	1.7	1.6	1.6	1.5	1.6	1.6	1.7	1.7	1.8	1.9
<b>Luxembourg</b>	0.9			0.7	0.8	0.7	0.7	0.7	0.7		
<b>Netherlands</b>	0.8	0.9	0.9	0.9	0.9	0.9	0.9	0.9	1.0	1.0	
<b>Portugal</b>	1.6	1.7	1.9	1.8	1.9	2.0	2.0	2.0			
<b>Spain</b>	1.2	1.3	1.4	1.3	1.4	1.4	1.4				
<b>Sweden</b>	0.7	0.8	0.9	1.0	1.0	1.1	1.0				
<b>UK</b>	0.9	1.0	1.0	1.1	1.1	1.1	1.1				

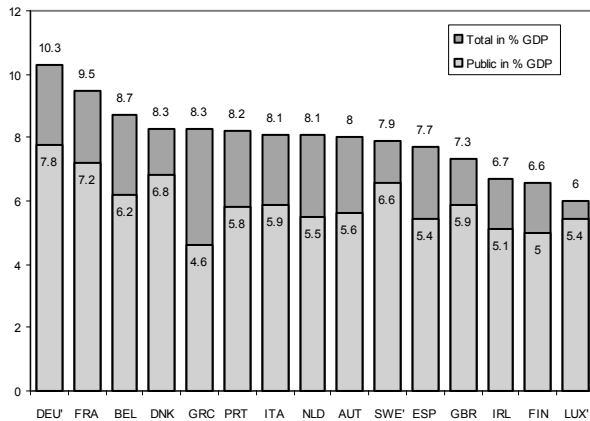
Source: OECD HEALTH DATA 2002; ÖBIG

**Table 10-2 Total Pharmaceutical Expenditures per capita, Euro PPP**

	1991	1992	1993	1994	1995	1996	1997	1998	1999	2000
<b>Austria</b>										
<b>Belgium</b>	265	320	325	343	405	394	371			
<b>Denmark</b>	151	164	172	190	224	226	214	232	227	205
<b>Finland</b>	174	195	192	206	261	272	259	250	259	238
<b>France</b>	350	390	371	382	453	443	414	438	459	435
<b>Germany</b>	283	338	266	290	352	361	334	349		
<b>Greece</b>	140	177	188	209	255	268	237	205	233	237
<b>Ireland</b>	118	142	128	142	165	161	160	171	185	172
<b>Italy</b>	365	408	338	350	407	419	406	435	447	422
<b>Luxembourg</b>	290			281	334	321	315	326	328	
<b>Netherlands</b>	167	208	202	212	257	254	243	260	271	243
<b>Portugal</b>	219	257	263	281	348	363	362	354		
<b>Spain</b>	206	235	221	224	275	287	278			
<b>Sweden</b>	156	190	188	213	265	282	257			
<b>UK</b>	175	217	207	226	263	282	267			

Source: OECD HEALTH DATA 2002

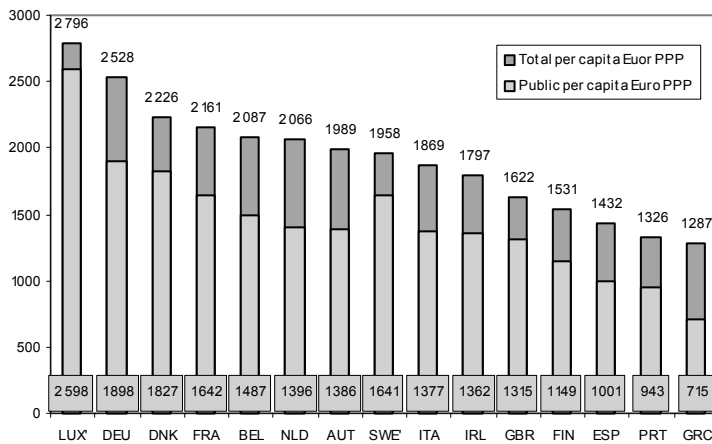
**Chart 10-1 Share of Total/Public Healthcare Expenditures 2000 in % of GDP<sup>2</sup>**



Source: OECD HEALTH DATA 2002

*Health Expenditures per Capita:* In terms of purchasing power parity (PPP) Greece spent the lowest amount per capita in total and public expenditures on health in 2000, closely followed by Portugal, and Spain is well below the EU average of 1.912 euros per capita<sup>3</sup>. For the last years only Germany expended more money in terms of Euro PPP per capita on health.

**Chart 10-2 Total/Public Expenditures on Health 2000 - per capita, Euro PPP<sup>4</sup>**



Source: OECD HEALTH DATA 2002

*Pharmaceutical Expenditures in percent Total Expenditures on Health:* Comparing the pharmaceutical expenditures in percent of total expenditures on health results in a similar

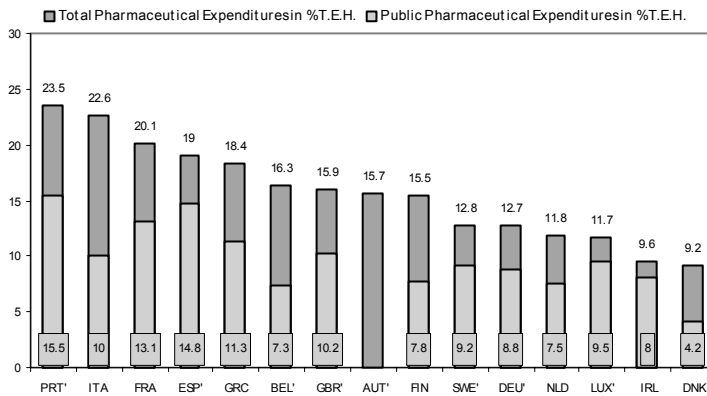
<sup>2</sup> 1998: Germany and Sweden, 1999: Luxembourg

<sup>3</sup> For Luxembourg the value is for 1999

<sup>4</sup> 1998: Sweden, 1999: Luxembourg

state with total pharmaceutical expenditures in terms of percent of GDP: again Portugal, Italy and France are the leaders. The average percent value differs around 15%. Observing the development over time results in the conclusion that the public share does not decrease.

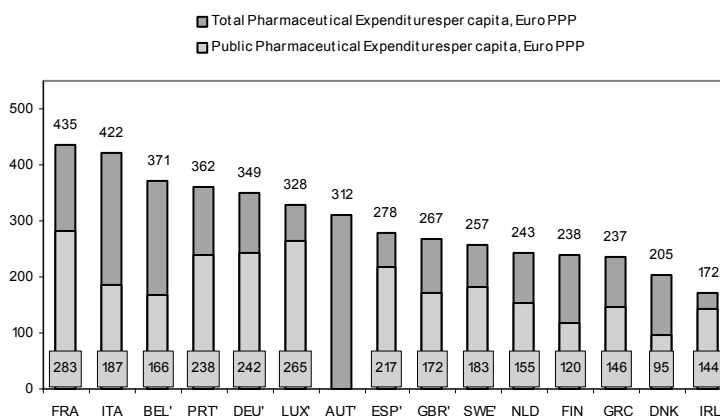
**Chart 10-3 Total/Public Pharmaceutical Expenditures 2000 in percent of Total Expenditures on Health<sup>5</sup>**



Source: OECD HEALTH DATA 2002

*Pharmaceutical expenditure per capita:* Observing the total expenditures on pharmaceuticals per capita in purchasing power parities France is leading joined by Italy. Also Belgium (1997), Portugal (1997) and Germany (1998) are clearly above the average. The five countries the Netherlands, Finland, Greece, Denmark and Ireland in the rear range only shift their positions slightly when ignoring PPP.

**Chart 10-4 Total/Public Pharmaceutical Expenditures 2000 per capita, Euro PPP<sup>5</sup>**



Source: OECD HEALTH DATA 2002

<sup>5</sup> 1997: Belgium, Portugal, Spain, Sweden, UK; 1998: Germany; 1999: Luxembourg, Austria (ÖBIG)



## The Pharmaceutical Market

### *Pharmaceutical Industry / Wholesaler / Pharmacies*

The pharmacy health care markets are first described by the following table, which lists the absolute number of manufacturers, wholesalers and pharmacies.

**Table 10-3 Numbers of Manufacturers, Wholesalers and Pharmacies**

	Manufacturers	Wholesaler	Pharmacy	Pharmacies per firm
<b>Austria</b>	103	39	1 086	1
<b>Belgium</b>	150	41	5 273	1
<b>Denmark</b>	194	10	1 556	5
<b>Finland</b>	21	13	795	1
<b>France</b>	305	203	22 689	1
<b>Germany</b>	1 100	118	21 590	1
<b>Greece</b>	189	424	8 348	
<b>Ireland</b>	100	18	1 186	1
<b>Italy</b>	287	489	16 382	1
<b>Luxembourg</b>	1	6	79	1
<b>Netherlands</b>	120	37	1 600	1
<b>Portugal</b>	45	400	2 778	1
<b>Spain</b>	368	285	19 439	1
<b>Sweden</b>	195	9	1 889	1 889
<b>United Kingdom</b>	375	70	12 311	2

Source: ÖBIG

Excepting the special case of state monopoly in Sweden, the concentration of ownership of pharmacy outlets is highest in Denmark followed by the UK. Otherwise the market is overwhelmingly divided into single outlet pharmacies.

On a per capita basis the pharmaceutical industry is strong in terms of number of manufacturers per capita in Denmark, Ireland and Sweden. 8 out of 15 countries are below a value of 10 manufacturers per million capita. Greece and Portugal attain the high value of 40 wholesalers per capita. For all other member states except Luxembourg the value is beneath 10. The extremes in number of pharmacies are represented on the lower end by the Netherlands and on the upper end by Greece.

**Table 10-4 Manufacturers, Wholesalers and Pharmacies per million capita**

<b>Manufacturers / Mio. capita</b>		<b>Wholesalers / Mio capita</b>		<b>Pharmacies / Mio capita</b>	
Denmark	36.6	Greece	40.0	Greece	787.5
Ireland	27.0	Portugal	40.0	Belgium	517.0
Sweden	21.9	Luxembourg	15.0	Spain	493.4
Greece	17.8	Italy	8.6	France	383.9
Belgium	14.7	Spain	7.2	Ireland	320.5
Germany	13.4	Ireland	4.9	Denmark	293.6
Austria	12.7	Austria	4.8	Italy	287.4
Spain	9.3	Belgium	4.0	Portugal	277.8
Netherlands	7.6	France	3.4	Germany	263.0
UK	6.3	Finland	2.5	Sweden	212.2
France	5.2	Netherlands	2.3	UK	207.6
Italy	5.0	Denmark	1.9	Luxembourg	197.5
Portugal	4.5	Germany	1.4	Finland	152.9
Finland	4.0	UK	1.2	Austria	134.1
Luxembourg	2.5	Sweden	1.0	Netherlands	101.3

Source: ÖBIG, own calculation

The high number of manufacturers and pharmacies per wholesalers in Sweden, Germany and Denmark indicates strong market power for the wholesalers, and correspondingly, competition is strong in this level in Portugal, Luxembourg and Greece.

**Table 10-5 Numbers of Manufacturers and Pharmacies per Wholesaler**

<b>Manufacturers / Wholesaler</b>		<b>Pharmacies / Wholesaler</b>	
Sweden	21.7	Sweden	209.9
Denmark	19.4	Germany	183.0
Germany	9.3	United Kingdom	175.9
Ireland	5.6	Denmark	155.6
United Kingdom	5.4	Belgium	128.6
Belgium	3.7	France	111.8
Netherlands	3.2	Spain	68.2
Austria	2.6	Ireland	65.9
Finland	1.6	Finland	61.2
France	1.5	Netherlands	43.2
Spain	1.3	Italy	33.5
Italy	0.6	Austria	27.8
Greece	0.4	Greece	19.7
Luxembourg	0.2	Luxembourg	13.2
Portugal	0.1	Portugal	6.9

Source: ÖBIG, own calculation

### Drug Consumption and Sales

Differences in several countries can be partly ascribed to unequal consumer behaviour. The figures on average drug pack consumption on their own can be misleading. Studies concentrating on consumer behaviour point out that the average drug pack contains different quantities in different countries. In France the pack tends to be small, and on the other hand the average pack in the UK contains the highest value of so called "Standard Units"<sup>6</sup>. The spread of deviation in this indicator is not as large: only the Netherlands consumes considerably less than other member states. Consumption of standard units is highest in France, followed by Germany and the UK.<sup>7</sup>

**Table 10-6 Average drug consumption per capita**

Drug pack / capita 1999*	Standard Units / capita**	Standard Units / pack**
France 48.8	France 1 634.0	United Kingdom 65.5
Italy 26.6	Germany 1 088.0	Germany 56.2
Spain 26.1	United Kingdom 1 022.0	Finland 54.6
Portugal 23.3	Spain 991.0	Ireland 50.6
Greece 22.9	Belgium 984.0	Netherlands 48.0
Belgium 22.7	Portugal 904.0	Belgium 43.2
Austria 20.5	Finland 884.0	Austria 43.1
Germany 19.4	Austria 881.0	Portugal 38.9
Ireland 16.8	Ireland 848.0	Spain 38.0
Finland 16.2	Italy 759.0	France 33.5
United Kingdom 15.6	Netherlands 672.0	Italy 28.5
Netherlands 14.0		
Sweden 12.5		
Denmark 12.1		

\*\* Sweden, Denmark, Greece - no data

\* Luxembourg - no data

Source: IWI

### Structure of Drug Prices

All member states of the European Union regard medicaments as extraordinary products, whose production and distribution is not left exclusively to market processes. Regulation of the market occurs in all countries. Justifications are an appropriate supply for inhabitants in all regions of the country, avoidance of cases of social hardship, as well as control of the quality of medicaments.

In most member states manufacturers are formally free to set prices. In practice this is limited by the fact that in all member states one authority (the national health system or social health insurances) is the principal customer in terms of expenditures on drugs. Regulations settling the reimbursement of individual medicaments or their purchase by a

<sup>6</sup> Standard units are the smallest units distributed in the medicament market, i.e. tablets, drops, capsules etc.

<sup>7</sup> Any differences in dosage are not taken into account here.

national authority to fulfil price obligations, clearly limit the actual price setting by pharmaceutical producers.

There are several factors to be considered for direct price or isolated price margin comparison at the retail level:

- Drug packages contain different amounts of standard units.
- The drug range differs.
- The drug consumption differs.
- The pharmacy retail price consists of four parts
  - Different ex-factory prices.
  - Different wholesale margins.
  - Different pharmacy margins.
  - Different value added tax rates.

*Factory Level:* The reference price system is important for reimbursement as well as for price-setting. Germany introduced a reference price system in 1989, followed by Denmark, the Netherlands and Sweden in the early 1990s.

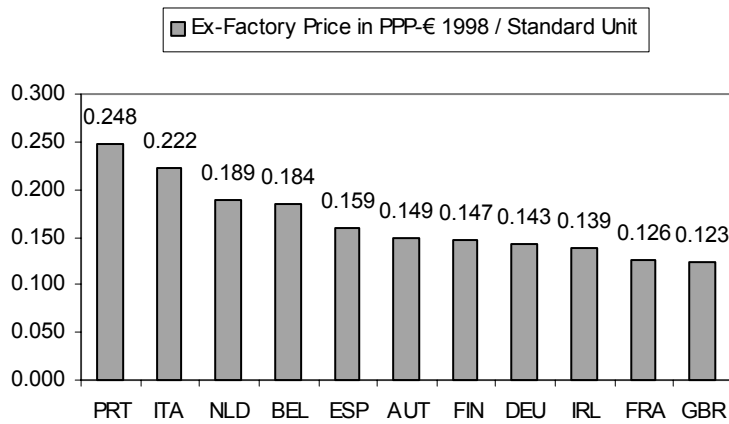
**Table 10-7 Regulations for Price Setting at the Ex-Factory Level 2000 / 2001**

Country	Reference Price System	Price fixing		
		free	Negotiations	governmental price fixing
AUT	-	-	reimbursement drugs	all drugs
BEL	planned	OTC	-	prescription-only drugs
DNK	1983	non-reimbursement drugs	reimbursement drugs	reimbursement drugs
FIN	-	non-reimbursement drugs	-	reimbursement drugs
FRA	-	non-reimbursement drugs	reimbursement drugs	-
DEU	1989	non-reference price market	-	-
GRC	-	-	-	all drugs
IRL	-	OTC	prescription-only drugs	-
ITA	planned	non-reimbursement drugs	reimbursement drugs	national authorization of reimbursement drugs
LUX	-	non-reimbursement drugs	-	reimbursement drugs
NLD	1991	non-reimbursement drugs	-	reimbursement drugs
PRT	-	OTC	-	prescription-only drugs
ESP	2001	non-reimbursement OTC	-	prescription-only drugs and reimbursement OTC
SWE	1993	non-reimbursement drugs	-	reimbursement drugs
GBR	-	non-reimbursement drugs	reimbursement drugs	non proprietary products

Source: ÖBIG, OTC = Over-the-Counter = prescription-free drugs

*Ex-Factory Prices:* The price for one Standard Unit in PPP € varies between 0.248 € in Portugal and 0.123 € in the UK. In the case of Italy and Portugal the relative high price can be partly explained by the strong market power of the manufacturers, which are small in number per capita and in relation to the number of wholesalers.

**Chart 10-5 Ex-Factory Price per Standard Unit in PPP-€ 1998**

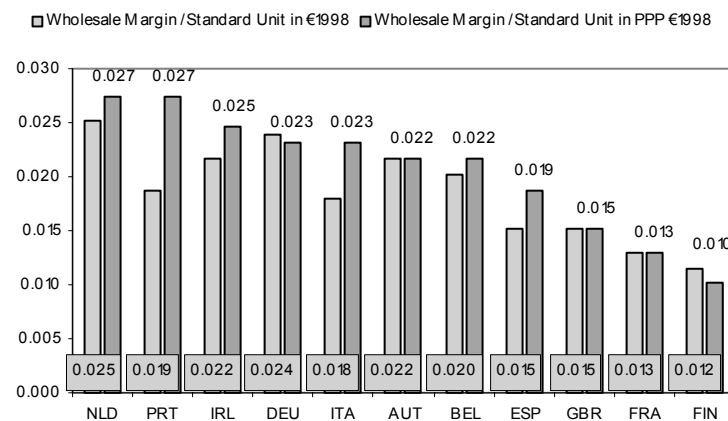


Source: IWI

*Wholesale Level:* In most countries price control is implemented by legally regulated trade margins. On the wholesale level only Denmark has no regulated wholesale margin within the EU. In Finland, the Netherlands, Sweden and the UK regulation of margins are settled indirectly.

*Wholesale Margins:* Wholesale margins are usually quoted as a percentage of pharmacy cost price. Thus both the ex-factory price and the wholesale margin vary across countries so that the pharmacy cost price varies considerably too. On this basis, therefore, only a conditional comparison of wholesale margins is possible. Later on we transform the wholesale margin to a wholesale share, which shows how much of the retail price level inclusive VAT is earned in wholesale.

**Chart 10-6 Wholesale Share per Standard Unit in euro and PPP-€ 1998**



Source: IWI

**Table 10-8 Regulations for Wholesale Margins 2000/2001**

	<b>All Drugs</b>	<b>Governmental Regulations for Reimbursement Drugs</b>	<b>Prescription-Only Drugs</b>
<b>AUT</b>	degressive margins with maximum markup values		
<b>BEL</b>	linear margin (in percent of the pharmacy cost price), maximum value at pharmacy retail price of €25,43		
<b>DNK</b>	<i>free price fixing</i>		
<b>FIN</b>		<i>(implicitly ruled by wholesale reimbursement prices)</i>	
<b>FRA</b>		2 degressive margins	
<b>DEU</b>	degressive margins with maximum markup values		
<b>GRC</b>	linear margin (in percent of the pharmacy cost price)		
<b>IRL</b>	linear margin (in percent of the pharmacy cost price)		
<b>ITA</b>		linear rate in percent of ex-factory price	
<b>LUX</b>	linear margin (in percent of the pharmacy cost price), maximum value for Belgian drugs at pharmacy retail price of €25,70		
<b>NLD</b>		<i>(implicitly rule by maximum wholesale price)</i>	
<b>PRT</b>			linear rate in percent of pharmacy retail price
<b>ESP</b>	2 degressive rate in percent of pharmacy cost price or absolut value dependent to the ex-factory price		
<b>SWE</b>		<i>(implicitly ruled by wholesale reimbursement prices)</i>	
<b>GBR</b>		<i>(implicitly ruled by pharma price regulation scheme - linear margin in percent of the pharmacy cost price)</i>	

Source: ÖBIG 2001

A more meaningful ranking is given by wholesale share per standard unit in power purchasing parities, whereby different ex-factory prices are implicitly considered. As with ex-factory price per standard unit in PPP-€, Portugal and the Netherlands are two of the top three countries in terms of price. The UK and France are once more among the bottom three countries.

*Pharmacy Level:* The pharmacy margins are regulated by law in all EU member states. Most countries have a unique set of regulations that applies to all drugs. In France, the UK, Italy

and the Netherlands the rules only cover the reimbursable market, in Portugal the prescription-only market. After 1995 the regulation of the pharmacy margins has been changed in many countries. To control the medicaments market not only have the margins been decreased, but also the regulations for margins have been newly implemented.

**Table 10-9 Regulations for Pharmacy Margins 2000/2001**

	All Drugs	Governmental Regulations for	
		Reimbursement Drugs	Prescription-Only Drugs
AUT	degressive margins with maximum markup values		
BEL	linear margin (in percent of the pharmacy cost price), maximum value at pharmacy retail price of €25.43		
DNK	degressive margins with maximum markup values		
FIN	degressive margins with maximum markup values		
FRA		2 degressive margins (same margin for generic drugs)	
DEU	degressive margins with maximum markup values		
GRC	linear margin (in percent of the pharmacy cost price excl. VAT)		
IRL	flat charge / €2.40 for reimbursable drugs or maximum rates between 33 to 50 %		
ITA		degressive rate for central authorized drugs, else linear margins (for non-reimbursable drugs minimum margin)	
LUX	linear margin (in percent of the pharmacy cost price), maximum value for Belgian drugs at pharmacy retail price of €25.70		
NLD		flat charge / €5.69 a third of the savings using generic products	
PRT			linear rate in percent of pharmacy retail price
ESP	2 degressive rate in percent of pharmacy cost price or absolute value dependent to the ex-factory price		
SWE	degressive margins with maximum markup values		
GBR		reimbursement of flat charge and product costs	

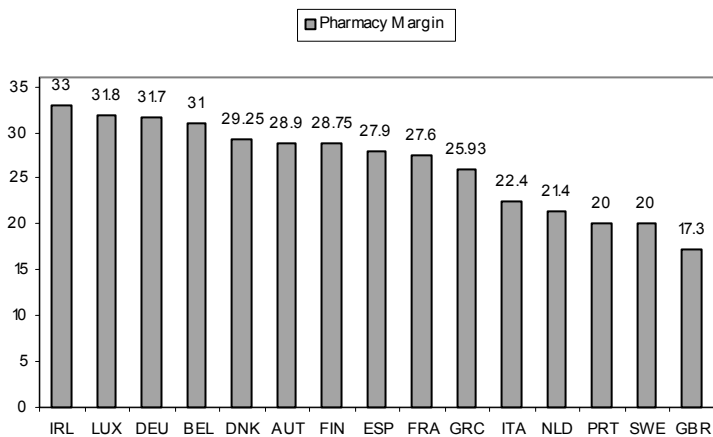
Source: ÖBIG 2001

### Pharmacy Margin

The pharmacy margin as a percentage of retail price *exclusive* VAT is used in Chapter 5 and in the pharmacy case studies to calculate the pharmacists' share of turnover, (prescription medicines or OTCs) obtained from statistics on branch turnover of dispensing chemists exclusive of VAT.<sup>8</sup> In the following graphic average pharmacy margins are listed that have been calculated in previous studies.

The pharmacy margin (excl. VAT) in 1999 in EU member states was between 33% in Ireland and 17.3% in the UK. An average margin over 30% exists in Luxembourg, Germany and Belgium. In Portugal, Sweden and the UK the average margin was below or equal to 20%.

**Chart 10-7 Average Pharmacy Margins in terms of Pharmacy Net Retail Price**

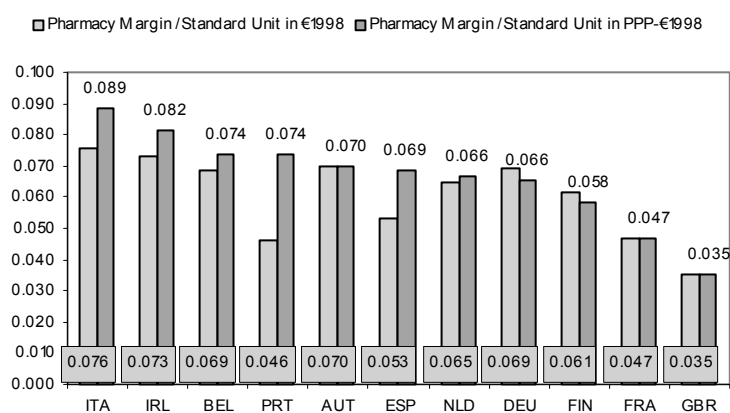


Source: ÖBIG, own calculation

In Italy the margin is below the median EU margin, but the value of pharmacy margin per standard unit in PPP-€ is not exceeded by any other country. Ireland is in both rankings in the top two. The broad middle range consists of Belgium, Portugal, Austria, Spain, the Netherlands and Germany. Finland and France are clearly below the average.

<sup>8</sup> Note: Pharmacists' share of turnover is calculated for comparative analysis on the basis of dispensed pharmaceuticals. Items belonging to the categories 'Retail sale of medical and orthopaedic goods' (NACE 5232) and 'Retail sale of cosmetic and toilet articles' (NACE 5233) that may be sold in pharmacy outlets are not included.



**Chart 10-8 Pharmacy Share per Standard Unit in € and PPP-€ 1998**

Source: IWI

*Value Added Tax:* Governments not only set reference price systems, refunding regulations and other procedures; there is also direct intervention regarding the surcharge on net pharmacy retail price i.e. value added tax. Here there are substantial differences in the European Union, both in the systematic classification of medicaments and in the amount of the value added tax raised on these classes of drugs.

**Table 10-10 Value Added Tax for Pharmaceuticals in Contrast to VAT in general**

	Value Added Tax in percent	
	normal	pharmaceutical
<b>Austria</b>	20	20
<b>Belgium</b>	21	6
<b>Denmark</b>	25	25
<b>Finland</b>	22	8
<b>France</b>	20.6	2.1/5.5 <sup>1)</sup>
<b>Germany</b>	16	16
<b>Greece</b>	18	8
<b>Ireland</b>	21	0/21 <sup>2)</sup>
<b>Italy</b>	20	10
<b>Luxembourg</b>	15	3
<b>Netherlands</b>	17.5	6
<b>Portugal</b>	17	5
<b>Spain</b>	16	4
<b>Sweden</b>	25	0/25.0 <sup>3)</sup>
<b>United Kingdom</b>	17.5	0/17.5 <sup>4)</sup>

<sup>1)</sup> 2.1 % on reimbursable drugs<sup>2)</sup> 0 % on drugs for oral application<sup>3)</sup> no VAT on prescription-only medicines<sup>4)</sup> 0 % within the framework of the National Health Service  
/17.5% on drugs for self-medication

Source: ÖBIG

### Overview of Total Prices

Shares of gross turnover are presented here as percentages of retail price incl. VAT (sums up to 100% in each member state separately), in decreasing order of pharmacy share. *Manufacturer level:* In Sweden manufacturers earn the largest part of overall sales of drugs. Manufacturers earn the least share in Germany, Austria and Denmark.

*Wholesale level:* The Netherlands, the UK and Ireland have high wholesale shares. Only Sweden and Finland are considerably below the median share.

*Pharmacy level:* The pharmacies of Ireland, Luxembourg and Belgium earn the most on each euro of medicaments sold. At the lower end of the scale are Portugal and the UK.

*VAT level:* There are three countries where VAT is absent on almost all drugs: UK, Sweden and Ireland. The state obtains highest tax revenue from pharmaceuticals sold in Germany, Austria and Denmark.

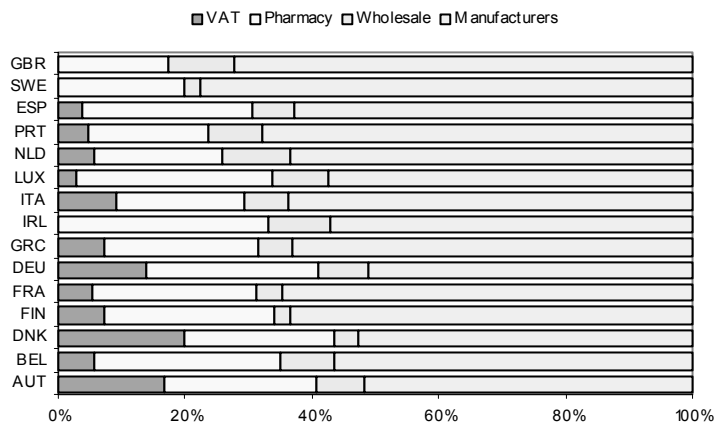
**Table 10-11 Product Shares of Drug Prices**

Country	VAT	Pharmacy	Wholesale	Manufacture
Ireland	0.0	33.0	10.1	57.0
Luxembourg	2.9	30.9	8.7	57.5
Belgium	5.7	29.2	8.5	56.6
Germany	13.8	27.3	7.7	51.2
Spain	3.8	26.8	6.7	62.7
Finland	7.4	26.6	2.6	63.3
France	5.2	26.2	3.8	64.8
Austria	16.7	24.1	7.5	51.8
Greece	7.4	24.0	5.5	63.1
Denmark	20.0	23.4	4.1	52.5
Italy	9.1	20.4	6.7	63.8
Netherlands	5.7	20.2	10.8	63.4
Sweden	0.0	20.0	2.4	77.6
Portugal	4.8	19.0	8.4	67.8
United Kingdom	0.0	17.3	10.3	72.4

Source: ÖBIG, IHS

The chart below illustrates the information of the table above – in both the member states are shown in order of decreasing pharmacy share of retail price.

**Chart 10-9 Product Shares in the Pharmaceutical Market**



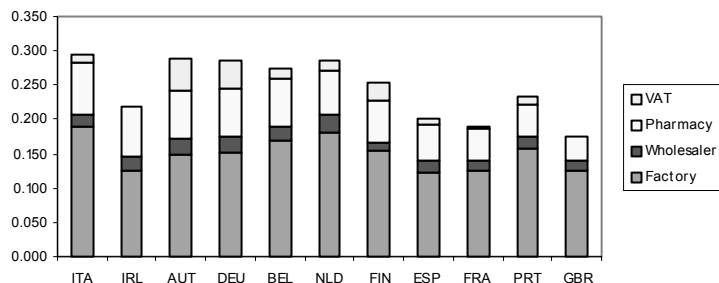
Source: ÖBIG, IHS

The actual price of medicaments sold in pharmacies varies across EU Member states. This can be taken into account on a comparable basis by looking at the breakdown of retail price per standard unit of drug sold. In the following graphic countries are shown left to right in order of decreasing pharmacy share of price per standard unit.

In terms of total price, Spain, France and the UK lie at the lower end, while Italy, Austria (high tax rate), the Netherlands and Germany are in the group of most expensive countries for pharmacy products. This comparison is based on absolute euro values – the effect on consumers in each country is, of course dependent on consumers’ purchasing power.

**Chart 10-10 Pharmacy retail price incl. VAT / Standard Unit in € 1998**

Pharmacy retail price incl. VAT / Standard Unit in € 1998, in decreasing order of pharmacy price share



Source: IWI

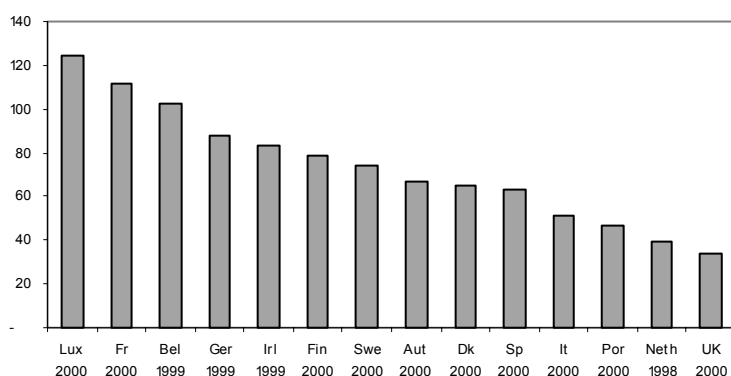
## Turnover Share

In the benchmarking analysis (Chapter 5 of Part 1) and in the following pharmacy case studies, we wish to use a measure of turnover attributable to the pharmacy level. The available statistical data (Eurostat, member states' statistical offices) records the overall turnover of dispensing chemists, net of VAT. The missing link between the pharmacy price level and actual revenues of pharmacists (from dispensing) is the factor of demand level, which, as we have seen earlier, varies considerably. By applying the average pharmacy margins (net retail price) described above to the overall net turnover we calculate the variable we call pharmacists' *turnover share* for use in comparative analysis of the pharmacy profession in EU member states. This measure is broadly equivalent to the turnover used in the studies of the legal, accountancy and technical services, under the assumption that these latter professions have a very low level of purchases from suppliers.

The absolute figures from turnover share (TS) for each country surveyed may be found in the corresponding pharmacy Overview table in chapter 5. The relative turnover share is shown in the chart below by the share of actual net turnover per capita accruing to pharmacists in each member state (except for Greece), in decreasing order, based on data available for the nearest year to 2000.

France shows the second largest turnover share, although the pharmacist's price is one of the lowest in the EU, due to the high volume of medicines sold. An opposite effect is seen in the case of Italy, the Netherlands and Austria, where the actual turnover share is relatively lower than the price share. In both rankings the UK, Portugal and Spain are at the low end of the scale. These values of turnover share here are expressed in absolute euros. For a comparative view of turnover share that takes general price levels and economic output into account, these may be compared with the pharmacists' 'volume per capita' in the Overview-table for pharmacy professional services (Chapter 5 of Part 1).

**Chart 10-11 Actual Pharmacists (Net) Turnover Share per capita**



Source: Eurostat; IWI; IHS



## 11. Case Studies Pharmacy

### 11.1 The Profession of Pharmacists in Ireland: an overview

The Pharmaceutical Society was established under the 1875 Pharmacy Act. This act oversees the qualification of pharmaceutical chemists. Under the provisions of this legislation, a person cannot operate an outlet for the 'dispensing or compounding of medical prescriptions' unless that person is a pharmacist. In addition the outlet, the dispensing, and the compounding of medical prescriptions must be personally supervised by a pharmacist. This basic characterisation could lead one to the solution, that the sector of pharmacies is highly regulated. As already mentioned earlier in this report in fact today this is not the case, at least from an international point of view.

On the one hand pharmacists provide some exclusive tasks especially concerning the dispensation of medicines (also not all of them; see below). On the other hand, after an interplay of more rigid regulations between 1996 and 2001, the number and locality of pharmacies today is not restricted (as it was before 1996). Also the circumstances to become a pharmacist in the Irish educational system are rather rigid, still the market entry system is all in all – at least from an international comparative point of view – of a rather liberal nature. This has led, as will be shown below, to a rather high density of pharmacies in Ireland. But it is not only the market entry regulation for pharmacists in Ireland that is comparatively (!) liberal; the same applies to some fields of conduct regulation.

#### Market Entry

##### ***Tasks and exclusive tasks provided by Irish Pharmacists***

“Scheduled” prescription medicines for human use in Ireland can only be supplied under prescription, some of these may only be dispensed in a hospital, and most medicines may only be dispensed in a pharmacy by or under supervision of a pharmacist. Some substances are specifically exempted from the pharmacist-supervised sale requirement, and thus these may be sold in non-pharmacies. They are, notably, aspirin, paracetamol, nicotinic acid, certain vitamins and toothpaste components. Medicines of this type are commonly described as "general sales list" medicines. The supply of medicines by mail order is prohibited.

The dispensing and compounding of medical prescriptions and the sale/supply of medicines may also be carried out by Medical/Dental Practitioners for patients under their care as well as Veterinary Surgeons for animals under their care.

## ***Education and Entrance to the Profession***

### Education

The conditions for becoming a pharmacist in the Irish educational system are rather rigid. Whereas anyone that has graduated in pharmaceutical sciences in Ireland may open a pharmacy, there exist rather high entry barriers to the relevant educational system.

A student who wishes to become a pharmacist (pharmaceutical chemist) must:

- (a) obtain preliminary registration with the Pharmaceutical Society of Ireland (forms available from the Registrar);
- (b) enrol at Trinity College Dublin for the four-year course leading to the Degree of Bachelor of Science (Pharmacy) (see below for further details);
- (c) complete twelve months' practical training in an approved establishment under the supervision of a tutor pharmacist;
- (d) and pass the Society's Licence Examination.

As a general rule, all pharmacy degree courses must be accredited by the Pharmaceutical Society of Ireland if graduates of these courses are to proceed to registration with the Society. As of April 2002, the pharmacy degree course at Trinity College Dublin was the only course accredited by the Society! A new pharmacy degree course now is offered at the Royal College of Surgeons in Ireland (from October 2002 onwards). University College Cork is also considering offering a new pharmacy degree course.

To enter one of the respective courses specific entry requirements have to be fulfilled. The entry requirements for the School of Pharmacy, Trinity College, Dublin, are the following (based on Leaving Certificate Examination): Please note these are minimum requirements.

1. A pass in English.
2. A Grade C on the lower or Grade D on the higher Leaving Certificate paper in Mathematics.
3. A pass in a language other than English.
4. A pass in three further subjects.
5. Six subjects must be presented in all and three of these subjects must be of a standard of at least Grade C on higher Leaving Certificate papers.
6. A Grade C on higher Leaving Certificate Chemistry paper.

7. A Grade C on the higher Leaving Certificate paper in one of Physics, Biology, Mathematics, Geology, Geography, Applied Mathematics and Agricultural Science.

There are only seventy places available annually (at Trinity College) and, because of demand, applicants generally require qualifications which are substantially higher than the minimum. Applicants are ranked on the basis of their Leaving Certificate subjects.

All graduates who wish to become pharmacists are required to undergo twelve months pre-registration training after they have completed the four year pharmacy degree course. All practical training must be carried out under the supervision of a pharmacist who has undergone special training in order to act as a tutor. At least six months of the year must be spent in a hospital or community pharmacy while the other six months may be spent in a community, hospital or academic pharmacy, or the pharmaceutical industry.

The Pharmaceutical Society supervises the pre-registration year and requires each graduate to complete two multiple-choice assessments and a practice of pharmacy research project during the year. The two assessments and the project account for 10 per cent each of the Society's Licence Examination - the professional examination which each graduate must pass in order to register as a pharmacist. The Society also runs an optional course in Forensic Pharmacy for pre-registration graduates each year which covers topics such as medicine and pharmacy law, professional matters and negligence. The Pharmaceutical Society's final examination examines candidates' knowledge of medicines and pharmacy law, ethical and professional matters and is taken at the end of the pre-registration year. It accounts for 70 per cent of the Licence Examination. Having successfully completed all elements of the Licence Examination, the graduate may apply for registration as a pharmacist.

All graduates who wish to practise Pharmacy must be registered (as Licentiates) with the Pharmaceutical Society of Ireland. In addition, most pharmacists become members of the Society (MPSI).

It has been shown above that it is rather difficult to obtain a place for studying pharmacy in Ireland. An other option is to study abroad and then come back to Ireland to work at a pharmacy or even open one oneself. But both is bound to specific pre-conditions.

If a Student has been offered a place in one of the Universities abroad in order to practice pharmacy in the Republic of Ireland he generally must:

- successfully complete the degree course in that School of Pharmacy
- if applicable successfully complete the relevant pre-registration training year in that country (note: she/he cannot do the pre-registration training year in the Republic of Ireland)



- if applicable successfully complete the Registration Examination in the respective country
- apply for registration with the Pharmaceutical Society of Ireland under the EU/EEA route having successfully registered in the country he has been studying.

Under the terms of the EU free-movement directives one cannot take personal control of a pharmacy that is less than three years old. In practice, this means that:

- one cannot set up one's own pharmacy (unless it is set up as a limited company and another pharmacist gets employed to work there for the first three years of its existence. This pharmacist must be registered with the Pharmaceutical Society of Ireland and have registered through the Irish, Reciprocal or Adjudicating Committee routes.)
- one cannot work in a pharmacy that is less than three years old (unless the pharmacist that has been studying abroad is working at all times with or under the supervision of another pharmacist who is registered with the Pharmaceutical Society of Ireland and has registered through the Irish, Reciprocal or Adjudicating Committee routes.)

In order to take advantage of this route of registration the relevant person must be a national of an EU/EEA country. A person may not register in Ireland under this route if he or she is a non-national of the EU/EEA even though this person may have studied pharmacy and registered as a pharmacist in an EU/EEA country.

#### To open an own Pharmacy

Until 1996 any Pharmacist after fulfilling the requirements described above was allowed to open his own pharmacy. Then, from 1996 to February 2002, special regulations have been in force.

Regulations in force as from May 1996 limited the number of General Medical Scheme (GMS) dispensing pharmacies i.e. pharmacies which will be reimbursed by the GMS for dispensing prescriptions to medical cardholders and other qualifying individuals. The main provisions of the regulations under which contractor agreements have been granted from this time on have been as follows. The health board has to be satisfied of the following criteria:

- There is a definite public need for a community pharmacy in the catchment area to which an application relates i.e. serve a catchment area of not less than 4,000 in urban areas and large towns and in the case of other locations the population must be at least 2,500. In addition, pharmacies must be spaced at least 250 meters apart or 5 km in rural areas.
- The premises have free and direct access to the public road at all times.
- The proposed premises, equipment, staff and facilities etc must meet the requirements of the contractor agreement and standards set out by the pharmaceutical society.

- The proposed supervising pharmacist has at least three years recent post registration experience in the practice of community pharmacy.
- The proposed supervising pharmacist has a high degree of professional competence including the ability to manage the community pharmacy.
- The proposed pharmacy has a reasonable prospect of being viable and there is a long-term commitment to the catchment area the pharmacy is intended to serve.

The reasons put forward by the Department of Health for these restrictions according to OECD (2001: 301) were (1) to erect similar controls to those already in place in other EU-Member Countries, (2) to promote the development of quality driven service and (3) to prevent further clustering of pharmacies in areas already well-served while promoting the provision of rural areas.

These regulations lead to heavy criticism by the 2001 OECD-Report on “Regulatory Reform in Ireland”. In the words of OECD:

“The logic provided for restricting the location and number of pharmacies is flawed. Incumbents in other sectors in other economies make similar arguments, that if they are protected from competition then they will perform a variety of good works. In fact competition – keeping up with the competitors – is what induces quality-improving investments.(...) Where there is a genuine public service obligation, such as loss-making provision to rural areas, the solution is not creation of a protected monopoly to cross-subsidise the unprofitable activity. Rather, the solution is to split the task into two parts, of providing the service and paying for the part that must be subsidised. (...) Therefore, eliminate the location restrictions on pharmacies. Assess the exit and entry in the sector and provide transparent subsidies to pharmacies that are desirable on the basis of public policy objectives, but are not forthcoming under free entry” (OECD 2001: 302).

The Minister for Health and Children announced on 31st January 2002 his revocation of the above Regulations on the opening of new pharmacies, which has been in place since 1996. Since 1996, the Regulations have been subject to ongoing legal challenge, during the course of those challenges, the legal basis of the Regulations were raised. The Minister for Health and Children sought legal advice from the Office of the Attorney General. The advice received concluded that the Regulations were *ultra vires*.

The effect of the revocation, for the awarding of new Community Pharmacy contracts, is a return to the pre 1996 situation whereby the applicant applies to the health board for a Community Pharmacy Contract, which is granted if the educational preconditions mentioned above are met.

## **Conduct Regulation**

### ***Prices and Fees***

Pharmacies sell both under the GMS and to private patients. Both types of transactions are heavily regulated, at least for medicines dispensed under prescription. In particular, for the sale of a prescription medicine under the GMS, the pharmacist cannot charge a mark-up: he is reimbursed for the cost of the medicine plus a flat dispensing fee. The flat fee can vary if a powder or ointment must be prepared or the medicine is dispensed at night. For the sale to a private patient, i.e. one not under the GMS, the pharmacist charges a 50% mark-up, under established custom and trade. The wholesale cost of prescription medicine is set by agreement between the Department of Health and the Irish Pharmaceutical Healthcare Organisation, representing the drug-making Industry.

Other products pharmacists sell, including as mentioned above, over the counter medicines (OTCs), as well as cosmetics, toiletry, camera film etc. For these products the prices and margins are not fixed.

### ***Advertising***

Advertising by pharmacies is constrained by the ethical rules of the profession. Listings in the telephone directory and notices in the newspaper cannot advertise more than its existence and hours or change of hours. Special events, such as patient testing, can be advertised only by a notice in the window of a pharmacy (c.f. OECD 2001: 01). According to OECD (2001: 302) the cumulative effect of these restrictions is that a pharmacy cannot increase its customer base by advertising.

Also these regulations appear to be rather rigid, one has to bear in mind, that they are issued by the Pharmaceutical Society of Ireland as a professional rule only. For this, the respective regulations are not legally binding.

### ***Forms of Business, Inter-professional Co-operation, Location and Diversification***

The owner of a pharmacy in Ireland may be one of the following:

- (a) a pharmacist;
- (b) a partnership of pharmacists;
- (c) a legal person (e.g. a company);
- (d) the legal personal representative of a pharmacist acting as such at the time of his death (this is limited to a period of five years from the date of death).

All in all the establishment of a business in the profession is not restricted to specific forms of business. This means that also non-pharmacists, i.e. as corporate bodies can own pharmacies. At the same time specific regulations on inter-professional co-operation do not exist, nor on location (again since 2002, see above) or on diversification: more than one pharmacy may be owned in Ireland and it is possible to run several branch-offices.

### ***Continuing Education***

There is no obligation for continuing education for pharmacists in Ireland.

### ***Specialisation in the Profession***

There are specific regulations on specialisation in the profession of pharmacists in Ireland

### ***Compulsory Indemnity Insurance***

There are no regulations on compulsory professional indemnity insurance in Ireland.

## **Economic Characteristics**

### ***Ireland – Structure and dynamics (NACE 5231)***

*Enterprises, Turnover, Employment*<sup>1</sup>: The nominal turnover share of pharmacies in Ireland reached a level of over 310 million Euro in 2000, equivalent to less than 0.35% of GDP, which represents a typical value, but a little more than the median of our survey of 14 member states. (c.f. corresponding Overview-table in Chapter 5). Output of the sector rose however at a very high yearly compound average of 16.2%, ahead of the booming Irish GDP (nominal 15% p.a.) during the second half of the 1990's. This represents a real growth in pharmacy services of 15.1% per annum, which outstrips employment, which increased at a rate of 5.9% p.a. over the period 1995-1999, so productivity has risen dramatically. In fact, the real turnover share per employed person was up by 39.6% over this period.

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<sup>1</sup> EUROSTAT

**Table 11-1 Key Statistics, Pharmacy Services, Ireland 5231**

	Number of Firms	Total Turnover in Mio EUR	Turnover Share in Mio EUR	Employment	No. of Professionals
<b>1995</b>	970	519	171	5 672	
<b>1996</b>	1 022	607	200	6 409	
<b>1997</b>	1 053	708	234	6 602	
<b>1998</b>	1 152	933	308	8 096	
<b>1999</b>	1 173	946	312	7 136	
<b>2001</b>					2 966

Source: EUROSTAT, IHS

The number of firms has also increased, being over 970 in 1995 and over 1170 in 1999, an average compound rate of increase of just 4.9% p.a. (see Table). The lower rate of increase in enterprises relative to employment is indicative of a slight trend towards larger pharmacies i.e. indeed the average enterprise gave employment to 6.1 persons in 2000, compared to a 5.8 person average in 1995. However the total number of enterprises in this branch, at 314 per million of population, is the third highest in the survey, after Portugal and Italy.

The average turnover share per firm (in 1999) of about 270,000 euro is much lower, however, than the correspondingly value - for turnover – for technical services (520,000 euro), accounting services (490,000 euro) in Ireland, and especially the turnover of legal services' firms (1530,000 euro). This level of business is the fifth lowest among the member states in our survey<sup>2</sup>.

The level of employment is, however, high for the branch, at over 1900 persons per million of the population in 1999, whereas the level of productivity, as measured by the turnover share per employed person is, at 44,000 euro in 1999 in absolute terms, below the median value of countries included in our survey. Even when adjusted for the price levels in Ireland, as well as for the output of the whole economy (in terms of GDP in PPS per capita), the relative volume (share) per employee of the pharmacy branch in Germany occupies roughly the same place among the member states surveyed.

<sup>2</sup> Note: Value Added is typically 70-75% of turnover for legal and accounting services, 50-55% of turnover for technical services.

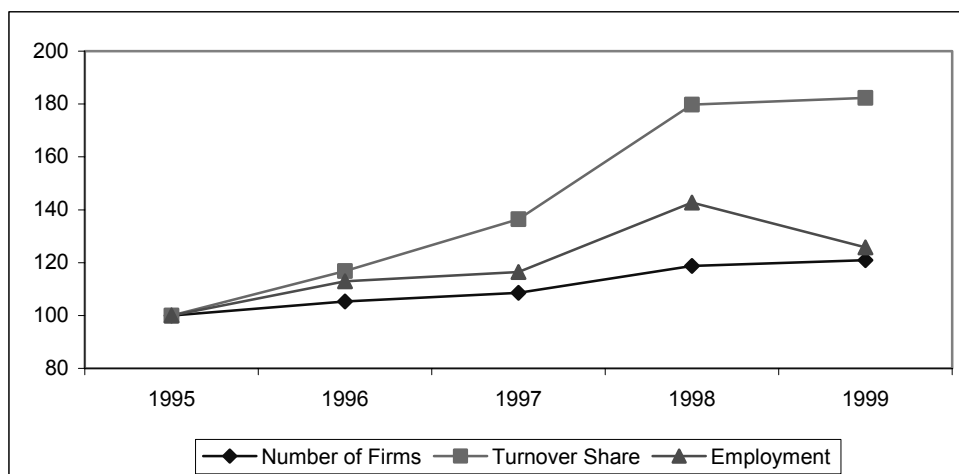
**Table 11-2 Key Statistics, Pharmacy Services, Ireland 5231**

	Turnover Share per Firm 1000 EURO	Employment per 1000 firms	Turnover Share per person employed 1000 EURO	Employment per Mio. of Pop	Firms per Mio. of Population
1995	177	5 847	30	1 577	270
1996	196	6 271	31	1 770	282
1997	222	6 270	35	1 808	288
1998	267	7 028	38	2 192	312
1999	266	6 084	44	1 911	314

Source: EUROSTAT, IHS

The differential rates of growth in enterprises, turnover, and employment are illustrated in the chart, with the 1995 values indexed at 100.

**Chart 11-1 Relative Growth Rates, Ireland 5231**



Source: EUROSTAT, IHS

*The Pharmaceutical Society of Ireland:* reports a professional membership of 2966 pharmaceutical chemists in 2000, up 24% from 1995 (IHS questionnaire). There are, in addition, 3 members classed as ‘registered druggists’ and one member classed as ‘dispensing chemist and druggist’ – both these categories have decreased from 6 in each in 1995. The number of professional trainees (in all stages of training), 350, has increased by 40%, from 250 in 1995. Around 50 trainees passing the final examination in each of 1995 and 2000, with an pass rate of 100% in the latter year, and 96% in the former. The number of newly admitted members in 2000 was 213. The number of firms reported for 2000, 1244, agrees approximately with the statistical data cited above. The Pharmaceutical Society estimates the number of firms with incorporated status as having risen from 60% in 1995 to 73% in 2000. Most firms (93%) have one office, 5% have 2-5 offices, 1.1% have 5-20 offices, and 0.4% have between 20 and 50 offices (as of 2000). As regards firms from other countries, the highest number originate from UK, followed by Germany.

## Summary

The market entry and conduct indexes we calculated for Ireland are – at least from an international comparative point of view – very low (1.47 for entry and 1.2 for conduct). If this calculation would have been done for the time between 1996 and the beginning of 2002 the entry index would have been much higher, as the maximum number of pharmacies was fixed in this time by a kind of “economic needs test”. This regulation has been abolished by the beginning of 2002. However, maybe our entry index in fact underestimates the problems of market entry for young would-be pharmacists in Ireland. It does not reflect the fact that the number of places for university education in pharmaceutical sciences is very limited in Ireland. At the same time, if one has been studying abroad, even as an Irish citizen, it is only possible under relatively rigid preconditions to open one's own pharmacy in Ireland. On the other hand Ireland is one of the rare Member States of the European Union where no “needs test” for the opening of a new pharmacy applies and conduct regulation concerning pharmacies is not very rigid in Ireland. This is especially true with regard to advertising, form of business, branch offices and inter-professional co-operation.

The direct effects of the removal of the market-entry-barriers mentioned above in the beginning of 2002 is not clear at the moment. We suggest that there only can be an effective liberalisation of market entry , if at the same time changes in the number of places for pharmaceutical education in Ireland are imposed (which is planned and already implemented to some degree) or at least the restrictions concerning would-be pharmacists that have been studying abroad are lifted.

## 11.2 The Profession of Pharmacists in Portugal: an overview

The Portuguese pharmacists-system shows, as the health system in general, extensive regulation. In the Portuguese health system there are numerous and sometimes very restrictive controls over pharmaceutical goods, high-technology equipment and the education, training and registration of health personnel.

In respect to pharmacies there are regulation barriers regarding the entry to the profession and opening a community pharmacy. The number of pharmacies is restricted and there are rigorous rules on the ownership of pharmacies. Pharmacies are equipped with broad exclusive rights for the supply of medical goods. At the same time wide regulations on running a pharmacy exist. This is true in respect of price regulation, rules concerning marketing and advertising as well as forms of business etc.

All in all the pharmacists sector in Portugal shows strong signs of a state-imposed monopoly which in cases has led to sub-optimal market-outcomes. We will show that the density of pharmacies per population is very low in Portugal, even for South-European standards. At the same time there are growing problems of controlling the public costs of pharmaceuticals; according to WHO, the respective price formation and –control systems are sub-optimal.

For pharmacies in Portugal we calculated a market entry index of 4,19 and a conduct index of 3,8. Both are high from an international comparative point of view.

The representative body for the pharmaceutical profession is the Pharmaceutical Society (*Ordem dos Farmacêuticos*), for which membership is compulsory. It covers pharmacists and others licensed to work in industry, laboratories and enterprises and is the legal representative of people with a degree in pharmaceutical sciences. It has regulatory and disciplinary powers. In addition to the Pharmaceutical Society, which represents all pharmacists in general, Portuguese community pharmacists, in particular, are represented by the National Association of Pharmacies (*Associação Nacional das Farmácias*; ANF). Membership in ANF is not compulsory. The ANF has strongly been committed to the support of its members' interest, particularly with regard to professional, economic and legal aspects. As an associative structure, the ANF does economic and financial consultancy as well as information technology support and professional training. Almost 95% of pharmacists are members of the National Association of Pharmacists; however some choose to remain independent. The Association offers incentives in order to maintain membership rates such as computers, software, continuous education and other services which are of benefit to the pharmacist.

The National Association of Pharmacists also has, as the WHO terms it, a “powerful corporate role”. It operates as a fund which handles the majority of pharmaceutical payments between the National Health System and the pharmacists.



## **Market Entry**

### ***Tasks and exclusive tasks provided by Portuguese Pharmacists***

In Portugal Pharmacists have the exclusive right of preparation, control, selection, purchase, storage and dispensation of human and veterinary medicines as well as medical devices. All drugs, including over-the-counter drugs (OTC) can only be sold in a pharmacy. It is not permitted for drugs of any sort to be sold through other outlets. This means that pharmaceutical products generally are solely distributed through pharmacies, and their subsidiaries. Hospitals as a basic principle have a pharmaceutical depot for internal use only. There is presently a limited service within hospitals for dispensing prescriptions to outpatients, but only those drugs which carry no co-payment are allowed to be dispensed. The idea of extending pharmacy services in hospitals to allow direct sales by the NHS is being debated within the Ministry of Health. Similarly, in health centres only those vaccinations which are provided free of co-payment are dispensed directly by the health centre. Otherwise patients have to take their prescriptions to a private pharmacist whether or not they receive the prescription from a NHS doctor in a health centre or from an outpatient department of a hospital.

This means that Doctors/Medical Practitioners in principle are not allowed to dispense medicines on their own. Only veterinary surgeons may dispense medicines when carrying out emergency operations.

Other exclusive tasks of Portuguese pharmacists are the quality control of medicines and medical devices in quality control laboratories. Apart from medicinal products and other products associated with health pharmacies in Portugal may also sell Cosmetics, skin-care, dietetic, orthopaedic, phytopharmaceutical, optometric and homeopathic products.

### ***Education and Entrance to the Profession***

To become a pharmacist in Portugal one has to graduate in Pharmaceutical Sciences at the University. The study-programme takes 5 years plus 6 months of pre-graduate training. There is, for people with Portuguese nationality, no other education qualification enabling application for entrance to the profession. At the same time no additional practise is needed to become a full member of the profession. A special professional exam has only recently been introduced. This professional examination was established by the Pharmacist's Society's new bylaws, approved on November 2001. The professional exam will only be implemented from 2003 onwards and candidates from accredited degrees in Pharmaceutical Sciences are excused from this examination. As already mentioned above for practising pharmacists a membership in the *Ordem dos Farmacêuticos* is compulsory. A membership in the ANF is not obligatory.

For a long time there were only three faculties of pharmacy in Portugal. This meant that a low number of pharmacists graduated each year and therefore the professional market was for a long time eager to receive them at various sites. Recently, in a period of only six years, four other faculties have started to offer students courses in pharmaceutical sciences.

The majority of young pharmacists in Portugal pursue careers in community pharmacy. This may be because legislation still restricts pharmacy ownership to pharmacists and also because pharmacies in Portugal are making an effort to have at least two pharmacists working in each pharmacy. However, regarding the areas of Community and Hospital Pharmacy, the job market is far from absorbing the annual number of graduates leaving the universities: pharmacy ownership is under very rigid control and, although it is a right exclusive to Pharmacists, the criteria for opening new pharmacies are so strict that they make it almost impossible for a young pharmacist to establish himself as a pharmacy owner in the first years after graduation (see below). In Hospital Pharmacy, the number of annual placements is extremely reduced as well. Regarding Industrial Pharmacy, the situation is not so good as well any more. The problem has two sides: on one hand, there isn't much pharmaceutical industry in Portugal; on the other hand, industry tends, more and more, to employ graduates other than pharmacists. However, still many find a job in the pharmaceutical industry, where they can choose between drug registration, marketing, quality assurance and production, although production in Portugal has been decreasing quite a lot over the last few years.

As mentioned above, the regulations to open an own pharmacy in Portugal are rather rigid, even by international standards. Pharmacies must be owned by a qualified pharmacist. In addition to this regulation which reduces competition, the location of pharmacies is highly regulated (*Portaria* 936-A/99 of 22nd October 1999). There is a maximum number of pharmacists permitted in each community, which is one pharmacy for every 4,000 inhabitants in towns with a population of 4,000 or more (until the end of the 1990s the respective number has been 6,000). The distance between pharmacies must be more than 500 metres (until the end of the 1990s 250 m). However, a pharmacy may be authorised, irrespective of the number of inhabitants, in an area which does not have one if the real needs of the local population require it:

- if there is a hospital or a medical centre and if the distance to the nearest pharmacy is more than 3 km;
- if this distance is more than 5 km;
- in areas which have a shopping centre provided for in town plans, providing certain conditions are met, etc.

For the pharmacies available open competitions are held nation-wide on the authority of the Ministry for Health - National Institute of Pharmacy and Medicines, at the request of the local health authorities.

Admission to the open competition is as follows:

- Priority is given to the owners of pharmacies in the same municipal area as the pharmacy for which the competition is organised, who wish to transfer their dispensary there. The next most successful candidate is given authorisation to open a dispensary in the locality from which the first pharmacy has been transferred;

The following are not admitted:

- pharmacists or companies set up by pharmacists who already own a dispensary at the time of the competition (in an other area), or those who have owned a dispensary during the previous ten years;
- companies with one or more members to whom the above conditions apply.

Candidates are listed according to the number of years of professional experience, their period of residence in the area, their age and, finally, the marks and grades obtained during university studies.

## **Conduct Regulation**

### ***Prices and Fees***

The system for prices and fees for pharmacists in Portugal is rather fragmented and the information on this point is inconsistent. The Pharmaceutical Society in the questionnaire sent to us indicated that there are no special regulations on prices and fees of Portuguese Pharmacists. This information appears to be misleading according to other sources. According to Vasco/Da Silva<sup>3</sup> wholesaler and pharmacies' prices for prescription-only pharmacies in Portugal tend to be fixed.

The pricing of pharmaceuticals is a two-step process. In the first instance, DGCC (Directorate-General for Trade and Competition, which is part of the Ministry of Finance) agrees to the maximum price for every new medicinal product (except hospital-only specialities). Subsequently, INFARMED (*Instituto Nacional da Farmacia e do Medicamento* - National Institute for Pharmacies and Medicines) processes reimbursement applications,

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<sup>3</sup> Country Profile Portugal, Pharmaceutical Pricing and Reimbursement; LSE study on healthcare in individual countries; Worldwide survey on pharmaceutical pricing and reimbursement structures; <http://pharmacos.eudra.org/F3/g10/docs/tse/Portugal.pdf>

where a product price can be lower in order to obtain reimbursement status. Prices are set by the Directorate-General for Trade and Competition (DGCC), according to the Regulation n° 29/90. The initial manufacturers'/importers' maximum selling prices (PVA) are based on the lowest ex-factory price of identical or similar pharmaceutical product containing the same active ingredient in three reference countries: Spain, France and Italy. Normally, all prices are reviewed annually and a rate of revision is fixed.

According to WHO these rules for price-fixing for prescription-only medicines are not always implemented in practise<sup>4</sup>:

“Since 1991 (Decree Law 72/91) the price of drugs has been established using an artificial price based on comparisons with other countries. An attempt was made in 1998 to introduce reference pricing. This system groups drugs according to their active ingredients and sets a reference price for the group (often the average or lower-priced drug in the group). In Portugal, if two drugs of similar properties were already on the market, any new drug entering the market had to be priced at least 10% cheaper than the existing products. But this policy has been shrouded in controversy. Some products were misclassified and it is still unclear whether this controversy will have tarnished the policy irredeemably or whether the government will persist with its implementation.” (p. 68).

According to Vasco/da Silva (p11) the gross wholesaler margin is 8% of the Pharmacy Selling Price excluding tax (PSP); the pharmacist margin is 20% of the PSP. Non-medicinal products (that are permitted to be sold in pharmacies) may have a higher marketing margin.

This regulations of maximum prices and margins do not apply to OTC products. Regulation 261/91 states that OTC products have free pricing and distribution margins. OTC products are not reimbursed and can be sold only through pharmacies, except in exceptional circumstances justifiable on grounds of public health reasons. As to WHO (1999: 77) over-the-counter drugs yield the greatest profit.

Pharmacists obtain their income from three main sources: direct payment from the patient for OTCs, the co-payment directly from the patient and the remainder from the NHS (via the Regional Health Administration: RHA) or the appropriate insurance fund. The payment system follows a provider pays model. This means that whoever prescribes pays. So in the case of public hospitals, the individual hospital must cover the cost of the drug. If the prescription is from a health centre the payments are centralised through the RHA. As mentioned above about 95% of pharmacists are members of the National Association of Pharmacists and only few choose to remain independent. Members of the Association invoice the Association who reimburses them immediately; it then bills the RHA in bulk on behalf of its members. The Association is powerful and has negotiated a minimum payment period of two months with the RHA and has the ability to levy interest from the RHA for late payment. For most of the other relevant professions the minimum payment period is 4 months.

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<sup>4</sup> WHO (1999): Health Care Systems in Transition, Portugal, European Observatory of health Care Systems.

According to WHO (1999: 77) it is “one of the perverse incentives of the payment system for pharmacists (...) that they benefit from dispensing more expensive drugs. As a result pharmacists do not stock the cheapest drugs.” The WHO sums up the problems of pharmacies pricing in Portugal as follows (1999: 95):

„As in many other European countries, Portugal faces the problem of controlling expenditure growth on drugs and pharmaceuticals. The industrial lobby and the professional lobby are both very strong. The drug market is characterised in Portugal by freedom of prescription for doctors (outside the hospital inpatient setting), lax price controls on the drug companies and a monopoly position for the pharmacist who sells the drugs. Despite attempts by the government to regulate the sector, it remains largely limited to the quality and safety of drugs. Government regulation of pharmacists actually protects their monopoly position and the method of payment creates perverse incentives for the dispensing of more expensive products.“

### **Advertising**

According to the Law Decree 100/94, direct consumer advertising of prescription-only pharmaceuticals is prohibited in Portugal. The National Council for the Publicity of Medicinal Products is a consultative board created within INFARMED; its function is to analyse the advertisement of medicinal products for human use, to issue opinions on legislative proposals in this area and to present recommendations in order to improve the quality of the advertisements.

According to the questionnaire sent to us by the *Ordem dos Farmacêuticos* all advertising for pharmacists in Portugal is strictly prohibited. This information probably is misleading, as other sources state that only the advertising of medicines is prohibited (Law Decree 100/94 of 19 April modified by Law Decree 48/99 of 16 February). For the pharmacy itself, the advertising of products other than medicines that are sold by the pharmacy and other activities carried out in the pharmacy (e.g. pregnancy tests, blood pressure) is allowed, subject to compliance with the general rules relating to all advertising to the public and the profession's Code of Ethics. Overall this means that advertising by pharmacists is restricted, not generally forbidden.

### **Forms of Business, Inter-Professional Co-operation, Location and Diversification**

Only pharmacists may establish and/or own a community pharmacy. Partnerships with other pharmacists are possible; partnerships with non-pharmacists are not permitted. Pharmacists may also establish limited companies, but ownership is reserved to the profession. Additionally a pharmacist may not own or co-own more than one dispensary. She/He must offer guarantees of professional and good character and his name must have been entered in the register of pharmacists.

### **Continuing Education**

Continuing education traditionally was not obligatory for pharmacists in Portugal. This has changed recently. The Society's new bylaws, approved on November 2001, establish mandatory continuing education for all its members and links it with professional license revalidation within the Pharmaceutical Society. Every 5 years pharmacists must accomplish a minimum of credits granted by attending continuous education activities accredited by the Society. This will be implemented as from 2003.

In non-compulsory form ongoing training programmes for pharmacists have been in place for the past 15 years or so, held jointly with the Lisbon, Oporto and Coimbra Faculties of Pharmacy, with the Pharmaceutical Society and the ANF. Organised in different areas, the continuing education system has been undergoing a consolidation process in the last few years, with 57% of the Portuguese community pharmacies having already received training curricula.

### **Specialisation in the Profession**

Specialisation in the profession is organised by the different specialist colleges (Hospital Pharmacy; Clinical Biology; Pharmaceutical Industry; Regulatory Affairs) of the *Ordem dos Farmacêuticos*. Specialisation is conferred after a minimum period of practise and examination. It leads to a title of specialist in the specific area of specialisation which may be advertised.

### **Compulsory Indemnity Insurance**

For pharmacists in Portugal, as in most EU-Member-States, there does not exist a compulsory indemnity insurance.

## **Economic Characteristics**

### **Portugal – Structure and dynamics (NACE 5231)**

*Enterprises, Turnover, Employment*:<sup>5</sup> The nominal turnover share of pharmacies in Portugal reached a level of nearly 462 million Euro in 2000, equivalent to exactly 0.4% of GDP, which represents the fourth highest of our survey of 14 member states, after that of France, Belgium, and Spain, in decreasing order (c.f. corresponding Overview-table in Chapter 5).

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<sup>5</sup> EUROSTAT

Output of the sector rose however at a yearly compound average of 6.1% during the second half of the 1990's. This represents a real growth in pharmacy services of just 3.6% per annum, compared to the stagnant growth of employment, which was 0.3% p.a. over the period 1996-2000, so productivity has been risen. In fact, the real turnover share per employed person increased by 13.6% over this period.

**Table 11-3 Key Statistics, Pharmacy Services, Portugal 5231**

	Number of Firms	Total Turnover in Mio EUR	Turnover Share in Mio EUR	Employment	No. of Professionals
1996	2 769	1 823	365	14 032	
1997	2 698	1 943	389	13 641	
1998	2 471	1 884	377	12 176	
1999	2 719	2 077	415	13 484	
2000	2 832	2 311	462	14 227	
2001					9 498

Source: EUROSTAT, IHS

The number of firms has also stayed more or less constant, being just under 2800 in 1997 and just over 2800 in 2000, an average compound rate of increase of just 0.6% p.a. (see Table). The slightly higher rate of increase in enterprises relative to employment is indicative of a minimal trend towards smaller pharmacies i.e. indeed the average firm gave employment to 5.0 persons in 2000, compared to a 5.1 person average in 1997. However the total number of enterprises in this branch, at 283 per million of population, makes Portugal one of the countries with the highest density of pharmacies, after Spain, Belgium, France, and Ireland, in decreasing order.

The average turnover share per firm (in 1999) of over 160,000 euro is, however, very low in international comparison – in absolute terms, the only country with a lower value being Spain. Adjusted for the lower prices and output level of the whole economy, however, this (volume per firm) takes on a position in the middle of our surveyed member states.

The level of employment of the branch is, at over 1400 persons per million of the population in 2000, also typical, whereas the level of productivity, as measured by the turnover share per employed person is, at 32,000 euro in 2000 in absolute terms, the lowest value of countries included in our survey. Seen in the light of the adjustment for prices as well as for the output of the whole economy in Portugal (in terms of GDP in PPS per capita), the relative volume (share) per employee of the pharmacy branch in Portugal is paradoxically the highest among the member states surveyed. We prefer this latter measure for international comparison, as it takes into account the lower GDP, and hence consumption level (nominally) of Portugal.

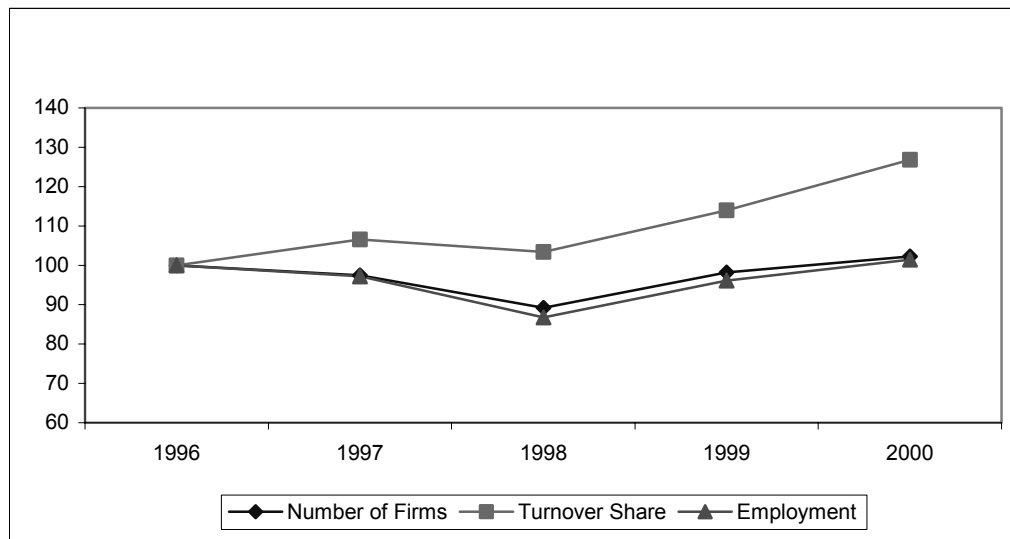
**Table 11-4 Key Statistics, Pharmacy Services, Portugal 5231**

	Turnover Share per Firm 1000 EURO	Employment per 1000 firms	Turnover Share per person employed 1000 EURO	Employment per Mio. of Pop	Firms per Mio. of Population
<b>1996</b>	132	5 068	26	1 414	279
<b>1997</b>	144	5 056	28	1 373	272
<b>1998</b>	152	4 928	31	1 223	248
<b>1999</b>	153	4 959	31	1 351	272
<b>2000</b>	163	5 024	32	1 423	283

Source: EUROSTAT, IHS

The differential rates of growth in enterprises, turnover, and employment are illustrated in the chart, with the 1996 values indexed at 100.

**Chart 11-2 Relative Growth Rates, Portugal 5231**



Source: EUROSTAT, IHS

*Professionals:* The *Ordem Dos Farmacêuticos* reported a total of 9,498 professional pharmacists in Portugal in 2001 (IHS questionnaire). This figure has increased by 67% since 1990, from 5,697. The number of new members in 2000 was particularly high, at 528, almost double the number in each of the years 1995 (273) and 1990 (285).



## Summary

The sector of pharmacies in Portugal is highly regulated. This is true for market entry as well as for conduct. Although some regulatory changes have occurred in recent years, there are no signs of real liberalisation. It seems that the established pharmacists in Portugal have a strong lobby. At the same time it is not only our opinion, but also that of the WHO, that several regulations of the pharmacies sector in Portugal lead to sub-optimal market outcomes. This is true at least for the rigid entry regulations, the lack of educational facilities for those who want to study pharmaceutical sciences in Portugal as well as for the price-building system in order.

The number of graduated pharmacists in Portugal is low, the same is true in regards of pharmacies-density per population. At the same time growing problems of medicines-costs for the public health care system occur. The example of pharmacies in Portugal shows that high regulation does not *per se* lead to optimal outcomes. On the contrary, the opposite appears to be true.

### 11.3 The Profession of Pharmacists in Sweden: an overview

The Swedish pharmacies-system differs very much from all other national systems of this sector in the European Union. In Sweden, the community pharmacies are not organised as a kind of “liberal profession”, as it is the case in the other EU Member States. All pharmacies are part of one company, Apoteket AB, owned by the government.

Apoteket AB was founded in 1971 and is wholly owned by the Swedish state. Apoteket has an exclusive right to sell pharmaceuticals to the public and is obliged to satisfy the need for drugs nation-wide. It is required to maintain a countrywide distribution system and decides which sales outlets it wishes to have and where to be located in order to fulfil the requirement of availability. The price of drugs is the same, no matter in which part of the country they are purchased. Apoteket has a duty to supply all the drugs that have been approved for the Swedish market.

Apart from sales to the public, Apoteket is responsible vis-à-vis the health services for the purchasing and supply of drugs. The healthcare principals, mainly County Councils and municipalities, have the option of assuming responsibility for this under their own management. At present, however, all the healthcare principals have chosen Apoteket as their provider of these services. Apoteket AB recently had just over 11,500 employees (equivalent to an average of 10,308 full-time employees) and was operating approximately 900 pharmacies (800 community pharmacies plus 100 hospital pharmacies).

#### Market Entry

##### ***Tasks and exclusive tasks provided by Swedish Pharmacies***

There is a monopoly on retail sales of pharmaceuticals in Sweden. Pharmaceuticals can only be sold from a pharmacy, and, as mentioned above, all pharmacies are part of one state owned company. Additionally, OTCs can be sold in pharmacies only and not in other outlets. Pharmacies in Sweden generally carry only medications and not products such as cosmetics.

##### ***Education and Entrance to the Profession***

To become a pharmacist in Sweden one has to have studied for five years at University level after leaving school. This education ends with the so-called *Apotekarexamen*. There is no obligation for membership in or registration with a professional body etc. Another profession in the field is that of prescriptionists, who have had two or three years of higher education. Apart from pharmacists also persons with this education work in retail sale for Apoteket AB. Training as a pharmacy technician is now available in a number of locations, at both upper

secondary school level and beyond. Due to the state monopoly in the dispensation of drugs in Sweden one can only work in a community or hospital pharmacy as an employee of Apoteket AB. There are no self employed community pharmacists, who own their own pharmacy.

## **Conduct Regulation**

### ***Prices and Fees***

In Sweden, the pricing of pharmaceuticals is free. However, if a product is to be covered by the Drug Benefit Scheme, the company marketing the product must apply to *Riksförsäkringsverket* (RFV; National Social Insurance Board) for establishing a reimbursement price. RFV is a central government agency responsible for the National social insurance, and accountable to the Ministry of Health and Social Affairs. The Division of Drug Affairs is the unit within RFV responsible for setting up the reimbursement prices of pharmaceutical products that are included in the Drug Benefit Scheme.

The pricing process is characterised as being quite consensual. The parties involved in the discussions usually reach mutual agreement on the price of the product. However, the price is formally set in a unilateral decision by the RFV. If the company regards this decision as unacceptable it can either put the product on the market as a non-reimbursable product or appeal against the RFV decision. Such outcomes of the pricing process are, however, rare.

Prices are set at the level of the pharmacy purchase price (AIP) but RFV also decides on the pharmacy-selling price (AUP). In 1999, the composition of the consumer price (AUP) was on average: Marketing company: 79.5%, Wholesaler: 3.2%, Pharmacy 17.3%.

Prices for non-reimbursable medicines and other products sold by pharmacies are not fixed.

### ***Advertising***

The Swedish Medical Products Agency is responsible for regulations on the promotion of pharmaceuticals. Prescription-drugs are not advertised at all (only in journals addressed to physicians, dentists and other health personnel), under a code of ethics which exists in Sweden on a voluntary basis. All other drugs can be advertised but it is not the pharmacies which promote marketing; it is the producer.

### ***Forms of Business, Inter-professional Co-operation, Location and Diversification***

Due to the state monopoly in drug dispensation in Sweden the question of “forms of business” does not arise in the same way as it does in other countries. There are no special

regulations on this point. The same is true for the subject of inter-professional co-operation, location and diversification. Apoteket AB is required to maintain a countrywide distribution system and decides which sales outlets it wishes to have and where to be located in order to fulfil the requirement of availability.

### ***Continuing Education***

For pharmacists in Sweden an obligation for continuing education does not exist.

### ***Specialisation in the Profession***

There are no special regulations in respect to professional specialisation.

### ***Compulsory Indemnity Insurance***

Special regulations concerning compulsory professional indemnity insurance do not exist. (There being no need, being wholly stated owned.)

## **Economic Characteristics**

### ***Sweden – Structure and dynamics (NACE 5231)***

*Enterprises, Turnover, Employment*<sup>6</sup>: The nominal turnover share of pharmacies (outlets) in Sweden reached a level of nearly 650 million Euro in 2000, equivalent to less than 0.3% of GDP, which lies at the middle of our survey of 14 member states (c.f. corresponding Overview-table in Chapter 5). Output of the sector rose however at a yearly compound average of 9.9% during the 1990s and at the same rate in the period 1997 to 2000. This represents a real growth in pharmacy services of 6.4% per annum, more than employment, which actually increased just marginally, at a rate of 0.4% p.a. over the period 1993-2000, so productivity has been increased considerably. In fact, the real turnover share per employed person was up by only 13.7% over the years 1997 - 2000 (the longest period for which we have data).

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<sup>6</sup> EUROSTAT

**Table 11-5 Key Statistics, Pharmacy Services; Sweden 5231**

	Number of Firms	Total Turnover in Mio EUR	Turnover Share in Mio EUR	Employment	No. of Professionals
<b>1993</b>	3	1 859	372		
<b>1996</b>	1	2 752	550		
<b>1997</b>	1	2 486	497	11 021	
<b>1998</b>	2	2 627	525	10 952	
<b>1999</b>	1	2 967	593	11 039	
<b>2000</b>	2	3 300	660	11 150	
<b>2001</b>					5 000

Source: EUROSTAT, IHS

The number of enterprises has been either 1, 2 or 3 in the statistics, reflecting the state monopoly (see Table).

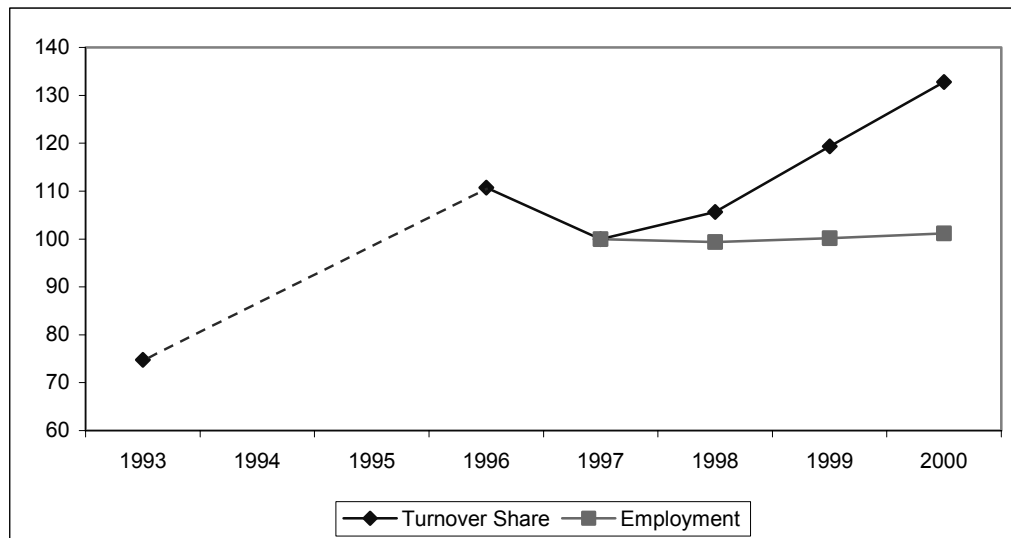
The level of employment is, however, typical for the branch, at around 1300 persons per million of the population in the year 2000, whereas the level of productivity, as measured by the turnover share per employed person is, at 59,000 euro in 2000 in absolute terms, just above the median value of countries included in our survey. Even when adjusted for the higher price levels in Sweden, as well as for the output of the whole economy (in terms of GDP in PPS per capita), the relative volume (share) per employee of the pharmacy branch in Sweden occupies the same middle place among the member states surveyed.

**Table 11-6 Key Statistics, Pharmacy Services; Sweden 5231**

	Turnover Share per Firm	Employment per 1000 firms	Turnover Share per person employed	Employment per Mio. of Pop	Firms per Mio. of Population
	1000 EURO		1000 EURO		
<b>1993</b>	123 905				0.3451
<b>1996</b>	550 480				0.1132
<b>1997</b>	497 220	11 021 000	45	1 246	0.1131
<b>1998</b>	262 680	5 476 000	48	1 238	0.2261
<b>1999</b>	593 360	11 039 000	54	1 247	0.1129
<b>2000</b>	330 030	5 575 000	59	1 258	0.2257

Source: EUROSTAT, IHS

The differential rates of growth in enterprises, turnover, and employment are illustrated in the chart, with the 1997 values indexed at 100.

**Chart 11-3 Relative Growth Rates, Sweden 5231**

Source: EUROSTAT, IHS

*Sveriges Farmaceutförbund*: The Swedish pharmaceutical association reported a membership of 7,200 in 2001<sup>7</sup>, all being, of course non self-employed. (IHS questionnaire). In 2001, 300 new members were admitted. It is not clear whether the 200 firms referred to in the questionnaire are regional groupings of outlets.

### Summary

The regulation of pharmacies, as it exists in Sweden, is, from an international comparative point of view, a very special case. Pharmacies in Sweden are organised as a state-monopoly. For this market entry for single pharmacists is not possible as self employed. The Swedish state, as the owner of Apoteket, has recently made clear that it has no plans to change the regulatory system which controls drug retailing.

However, in respect of market dynamics, product innovation etc. it makes perhaps not that much difference if the pharmacy sector is run via a state monopoly or a very strongly regulated private sector. At least, in a system of state monopoly, the pharmacists may not operate as licensed private profit-oriented profession using their economic and political power for erecting market- barriers and thus to build up a monopoly in which private near-term market interests may dominate. On the other hand, it may well be the case that there are other potential economic welfare losses including X-inefficiency and less incentives to meet consumer preferences.

<sup>7</sup> The number of practising professionals working in pharmacies, 5,000, used in Chapter 5, was obtained from telephone information from *Farmaceutförbund*.

## 11.4 The Profession of Pharmacists in Germany: an overview

The profession of pharmacists, originated in the middle-age, belongs traditionally to the liberal professions. Pharmacists understand their profession as a part of the health system on the level of other medical professions and feel like members of any liberal professions with a commercial component. Compared to other professions in this study, however, the pharmacist does not belong to the liberal professions under the tax laws. In the decision of The Federal Constitutional Court (*Bundesverfassungsgericht*) of 1956 pharmacists have been classified as tradesmen.

The pharmacist has the task of providing the population with medicine in accordance with the regulations. This covers the development, production, examination, storage, selling and registration of risks of medicine as well as the information from doctors and patients to medicine. Pharmacists work in Germany in so called community pharmacies, in hospitals, in the industry or, among other things, also in test institutions. The following explanations refer, however, to pharmacists, who work in a community pharmacy.

The Federal Organisation of German Pharmacist Association (*ABDA - Bundesvereinigung Deutscher Apothekerverbände*) is the leading organisation of the approx. 53,000 German pharmacists. The aim of this association is the fulfilment and improvement of the common interests of this profession. Member organisations of the *ABDA* are the 17 pharmacists chambers and 17 pharmacists associations. The Regional Pharmacist Chambers (*Landesapothekerkammern*) are united in the Federal Pharmacist Chamber (*Bundesapothekerkammer*) in Frankfurt/Germany, the pharmacist associations in the German Pharmacist Association (*Deutschen Apothekerverband*).

The *ABDA* arranges an intensive exchange of views, in order to promote the interests of its member organisations. It advises them about all the news in the health care system and the medicine sector.

In Germany pharmacists have to be members of one of the corresponding regional pharmacist chambers. The 17 pharmacist chambers are organised on a district level. The Federal Pharmacist Chamber (*Bundesapothekerkammer*) is a working group of the Regional Pharmacist Chamber (*Landesapothekerkammer*).

Besides the chambers, there exist 17 pharmacist associations, which are based on optional membership. Together with the regional pharmacist chambers these are also organised in the Federal Organisation of German Pharmacist Association (*Bundesvereinigung Deutscher Apothekerverbände*) in Frankfurt/Germany.

## Market Entry

### **Tasks and exclusive tasks provided by German Pharmacists**

The general tasks that are provided by German Pharmacists have already been mentioned above. The main exclusive contribution that German pharmacists provide is the distribution of so called “pharmacy-only medicines” and “medicinal products” (*apo-thesenpflichtige Arzneimittel; apothekenpflichtige Medizinprodukte*). Apart from this, they also sell over-the-counter (OTC) medicines (*freiverkäufliche Arzneimittel*) and OTC medicinal products, for which not only Pharmacists, but for example also chemist’s shops (*Drogerien*) have the right to sell them. Another kind of service is the distribution of goods customarily offered in pharmacies (*apothekenübliche Waren, § 25 Apothekenbetriebsordnung*). They may be sold by other retailers as well. In addition pharmacists also have the right to offer screening measures, e.g. blood test or taking blood pressure. This service is provided by doctors as well.

### **Education and Entrance to the Profession**

The legal basis for the education to be a pharmacist is the licence to practice regulation (*Approbationsordnung*) for pharmacists dated July 19, 1989, which came into force in a changed version October 01, 2001.

The pharmaceutical study includes:

- a study of four years at an university;
- a clinical training (*Famulatur*) of eight weeks;
- a practical training of twelve months and
- the pharmaceutical exam with three examination sections.

### **Famulatur / Clinical elective**

During the part of the study at university, a student has to make a *famulatur* / clinical elective, while not having any lectures. Four weeks of this *famulatur* have to be at a community pharmacy and during the rest of the time one can choose among other pharmaceutical jobs, e.g. hospital pharmacy or the pharmaceutical industry.



After finishing the second part of the study at university (the so called main study) follows a 12 months practical training (third part), where knowledge is supposed to be deepened, extended and applied practically. A minimum of 6 months have to be served at a community pharmacy; the rest of the time in a hospital or military pharmacy, the pharmaceutical industry, in a scientific institute, e.g. university, or a pharmaceutical investigation centre. The practical year is completed with a four to six week course, where the practically gained issues are taught. Also the third part ends, as does the second part, with a state examination.

After successfully passing the pharmaceutical examination, one can apply for a licence to practise as a pharmacist. This license authorises the individual to use the title of pharmacist and allows him the unlimited practice of this profession.

### **Conduct Regulation**

#### ***Prices and Fees***

For pharmacy-only medicines there is a law fixing the prices (*Arzneimittelpreisverordnung*; Drug Price Ordinance). On the basis of free manufacturers' prices this leads to uniform consumer prices for pharmacy-only medicines throughout Germany. Prices for OTC medicines and other goods offered by pharmacists are not fixed.

#### ***Advertising***

For Pharmacists in Germany some, but not all, forms of advertising are forbidden. Advertising is forbidden in the following cases:

- prescription-only medicines,
- price advertising as far as pharmacy-only medicines are concerned.

Furthermore, advertising must conform with the European Law (Chapter VIII of Dir. 2001/83/EEC), the Law on Advertising in the Health System (*Heilmittelwerbegesetz*) the profession's law (*Berufsordnungen der Apothekerkammern*) and general regulations on advertising.

The Federal Constitutional Court (*Bundesverfassungsgericht*) has clarified in its decision of May 22, 1996 that the pharmacist chambers are not allowed to intervene with a publicity prohibition into the competitive process just to hinder competition.

It is also not possible in reference to the constitutional right of the freedom of the profession (*Berufsfreiheit*) according to article 12 paragraph 1 GG to exclude certain advertising media as improper, e.g. shirt advertisement or too big advertisements. Such prohibitions are

according to the point of view of The Federal Constitutional Court (*Bundesverfassungsgericht*) incompatible neither with the public good nor does it correspond to the principle of proportionality (*Verhältnismäßigkeit*).

Altogether, today pharmacists are able to use almost the full range of advertising instruments and marketing. But there are still some barriers. For example, advertisement, which is misleading or seems to exaggerate in reference to its content and frequency and favours an additional use or misuse (compare IFB 2001<sup>8</sup>) is not allowed..

### **Forms of Business and Inter-Professional Co-operation**

Pharmacies very often are run in the form of a sole practitioner. Partnership is allowed as far as a private partnership (*Gesellschaft bürgerlichen Rechts*) or general partnership (*offene Handelsgesellschaft*) are concerned. In these cases each pharmacist needs permission to run the relevant pharmacy and each one is fully liable. This means that inter-professional co-operation is not possible in the form of running a business together. At the same time incorporation, e.g. in form of a Limited Liability Partnership or a Public Limited Company, are not allowed. In addition, it is forbidden for pharmacists and doctors to work too close together. The patients may not be assigned to specific pharmacists/doctors, but must have the free choice (§ 11 *Apothekengesetz ApoG*; Pharmacies Act).

### **Location and Diversification**

Germany is one of the few member states of the European Union, where the number of Pharmacies is not restricted (e. g. by economic needs tests etc.). Any pharmacist may open and run a community pharmacy at the place of his own choice. But one pharmacist may open only one pharmacy and under normal conditions may not run a branch office. It is only in very specific cases, where this is permitted: there must be a “state of emergency in the supply with medicines” in a specific region (*Notstand in der Arzneimittelversorgung*; § 16 ApoG). In such a case one pharmacist may only run one additional branch office and it is a precondition that this additional branch office is directed by a pharmacist as well. Due to the also existing ban of mail-service (*Versandhandel*) of pharmacy-only medicines, a certain natural geographical restriction is imposed.

### **Continuing Education**

The profession's law generally says that continuing education must take place and the profession's chambers (*Apothekerkammern*) organise frequent seminars on varying topics. Notwithstanding this, a general control of single pharmacists does not take place.

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<sup>8</sup> See <http://www.ifb-bayern.de/Werbung-Apotheker.PDF>.

**Specialisation in the Profession**

The profession's chambers offer seminars on specialisation. After certain time (e.g. 3 years) of seminars and practice, there are exams. The title that can be obtained is "*Fachapotheker*", with various specialisations. This may be advertised.

**Compulsory Indemnity Insurance**

For pharmacists in Germany there are no regulations on compulsory professional indemnity insurance.

**Actual challenges and recent changes in regulations**

In Germany, the current political discussion is focused – beyond the labour market topic – around a new health reform. It is to be expected – but still open – that the reform will also effect the German pharmacists.

**Economic Characteristics****Germany – Structure and dynamics (NACE 5231)**

*Enterprises, Turnover, Employment*<sup>9</sup>: The nominal turnover share of pharmacies in Germany reached a level of nearly 7,200 million Euro in 2000, equivalent to less than 0.4% of GDP, which represents somewhat more than the median of our survey of 14 member states. (c.f. corresponding Overview-table in Chapter 5). Output of the sector rose however at a yearly compound average of 2.5% during the second half of the 1990's. This represents a real growth in pharmacy services of just 0.3% per annum, just slightly ahead of employment, which actually decreased at a rate of 0.3% p.a. over the period 1995-1999, so productivity has been virtually stagnant. In fact, the real turnover share per employed person was slightly down by only 2.5% over this period.

It is noted here that the turnover (net of VAT) recorded by the Eurostat statistics is consistently somewhat lower than the figures reported by ABDA, as described later in this section. Nevertheless the former is used as a comparable basis for all countries in Chapter 5.

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<sup>9</sup> EUROSTAT

**Table 11-7 Key Statistics, Pharmacy Services, Germany 5231**

	Number of Firms	Total Turnover in Mio EUR	Turnover Share in Mio EUR	Employment	No. of Professionals
<b>1995</b>	19 291	20 531	6 508	162 100	42 790
<b>1996</b>	19 399	21 037	6 669	167 100	
<b>1997</b>	19 377	20 662	6 550	164 900	
<b>1998</b>	19 311	21 174	6 712	166 552	
<b>1999</b>	19 491	22 638	7 176	160 081	
<b>2000</b>					46 078

Source: EUROSTAT, IHS

The number of firms has also stayed more or less constant, being just under 19,300 in 1995 and just under 19,500 in 1999, an average compound rate of increase of just 0.3% p.a. (see table). The slightly higher rate of increase in enterprises relative to employment is indicative of a slight trend towards smaller pharmacies; indeed the average firm gave employment to 8.2 persons in 2000, compared to a 8.4 person average in 1995. However the total number of enterprises in this branch, at 238 per million of population, makes Germany the last of the countries with a higher than median density of pharmacies, after Spain, Belgium, France, Ireland, Portugal and Italy, in decreasing order.

The average turnover share per firm (in 1999) of almost 370,000 EUR is lower than the correspondingly figure - for turnover – for technical services (470,000 EUR) and accounting services (490,000 EUR) in Germany – but on a par with turnover for legal services' firms (380,000 EUR). Again Germany occupies a position just above halfway among the member states in our survey<sup>10</sup>.

The level of employment is, however, high for the branch, at nearly 2,000 persons per million of the population in 1999, whereas the level of productivity, as measured by the turnover share per employed person is, at 45,000 EUR in 1999 in absolute terms, below the median value of countries included in our survey. Even when adjusted for the price levels in Germany, as well as for the output of the whole economy (in terms of GDP in PPS per capita), the relative volume (share) per employee of the pharmacy branch in Germany occupies the same place among the member states surveyed.

<sup>10</sup> Note: value added is typically 70-75% of turnover for legal and accounting services, 50-55% of turnover for technical services.

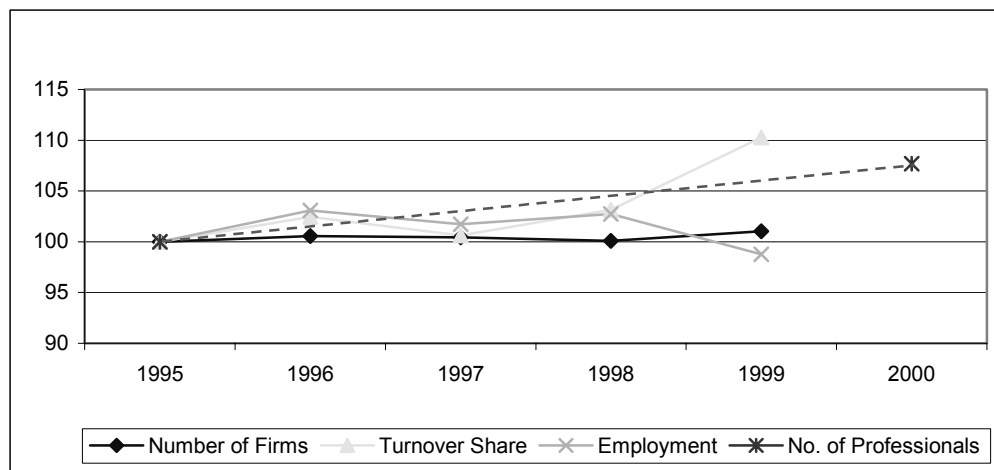
**Table 11-8 Key Statistics, Pharmacy Services, Germany 5231**

	Turnover Share per Firm 1000 EURO	Employment per 1000 firms	Turnover Share per person employed 1000 EURO	Employment per Mio. of Pop	Firms per Mio. of Population
1995	337	8 403	40	1 988	237
1996	344	8 614	40	2 042	237
1997	338	8 510	40	2 011	236
1998	348	8 625	40	2 030	235
1999	368	8 213	45	1 951	238

Source: EUROSTAT, IHS

The differential rates of growth in enterprises, turnover, and employment are illustrated in the chart, with the 1995 values indexed at 100.

**Chart 11-4 Relative Growth Rates, Germany 5231**



Source: EUROSTAT, IHS

*Turnover, Margin and Profits:* German pharmacies achieved a total turnover of 52,6 Bill. DM (without value added tax in 2000). This is an increase of 4.5% over the previous year.<sup>11</sup>

**Table 11-9 Total turnover of pharmacies\* in Germany 1992 to 2000**

Year	Total Turnover of Pharmacies				
	Germany	West Germany	East Germany	West – East Germany	West – East Germany
	in Bil. DM	in Bil. DM	in Bil. DM	in Bil. DM	1%
1992	40.99	35.31	5.68	29.63	72.3
1993	38.15	31.8	6.35	25.45	66.7
1994	40.58	33.45	7.13	26.32	64.9
1995	43.26	35.46	7.8	27.66	63.9
1996	45.4	37.2	8.2	29	63.9
1997	45.64	37.52	8.12	29.4	64.4
1998	48.4	39.95	8.45	31.5	65.1
1999	50.3	41.6	8.7	32.9	65.4
2000	52.6	43.5	9.1	34.4	65.4

\* without value added tax

<sup>1</sup> in % of Germany

Source: ABDA Federal Chamber of Pharmacists (Bundesapothekerkammer),  
www.abda.de, 3.1.2003, own calculations

Within the 1990s the turnover of pharmacies in Germany increased altogether from 40.99 Bill. DM in 1992 to 52.6 Bill. DM in 2000 by 28.3%. However, the development in West and East Germany was quite different: the West German turnover growth rate in this time period was 23.2%, in East Germany 42.6%. Evidently this is due to the start-up situation in the new *Bundesländer*.

Interestingly the gap in total turnover between West and East rose from 29.63 to 34.4 Bill. DM; however, the relative difference decreased from 72.3% to 65.4% in that period.

The turnover per pharmacy from 1980 to 2000 in Germany is shown in the table. In 2000 on the average each pharmacy had a turnover of about 2.37 Mio. DM.

From 1980 to 1990 the growth rate of turnover per pharmacy was 49.4%. Such an increase was not achieved in the 1990s: the growth rate from 1990 to 2000 was 43.2%. Within the 1990s almost no change was seen between the turnover situation in 1996 and 1997. The turnover in the last two years increased instead again around 4% per year.

<sup>11</sup> Note. There is a discrepancy between these figures and the data from Eurostat!

**Table 11-10 Turnover per pharmacy\* 1980 to 2000 in Germany**

Year	Turnover per pharmacy	
	Turnover in 1 000 DM	Relative Change % <sup>1</sup>
1980	1 108	-
1990	1 655	49.4
1993	1 750	5.7
1994	1 840	5.1
1995	1 950	6
1996	2 040	4.6
1997	2 050	0.5
1998	2 180	6.3
1999	2 270	4.1
2000	2 370	4.4

\* without value added tax

<sup>1</sup>in % of Germany

Source: ABDA Federal Chamber of Pharmacists (Bundesapothekerkammer),  
www.abda.de, 3.1.2003, own calculations

As the Federal Chamber of Pharmacists points out, and according also to the Institute for Trade Research (*Institut für Handelsforschung*, IfH), in 2001 there was a trade margin (*Handelsspanne*) of 26.7% of the gross turnover, 0.4 percentage points less than the year before (see table). From 1980 this margin continuously decreased from 32.7% to 26.7% in 2001. However, the decrease in the 1990s is not as strong as in the 1980s.

**Table 11-11 Business economic results: trade margins, expenditure and turnover profits of pharmacies in Germany 1980 to 2001**

Year	Trade Margin %	Expenditure Share %	Turnover Profits %
1980	32.7	29.8	2.9
1990	28.8	27.3	1.5
1995	28.1	27.4	0.7
1996	28.1	27.5	0.6
1997	27.9	27.8	0.1
1998	27.5	27.5	0.0
1999	27.3	26.5	0.8
2000	27.1	26.2	0.9
2001	26.7	25.3	1.4

Source: ABDA Federal Chamber of Pharmacists (Bundesapothekerkammer),  
www.abda.de, 3.1.2003, Institute for Trade Research (IfH)

The expenditure burden (inclusive calculatory wage of the entrepreneur and own capital interest) in 2001 was 25.3% of the gross turnover (26.2% in the year before). As the table shows, the expenditure share decreased from 1980 to 2000 from 29.8% to 25.3%. The decrease again was higher in the 1980s than in the 1990s.

The development of the trade margins and the expenditure shares finally yield the turnover profits. Again according to IfH, in 2000 the relative expenditure burden of 25.3% was 1.4% lower than the trade margin, which yields a business economic result (turnover profit) of 1.4%. From 1998 onwards this measure of business success was continuously increasing from 0% to 1.4%.

The Federal Statistical Office in Germany provides some additional information about the expenditure (cost) structure. Based on a sample of 572 regarded pharmacies they count an average turnover of 2,105 Mio. DM without value added tax and about 2,412 Mio. DM with value added tax.

The turnover per employee (inclusive the self-employed pharmacist and helping family members) is 241,500 DM. The gross profit (*Rohertrag*) as turnover minus material expenditures per pharmacy is 643,400 DM and per employee is 73,800 DM.

*Members of the profession:* In Germany there are now 45,869 pharmacists working in 21,569 public pharmacies per 31.12.2001 (see table). From all of these, about 53,000 pharmacists the 45,869 pharmacists in public pharmacies are about 86.5%. About 1,829 (3.5%) pharmacists work in hospitals, and about 5,507 (10.4%) in industry, administration, organisations and sciences (end of year 2001). This structure did not change substantially compared to ten years ago: From all pharmacies at the end of year 1991 about 85% worked public, 3% in hospital and about 12% in industry, administration and science.

**Table 11-12 Pharmacists, pharmacies and supply of pharmacies in Germany 1980 to 2001**

Year*	Pharmacists	Pharmacies	Pharmacists/ Pharmacy	Inhabitants/ Pharmacy
1980	27 693	16 244	1.7	3 788
1990	35 118	18 029	1.9	3 500
1995	42 790	21 119	2.0	3 867
1996	43 629	21 290	2.0	3 847
1997	45 271	21 457	2.1	3 820
1998	45 465	21 556	2.1	3 800
1999	46 064	21 590	2.1	3 800
2000	46 078	21 592	2.1	3 800
2001	45 869	21 569	2.1	3 810

\*Per December 31 of each year

Source: ABDA Federal Chamber of Pharmacists (Bundesapothekerkammer), www.abda.de, 3.1.2003



The mean pharmacist per pharmacy quota is about 2.1, which is almost constant since 1997. Within the 1990s the number of pharmacists raised from 35,118 in 1990 to 45,869 in 2001 by 30.6%. The number of public pharmacies, on the contrary, raised from 18,029 in 1990 to 21,569 in 2001 by 19.6% resulting in an increased pharmacists density per pharmacy.

The growth in the number of pharmacists in the 1990s by 30.6% was higher than in the 1980s with a growth rate of 26.8% from 27,693 pharmacists in 1980 to 31,118 in 1990. The pharmacy density, measured as all German inhabitants divided by the number of pharmacies, over the years remains constant since 1998 with 3,800 after an increase in the early 1990s from 3,500 to 3,847 inhabitants served by a pharmacy on average.

*Trainees*; ABDA reported that the number of pharmacy trainees in 2000 (in all stages of pre-qualification) was 13,108, an increase of 17% on the figure for 1990 of 11,195.<sup>12</sup> As the number of new trainees in 2000 is approximately the same as in 1995 (ca. 2,500), the period of time in training status is upwards of 5 years.

*Women in the profession*: Compared to many other liberal professions the female quota within pharmacists is relatively high. At the end of the year 2001 almost two out of three pharmacists were women (65.1%, see table).

**Table 11-13 Female pharmacists in Germany 1980 to 2001**

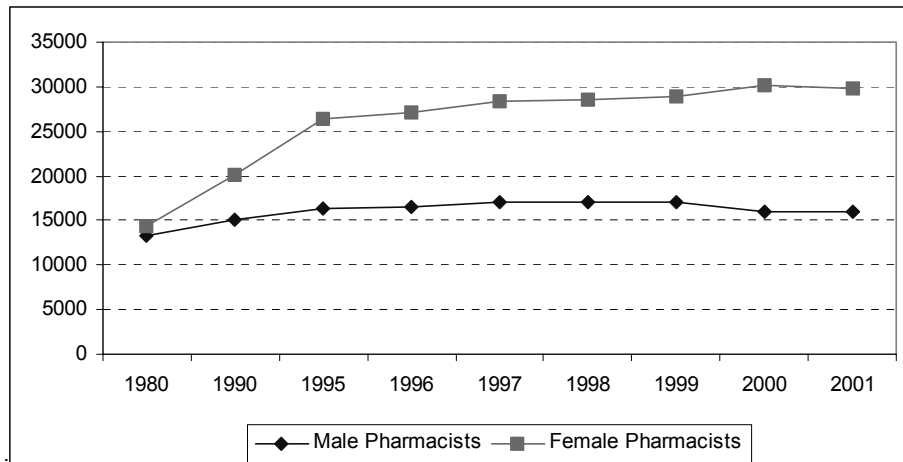
Year*	All Pharmacists	Male Pharmacists	Female Pharmacists	Female Pharmacists quota %
1980	27 693	13 348	14 345	51.8
1990	35 118	14 995	20 123	57.3
1995	42 790	16 389	26 401	61.7
1996	43 629	16 448	27 181	62.3
1997	45 271	16 977	28 294	62.5
1998	45 465	17 004	28 461	62.6
1999	46 064	17 136	28 928	62.8
2000	46 078	15 989	30 089	65.3
2001	45 869	16 008	29 861	65.1

\*Per December 31 of each year

Source: ABDA Federal Chamber of Pharmacists (Bundesapothekerkammer), www.abda.de, 3.1.2003.

The female quota rose by 7.8 percentage points from 57.3% in 1990 to 65.1% in 2001,

<sup>12</sup> IHS questionnaire

**Chart 11-5 Male and female pharmacists 1980 to 2001 (end of years) in Germany**

Source: ABDA Federal Chamber of Pharmacists (Bundesapothekerkammer), [www.abda.de](http://www.abda.de), 3.1.2003, own calculations

As the chart shows, there is a remarkable growing gap between the number of male and female pharmacist apprentices: whereas in 1980 their number was almost the same, in 2001 the difference between male and female apprentices grew to 13,853, which is 30.2% of all pharmacy apprentices.

It is to be expected that the female quota will continue to increase because the actual licences (*Approbationen*) with 1,894 has an even higher female quota of 74%.

The pharmacists' female quota, however, shows a broader range within the different pharmacy types: whilst in the public pharmacies actually 65.1% are women, 52% of pharmacists in hospitals and 47% in industry, administration, organisations, science are women.

*Age structure:* There is no information from the Federal Chamber of Pharmacists about the age structure of pharmacists available.

*Function as employers and instructors:* The importance as employers and instructors is shown in two tables: the number of respective persons and the structure as percentage of all active persons in pharmacies (including all pharmacists).

**Table 11-14 Employees in pharmacies in Germany 1980 to 2001**

Year*	Pharmacy Practitioner	Pharmacist Assistant	Pharmaceutical Technical Assistant (PTA) <sup>1</sup>	Helpers/PKA	others	Total Employment
1980	1 113	4 542	11 920	35 733	27 693	81 001
1990	1 899	4 168	25 009	33 416	35 118	99 610
1995	1 669	11 501	32 102	38 483	42 781	126 536
1996	1 758	11 344	33 809	39 478	43 629	130 018
1997	1 859	11 313	35 150	38 814	45 271	132 407
1998	1 780	11 367	37 149	39 030	45 465	134 791
1999	1 750	11 141	37 821	38 116	46 064	134 892
2000	1 649	10 835	39 792	38 116	46 078	136 470
2001	1 748	10 294	40 805	38 614	45 839	137 300

\* Per December 31 of each year

<sup>1</sup> incl. PTA practitioners

Source: ABDA Federal Chamber of Pharmacists (Bundesapothekerkammer), www.abda.de, 3.1.2003

The 21,569 public pharmacies provided more than 137,000 working places at the end of the year 2001. The dominant shares of employees in 2001 are pharmaceutical technical assistants (PTA) with 40,805 persons (29.7% of all active persons in pharmacies including pharmacists) and helpers 38,614 (28.1%). 10,294 persons are pharmacist assistants (7.5%) and 1,748 persons (1.3%) are pharmacy practitioners.

**Table 11-15 Pharmaceutical personnel in pharmacies 1980 to 2001 (end of years) in Germany (Structure in percent of total employment of previous table)**

Year*	Pharmacy Practitioner	Pharmacist Assistant	Pharmaceutical Technical Assistant (PTA) <sup>1</sup>	Helpers/PKA	All pharmaceutical personnel**
1980	1.4	5.6	14.7	44.1	65.8
1990	1.9	4.2	25.1	33.5	64.7
1995	1.3	9.1	25.4	30.4	66.2
1996	1.4	8.7	26	30.4	66.4
1997	1.4	8.5	26.5	29.3	65.8
1998	1.3	8.4	27.6	29	66.3
1999	1.3	8.3	28	28.3	65.9
2000	1.2	7.9	29.2	27.9	66.2
2001	1.3	7.5	29.7	28.1	66.6

\* Per December 31 of each year

\*\* excludes 'others' of previous table

<sup>1</sup> incl. PTA practitioners

Source: ABDA Federal Chamber of Pharmacists (Bundesapothekerkammer), www.abda.de, 3.1.2003

As in 200, of 38,116 helpers/PKA (pharmaceutical commercial assistants) 30,122 had finished their apprenticeship and 7,994 were apprentices as PKA. The percentage of apprentices as PKA at about 21% has been roughly constant over the last years.

In the 1990s the number of active persons increased from 99,610 in 1990 to 137,300 in 2001 by 37.8%, whereas in the 1980s this growth rate was lower at 23%.

Also the employee structure in the 1980s differs from the 1990s to the beginning of this century: whereas the gap between PTAs (14.7%) and helpers/PKA (44.1%) was almost 30 percentage points, this gap decreased to 8 percentage points (33.5% minus 25.1%) and further in 2001 to only -1,6 percentage points (28.1% minus 29.7%). Indeed, the number of PTAs 'finally' overtook the number of helpers/PKAs in 2000 and 2001. As the table also shows, the share of pharmacists remains constant at about one third over the past 22 years.

ABDA reports that about 95% of pharmacies have altogether between 3 and 10 employees, with the remaining 5% having more than 10 employees (IHS questionnaire).

*Students:* In Germany there were 13,108 pharmacy students as of 1999/2000 (see table).

As the table shows, there is a remarkable increase by 19.6% in the 1980s (1980/81 to 1990/91) and a similar increase till 1995/96 by 17.1%. From the mid 1990s there was almost no change, the reason being that recently there has been a '*numerus clausus*' introduced in Germany for the study of pharmacy. The central authority (*Zentralstelle für die Vergabe von Studienplätzen*) allows about 2,500 students each year to start with a pharmacy study.

**Table 11-16 Pharmacy students 1980/81 to 2000/01 in Germany**

Year	All Pharmacy Students	Relative Change %
1980/81	9 359	-
1990/91	11 195	19.6
1995/96	13 106	17.1
1996/97	13 085	-0.2
1997/98	13 275	1.5
1998/99	13 123	-1.1
1999/00	13 108	-0.1

Per December 31 of each year

Source: ABDA Federal Chamber of Pharmacists

(Bundesapothekerkammer), [www.abda.de](http://www.abda.de), 3.1.2003

Thus, there is no dramatic change in the future development to be expected within the next years.

**Pharmacy 5231****Table 11-17 Turnover, output and gross return per pharmacy**

output classes	firms	total turnover		in % of turnover		total output <sup>1</sup>		gross return <sup>2</sup>	
	in units	incl. VAT	excl. VAT	trade turnover		per firm	per person employed <sup>3</sup>	per firm	per person employed
		in 1000 DM		retail	wholesale	in 1000 DM		in 1000 DM	
<b>total</b>	572	2 411.6	2 104.5	98.6	1.3	2 104.5	241.5	643.4	73.8
<b>thereof</b>									
<b>100000 - 500000</b>	6	(399)	(289.9)	(100)	(-)	(289.9)	(92.0)	(99.0)	(91.4)
<b>500000 - 1000000</b>	34	998.0	870.2	99.8	-	870.2	135.3	265.4	41.3
<b>1000000 - 2000000</b>	192	1 724.7	1 504.3	99.2	0.7	1 504.8	211.1	456.1	64.0
<b>2000000 - 5000000</b>	286	3 211.6	2 803.7	99	0.9	2 803.9	267.1	867.1	82.6
<b>5000000 - 10000000</b>	40	7 377.0	6 431.5	84.9	4.3	6 413.5	342.9	1 925.2	102.7
<b>10000000 - 50000000</b>	14	15 083.1	13.1	87.8	12.3	13 149.0	401.7	3 702.8	113.2

(Source: Statistisches Bundesamt)

<sup>1</sup> total output=turnover without VAT plus/minus changes in stock of semi-finished products<sup>2</sup> gross return=total output minus material expenditure<sup>3</sup> including unpaid persons employed

Research Report

# **Economic impact of regulation in the field of liberal professions in different Member States**

Regulation of Professional Services

**Iain Paterson, Marcel Fink, Anthony Ogus**

**Section co-authors: Joachim Merz\*, Felix Fink\*; Helmut Berrer**

**Final Report – Part 3**

Study for the European Commission, DG Competition\*\*

**January 2003**

\* (Case Studies: Germany, France)

\*\*The contents of the study do not necessarily reflect the opinion  
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## Part 3 - References and Annexes





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**Annex A1 Composition of Regulation Indices - Lawyers**

Lawyers	Market entry								Market conduct							Total	
	ER	ERLC	ERED	ERED 1	ERED 2	ERED 3	ERED 4	ERQT	MCR	MCPR	MCAD	MCLOC	MCDIV	MCIC	MCIC 1		MCIC 2
Austria	4.1	6.0	4.2	4.0	5.0	2.0	6.0	0.0	3.3	5.0	4.0	0.0	3.0	3.3	2.0	4.5	7.3
Belgium	2.5	3.0	3.3	5.0	3.0	0.0	6.0	0.0	2.1	0.0	2.0	0.0	3.0	4.8	5.0	4.5	4.6
Denmark	2.1	1.5	3.7	5.0	3.0	2.0	6.0	0.0	0.9	0.0	2.0	0.0	0.0	2.5	2.0	3.0	3.0
Finland	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.3	0.0	2.0	0.0	0.0	0.0	0.0	0.0	0.3
France	3.9	6.0	3.7	5.0	2.0	4.0	6.0	0.0	2.7	0.0	4.0	6.0	3.0	2.5	2.0	3.0	6.6
Germany	3.7	6.0	3.3	3.5	2.0	4.0	6.0	0.0	2.8	5.0	2.0	0.0	3.0	2.5	2.0	3.0	6.5
Greece	3.5	6.0	2.8	4.0	1.5	2.0	6.0	0.0	6.0	6.0	6.0	6.0	6.0	6.0	6.0	6.0	9.5
Ireland	2.4	3.0	3.0	4.0	2.0	4.0	2.0	0.0	2.1	0.0	4.0	0.0	0.0	6.0	6.0	6.0	4.5
Italy	2.6	3.0	3.4	4.0	3.0	2.0	6.0	0.0	3.9	6.0	4.0	0.0	3.0	4.8	5.0	4.5	6.4
Luxembourg	3.8	6.0	3.6	4.5	2.0	4.0	6.0	0.0	2.8	0.0	4.0	0.0	6.0	4.0	2.0	6.0	6.6
Netherlands	2.1	1.5	3.7	5.0	3.0	2.0	6.0	0.0	1.8	0.0	2.0	6.0	0.0	2.5	2.0	3.0	3.9
Portugal	3.5	6.0	2.8	4.0	1.5	2.0	6.0	0.0	2.2	2.0	6.0	0.0	0.0	3.3	2.0	4.5	5.7
Spain	3.4	6.0	2.5	5.0	0.0	2.0	6.0	0.0	3.1	2.0	4.0	0.0	3.0	5.5	5.0	6.0	6.5
Sweden	2.0	1.5	3.5	4.5	5.0	0.0	1.0	0.0	0.4	0.0	0.0	0.0	0.0	1.8	2.0	1.5	2.4
UK/E&W - Barristers	2.8	4.5	2.5	4.5	1.0	2.0	3.0	0.0	1.8	0.0	2.0	0.0	0.0	6.0	6.0	6.0	4.6
United Kingdom	2.9	4.5	2.9	4.5	2.0	2.0	3.0	0.0	0.6	0.0	2.0	0.0	0.0	1.0	2.0	0.0	3.5

Source: IHS questionnaires 2002 and other sources

ER: Entry regulation

ERLC: Entry regulation - Licensing

ERED: Entry regulation - Requirements in education

ERED 1: Entry regulation - Duration of special education: University or other higher degr

ERED 2: Entry regulation - Duration of compulsory practise

ERED 3: Entry regulation - Number of professional exams

ERED 4: Entry regulation - Number of entry routes to profession

ERQT: Entry regulation - Quotas/Economic needs test

MCR: Market conduct regulation

MCPR: Market conduct regulation - Regulation on prices and fees

MCAD: Market conduct regulation - Regulation on advertising

MCLOC: Market conduct regulation - Regulations on location

MCDIV: Market conduct regulation - Regulations on diversification

MCIC: Market conduct regulation - Regulations on form of business and inter-professional co-operatio

MCIC 1: Market conduct regulation - Regulations on form of business

MCIC 2: Market conduct regulation - Regulations on inter-professional co-operation



**Annex A2 Composition of Regulation Indices - Notaries**

Notaries	Market entry								Market conduct							Total	
	ER	ERLC	ERED	ERED 1	ERED 2	ERED 3	ERED 4	ERQT	MCR	MCPR	MCAD	MCLOC	MCDIV	MCIC	MCIC 1		MCIC 2
<b>Austria</b>	5.4	6.0	4.6	4.0	6.0	2.0	6.0	6.0	4.2	4.0	4.0	0.0	6.0	5.5	5.0	6.0	9.6
<b>Belgium</b>	4.0	3.0	4.0	6.0	3.0	2.0	6.0	6.0	5.3	5.0	4.0	6.0	6.0	5.5	5.0	6.0	9.3
<b>France</b>	5.3	6.0	4.2	6.0	3.0	4.0	4.0	6.0	4.7	5.0	6.0	0.0	6.0	5.5	5.0	6.0	10.0
<b>Germany</b>	5.5	6.0	4.7	3.5	6.0	4.0	4.0	6.0	5.6	6.0	4.0	6.0	6.0	5.5	5.0	6.0	11.0
<b>Greece</b>	5.2	6.0	4.0	4.0	3.5	4.0	6.0	6.0	n.a.	n.a.	n.a.	n.a.	n.a.	n.a.	n.a.	n.a.	n.a.
<b>Italy</b>	4.8	6.0	3.0	4.0	2.0	2.0	6.0	6.0	5.9	6.0	6.0	6.0	6.0	5.5	5.0	6.0	10.7
<b>Luxembourg</b>	5.1	6.0	3.7	5.0	3.0	2.0	6.0	6.0	n.a.	n.a.	n.a.	n.a.	n.a.	n.a.	n.a.	n.a.	n.a.
<b>Netherlands</b>	3.6	4.5	4.6	4.0	6.0	2.0	6.0	0.0	2.6	3.0	2.0	0.0	6.0	1.5	0.0	3.0	6.3
<b>Portugal</b>	4.6	6.0	2.5	5.0	1.0	0.0	6.0	6.0	n.a.	n.a.	n.a.	n.a.	n.a.	n.a.	0.0	0.0	n.a.
<b>Spain</b>	4.6	6.0	2.5	5.0	0.0	2.0	6.0	6.0	4.8	6.0	6.0	6.0	0.0	6.0	6.0	6.0	9.4

Source: IHS questionnaires 2002 and other sources

ER: Entry regulation

ERLC: Entry regulation - Licensing

ERED: Entry regulation - Requirements in education

ERED 1: Entry regulation - Duration of special education: University or other higher degree

ERED 2: Entry regulation - Duration of compulsory practise

ERED 3: Entry regulation - Number of professional exams

ERED 4: Entry regulation - Number of entry routes to profession

ERQT: Entry regulation - Quotas/Economic needs test

MCR: Market conduct regulation

MCPR: Market conduct regulation - Regulation on prices and fees

MCAD: Market conduct regulation - Regulation on advertising

MCLOC: Market conduct regulation - Regulations on location

MCDIV: Market conduct regulation - Regulations on diversification

MCIC: Market conduct regulation - Regulations on form of business and inter-professional co-operation

MCIC 1: Market conduct regulation - Regulations on form of business

MCIC 2: Market conduct regulation - Regulations on inter-professional co-operation

**Annex A3 Composition of Regulation Indices - Accountants**

Accountants	Market entry								Market conduct								Total
	ER	ERLC	ERED	ERED 1	ERED 2	ERED 3	ERED 4	ERQT	MCR	MCPR	MCAD	MCLOC	MCDIV	MCIC	MCIC 1	MCIC 2	
Austria	4.2	6.0	4.4	4.0	5.0	4.0	4.0	0.0	2.0	2.0	2.0	0.0	3.0	2.5	2.0	3.0	6.2
Belgium	3.9	6.0	3.8	4.0	3.0	4.0	6.0	0.0	2.4	0.0	4.0	0.0	3.0	4.8	5.0	4.5	6.3
Denmark	2.2	1.5	4.1	5.0	3.0	4.0	6.0	0.0	0.6	0.0	0.0	0.0	3.0	0.0	0.0	0.0	2.8
Finland	2.6	3.0	3.6	4.0	3.0	4.0	4.0	0.0	0.9	0.0	2.0	0.0	0.0	2.5	2.0	3.0	3.5
France	4.0	6.0	4.0	6.0	3.0	2.0	6.0	0.0	1.8	0.0	4.0	0.0	3.0	2.5	2.0	3.0	5.8
Germany	3.6	6.0	3.0	4.0	3.0	2.0	2.0	0.0	2.5	5.0	4.0	0.0	0.0	2.5	2.0	3.0	6.1
Greece	3.6	4.5	4.6	4.0	6.0	2.0	6.0	0.0	1.5	5.0	0.0	0.0	0.0	1.0	2.0	0.0	5.1
Ireland	2.7	3.0	3.7	3.0	5.0	4.0	0.0	0.0	0.3	0.0	2.0	0.0	0.0	0.0	0.0	0.0	3.0
Italy	3.2	4.5	3.4	4.0	3.0	2.0	6.0	0.0	1.9	2.0	2.0	0.0	0.0	4.5	6.0	3.0	5.1
Luxembourg	3.8	6.0	3.6	4.0	3.0	4.0	4.0	0.0	1.2	0.0	4.0	0.0	0.0	2.5	2.0	3.0	5.0
Netherlands	3.1	4.5	3.2	4.0	3.0	2.0	4.0	0.0	1.4	2.0	2.0	0.0	0.0	2.5	2.0	3.0	4.5
Portugal	2.7	3.0	3.7	5.0	3.0	2.0	6.0	0.0	n.a.	n.a.	n.a.	n.a.	n.a.	n.a.	n.a.	n.a.	n.a.
Spain	1.9	1.5	3.3	3.0	3.0	4.0	4.0	0.0	1.5	1.0	4.0	0.0	0.0	2.5	2.0	3.0	3.4
Sweden	2.4	2.0	4.0	4.0	5.0	1.0	6.0	0.0	0.9	0.0	2.0	0.0	0.0	2.5	2.0	3.0	3.3
United Kingdom	2.7	3.0	3.7	3.0	5.0	4.0	0.0	0.0	0.3	0.0	2.0	0.0	0.0	0.0	0.0	0.0	3.0

Source: IHS questionnaires 2002 and other sources

ER: Entry regulation

ERLC: Entry regulation - Licensing

ERED: Entry regulation - Requirements in education

ERED 1: Entry regulation - Duration of special education: University or other higher degr

ERED 2: Entry regulation - Duration of compulsory practise

ERED 3: Entry regulation - Number of professional exams

ERED 4: Entry regulation - Number of entry routes to profession

ERQT: Entry regulation - Quotas/Economic needs test

MCR: Market conduct regulation

MCPR: Market conduct regulation - Regulation on prices and fees

MCAD: Market conduct regulation - Regulation on advertising

MCLOC: Market conduct regulation - Regulations on location

MCDIV: Market conduct regulation - Regulations on diversification

MCIC: Market conduct regulation - Regulations on form of business and inter-professional co-operatio

MCIC 1: Market conduct regulation - Regulations on form of business

MCIC 2: Market conduct regulation - Regulations on inter-professional co-operation

**Annex A4 Composition of Regulation Indices - Architects**

Architects	Market entry								Market conduct							Total	
	ER	ERLC	ERED	ERED 1	ERED 2	ERED 3	ERED 4	ERQT	MCR	MCPR	MCAD	MCLOC	MCDIV	MCIC	MCIC 1		MCIC 2
Austria	3.9	6.0	3.7	5.0	3.0	2.0	6.0	0.0	1.2	1.0	2.0	0.0	0.0	2.5	2.0	3.0	5.1
Belgium	2.4	3.0	2.9	5.0	2.0	0.0	6.0	0.0	1.6	5.0	2.0	0.0	0.0	0.0	0.0	0.0	3.9
Denmark	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0
Finland	1.4	1.5	2.0	0.0	5.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	1.4
France	2.2	3.0	2.4	6.0	0.0	0.0	6.0	0.0	0.9	0.0	2.0	0.0	0.0	2.5	2.0	3.0	3.1
Germany	1.8	1.5	3.0	4.0	3.0	0.0	6.0	0.0	2.7	6.0	4.0	0.0	0.0	2.5	2.0	3.0	4.5
Greece	n.a.	n.a.	n.a.	n.a.	n.a.	n.a.	n.a.	n.a.	n.a.	n.a.	n.a.	n.a.	n.a.	n.a.	n.a.	n.a.	n.a.
Ireland	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0
Italy	3.2	6.0	2.0	5.0	0.0	2.0	1.0	0.0	3.0	6.0	6.0	0.0	0.0	2.5	2.0	3.0	6.2
Luxembourg	2.6	4.5	2.1	4.0	2.0	0.0	1.0	0.0	2.7	5.0	4.0	0.0	0.0	3.3	2.0	4.5	5.3
Netherlands	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0
Portugal	2.2	3.0	2.4	5.0	1.0	2.0	1.0	0.0	0.6	0.0	4.0	0.0	0.0	0.0	0.0	0.0	2.8
Spain	3.2	6.0	1.9	5.0	0.0	0.0	4.0	0.0	0.8	2.0	2.0	0.0	0.0	0.0	0.0	0.0	4.0
Sweden	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0
United Kingdom	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0

Source: IHS questionnaires 2002 and other sources

ER: Entry regulation

ERLC: Entry regulation - Licensing

ERED: Entry regulation - Requirements in education

ERED 1: Entry regulation - Duration of special education: University or other higher degr

ERED 2: Entry regulation - Duration of compulsory practise

ERED 3: Entry regulation - Number of professional exams

ERED 4: Entry regulation - Number of entry routes to profession

ERQT: Entry regulation - Quotas/Economic needs test

MCR: Market conduct regulation

MCPR: Market conduct regulation - Regulation on prices and fees

MCAD: Market conduct regulation - Regulation on advertising

MCLOC: Market conduct regulation - Regulations on location

MCDIV: Market conduct regulation - Regulations on diversification

MCIC: Market conduct regulation - Regulations on form of business and inter-professional co-operatio

MCIC 1: Market conduct regulation - Regulations on form of business

MCIC 2: Market conduct regulation - Regulations on inter-professional co-operation

**Annex A5 Composition of Regulation Indices - Engineers**

Engineers	Market entry								Market conduct							Total	
	ER	ERLC	ERED	ERED 1	ERED 2	ERED 3	ERED 4	ERQT	MCR	MCPR	MCAD	MCLOC	MCDIV	MCIC	MCIC 1		MCIC 2
Austria	3.8	6.0	3.5	5.0	3.0	1.0	6.0	0.0	1.2	1.0	2.0	0.0	0.0	2.5	2.0	3.0	5.0
Belgium	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	1.2	0.0	4.0	0.0	3.0	0.0	0.0	0.0	1.2
Denmark	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0
Finland	1.1	1.5	1.3	3.0	0.0	0.0	4.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	1.1
France	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0
Germany	3.7	6.0	3.2	4.0	3.5	0.0	6.0	0.0	3.7	5.0	2.0	6.0	3.0	2.5	2.0	3.0	7.4
Greece	n.a.	n.a.	n.a.	n.a.	n.a.	n.a.	n.a.	n.a.	n.a.	n.a.	n.a.	n.a.	n.a.	n.a.	n.a.	n.a.	n.a.
Ireland	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0
Italy	3.4	6.0	2.5	5.0	0.0	2.0	6.0	0.0	3.0	6.0	6.0	0.0	0.0	2.5	2.0	3.0	6.4
Luxembourg	2.7	4.5	2.2	4.0	1.0	0.0	6.0	0.0	2.7	5.0	4.0	0.0	0.0	3.3	2.0	4.5	5.3
Netherlands	1.5	2.0	1.7	3.0	1.0	0.0	4.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	1.5
Portugal	3.4	6.0	2.4	4.0	2.0	0.0	4.0	0.0	n.a.	n.a.	n.a.	n.a.	n.a.	n.a.	0.0	0.0	n.a.
Spain	3.2	6.0	2.1	5.0	0.0	0.0	6.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	3.2
Sweden	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0
United Kingdom	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0

Source: IHS questionnaires 2002 and other sources

ER: Entry regulation

ERLC: Entry regulation - Licensing

ERED: Entry regulation - Requirements in education

ERED 1: Entry regulation - Duration of special education: University or other higher degree

ERED 2: Entry regulation - Duration of compulsory practise

ERED 3: Entry regulation - Number of professional exams

ERED 4: Entry regulation - Number of entry routes to profession

ERQT: Entry regulation - Quotas/Economic needs test

MCR: Market conduct regulation

MCPR: Market conduct regulation - Regulation on prices and fees

MCAD: Market conduct regulation - Regulation on advertising

MCLOC: Market conduct regulation - Regulations on location

MCDIV: Market conduct regulation - Regulations on diversification

MCIC: Market conduct regulation - Regulations on form of business and inter-professional co-operation

MCIC 1: Market conduct regulation - Regulations on form of business

MCIC 2: Market conduct regulation - Regulations on inter-professional co-operation

**Annex A6 Composition of Regulation Indices - Pharmacists**

Pharmacists	Market entry								Market conduct							Total	
	ER	ERLC	ERED	ERED 1	ERED 2	ERED 3	ERED 4	ERQT	MCR	MCPR	MCAD	MCLOC	MCDIV	MCIC	MCIC 1		MCIC 2
<b>Austria</b>	3.6	1.5	2.8	4.5	1.0	2.0	6.0	6.0	3.7	3.0	4.0	0.0	6.0	4.8	5.0	4.5	7.3
<b>Belgium</b>	3.6	3.0	2.1	5.0	0.0	0.0	6.0	6.0	1.8	3.0	2.0	0.0	3.0	0.0	0.0	0.0	5.4
<b>Denmark</b>	2.3	1.5	2.1	5.0	0.0	0.0	6.0	3.0	3.6	5.0	2.0	0.0	3.0	6.0	6.0	6.0	5.9
<b>Finland</b>	4.0	4.5	2.3	5.0	0.5	0.0	6.0	6.0	3.0	3.0	2.0	0.0	3.0	6.0	6.0	6.0	7.0
<b>France</b>	3.8	3.0	2.5	5.0	1.0	0.0	6.0	6.0	3.5	5.0	4.0	0.0	3.0	4.0	2.0	6.0	7.3
<b>Germany</b>	1.6	1.5	2.9	4.0	1.0	6.0	1.0	0.0	4.1	5.0	2.0	0.0	6.0	5.5	5.0	6.0	5.7
<b>Greece</b>	4.4	6.0	2.4	4.0	0.5	2.0	6.0	6.0	4.5	5.0	4.0	0.0	6.0	6.0	6.0	6.0	8.9
<b>Ireland</b>	1.5	1.5	2.6	4.0	1.0	2.0	6.0	0.0	1.2	3.0	2.0	0.0	0.0	0.0	0.0	0.0	2.7
<b>Italy</b>	4.8	6.0	3.3	5.0	2.0	2.0	6.0	6.0	3.6	3.0	2.0	0.0	6.0	6.0	6.0	6.0	8.4
<b>Luxembourg</b>	4.0	4.5	2.2	4.5	0.5	0.0	6.0	6.0	3.9	3.0	4.0	0.0	6.0	6.0	6.0	6.0	7.9
<b>Netherlands</b>	1.2	1.5	1.9	6.0	0.0	0.0	1.0	0.0	1.8	3.0	2.0	0.0	3.0	0.0	0.0	0.0	3.0
<b>Portugal</b>	4.2	4.5	2.7	5.5	0.0	2.0	6.0	6.0	3.8	3.0	6.0	0.0	6.0	4.0	2.0	6.0	8.0
<b>Spain</b>	3.6	3.0	2.1	5.0	0.0	0.0	6.0	6.0	3.9	3.0	4.0	0.0	6.0	6.0	6.0	6.0	7.5
<b>Sweden</b>	4.2	6.0	2.1	5.0	0.0	0.0	6.0	6.0	5.4	6.0	2.0	6.0	6.0	6.0	6.0	6.0	9.6
<b>United Kingdom</b>	2.7	1.5	3.0	4.0	1.0	4.0	6.0	3.0	1.4	2.0	2.0	0.0	0.0	2.5	2.0	3.0	4.1

Source: IHS questionnaires 2002 and other sources

ER: Entry regulation

ERLC: Entry regulation - Licensing

ERED: Entry regulation - Requirements in education

ERED 1: Entry regulation - Duration of special education: University or other higher degree

ERED 2: Entry regulation - Duration of compulsory practise

ERED 3: Entry regulation - Number of professional exams

ERED 4: Entry regulation - Number of entry routes to profession

ERQT: Entry regulation - Quotas/Economic needs test

MCR: Market conduct regulation

MCPR: Market conduct regulation - Regulation on prices and fees

MCAD: Market conduct regulation - Regulation on advertising

MCLOC: Market conduct regulation - Regulations on location

MCDIV: Market conduct regulation - Regulations on diversification

MCIC: Market conduct regulation - Regulations on form of business and inter-professional co-operation

MCIC 1: Market conduct regulation - Regulations on form of business

MCIC 2: Market conduct regulation - Regulations on inter-professional co-operation

## Annex B1 Excerpts of Comparable Structure Data -- Italy, Legal Services

ITALY - k7411 Legal services	1991	1992	1993	1994	1995	1996	1997	1998	1999	2000
<b>Key Variables:</b>										
F in units					74 158 <sup>1</sup>	77 367 <sup>1</sup>	80 241 <sup>1</sup>	70 254 <sup>1</sup>	79 093 <sup>1</sup>	87 608 <sup>1</sup>
T in Mio EUR					5 818 <sup>1</sup>	7 824 <sup>1</sup>	7 824 <sup>1</sup>	8 222 <sup>1</sup>	9 104 <sup>1</sup>	11 273 <sup>1</sup>
E in units					131 184 <sup>1</sup>	131 409 <sup>1</sup>	136 694 <sup>1</sup>	128 185 <sup>1</sup>	135 842 <sup>1</sup>	148 665 <sup>1</sup>
Professionals in units										139 500 <sup>2</sup>
Population in Mio.					57.27 <sup>1</sup>	57.33 <sup>1</sup>	57.46 <sup>1</sup>	57.56 <sup>1</sup>	57.61 <sup>1</sup>	57.68 <sup>1</sup>
GDP in Bil. EUR					839 <sup>1</sup>	971 <sup>1</sup>	1 030 <sup>1</sup>	1 069 <sup>1</sup>	1 108 <sup>1</sup>	1 166 <sup>1</sup>
<b>Key Indicators:</b>										
T per Firm in 1000 EUR					78 <sup>3</sup>	101 <sup>3</sup>	98 <sup>3</sup>	117 <sup>3</sup>	115 <sup>3</sup>	129 <sup>3</sup>
E per 1000 firms					1 769 <sup>3</sup>	1 699 <sup>3</sup>	1 704 <sup>3</sup>	1 825 <sup>3</sup>	1 717 <sup>3</sup>	1 697 <sup>3</sup>
T per E in 1000 EUR					44 <sup>3</sup>	60 <sup>3</sup>	57 <sup>3</sup>	64 <sup>3</sup>	67 <sup>3</sup>	76 <sup>3</sup>
E per Mio. of Pop					2 291 <sup>3</sup>	2 292 <sup>3</sup>	2 379 <sup>3</sup>	2 227 <sup>3</sup>	2 358 <sup>3</sup>	2 577 <sup>3</sup>
F per Mio. of Pop					1 295 <sup>3</sup>	1 349 <sup>3</sup>	1 396 <sup>3</sup>	1 220 <sup>3</sup>	1 373 <sup>3</sup>	1 519 <sup>3</sup>
Prof per 1000 F					1 182 <sup>3</sup>					1 592 <sup>3</sup>
T per Prof in 1000 EUR					66 <sup>3</sup>					81 <sup>3</sup>
E per 1000 Prof					1 497 <sup>3</sup>					1 066 <sup>3</sup>
Prof Density (per Mio. Pop)					1 530 <sup>3</sup>					2 419 <sup>3</sup>
T per cap. in EUR					102 <sup>3</sup>	136 <sup>3</sup>	136 <sup>3</sup>	143 <sup>3</sup>	158 <sup>3</sup>	195 <sup>3</sup>
T in % of GDP					0.69 <sup>3</sup>	0.81 <sup>3</sup>	0.76 <sup>3</sup>	0.77 <sup>3</sup>	0.82 <sup>3</sup>	0.97 <sup>3</sup>
Vol in POI-adjusted Mio. EUR*					7 014 <sup>3</sup>	8 557 <sup>3</sup>	8 479 <sup>3</sup>	8 989 <sup>3</sup>	10 073 <sup>3</sup>	12 577 <sup>3</sup>
Vol per cap. in EUR*					122 <sup>3</sup>	149 <sup>3</sup>	148 <sup>3</sup>	156 <sup>3</sup>	175 <sup>3</sup>	218 <sup>3</sup>
Vol per firm in 1000 EUR*					95 <sup>3</sup>	111 <sup>3</sup>	106 <sup>3</sup>	128 <sup>3</sup>	127 <sup>3</sup>	144 <sup>3</sup>
Vol per E in 1000 EUR*					53 <sup>3</sup>	65 <sup>3</sup>	62 <sup>3</sup>	70 <sup>3</sup>	74 <sup>3</sup>	85 <sup>3</sup>
Vol per Prof in 1000 EUR*					80 <sup>3</sup>					90 <sup>3</sup>

<sup>1</sup> Source: Eurostat<sup>2</sup> Value refers to year 2001<sup>3</sup> Value calc. by IHS

## Annex B2 Excerpts of Comparable Structure Data -- Denmark, Accountancy Services

DENMARK - k7412 Accountancy	1991	1992	1993	1994	1995	1996	1997	1998	1999	2000
<b>Key Variables:</b>										
F in units		7 377 <sup>1</sup>	7 532 <sup>1</sup>						4 022 <sup>3</sup>	4 104 <sup>3</sup>
T in Mio EUR		1 048 <sup>1</sup>	1 067 <sup>1</sup>						1 199 <sup>3</sup>	1 376 <sup>3</sup>
E in units		20 246 <sup>1</sup>	19 370 <sup>1</sup>						16 366 <sup>3</sup>	17 024 <sup>3</sup>
Professionals in units										5 077 <sup>2</sup>
Population in Mio.		5.16 <sup>1</sup>	5.18 <sup>1</sup>	5.20 <sup>1</sup>	5.22 <sup>1</sup>	5.25 <sup>1</sup>	5.28 <sup>1</sup>	5.29 <sup>1</sup>	5.31 <sup>1</sup>	5.33 <sup>1</sup>
GDP in Bil. EUR		114 <sup>1</sup>	119 <sup>1</sup>	128 <sup>1</sup>	138 <sup>1</sup>	144 <sup>1</sup>	149 <sup>1</sup>	156 <sup>1</sup>	165 <sup>1</sup>	176 <sup>1</sup>
<b>Key Indicators:</b>										
T per Firm in 1000 EUR		142 <sup>4</sup>	142 <sup>4</sup>						298 <sup>4</sup>	335 <sup>4</sup>
E per 1000 firms		2 744 <sup>4</sup>	2 572 <sup>4</sup>						4 069 <sup>4</sup>	4 148 <sup>4</sup>
T per E in 1000 EUR		52 <sup>4</sup>	55 <sup>4</sup>						73 <sup>4</sup>	81 <sup>4</sup>
E per Mio. of Pop		3 922 <sup>4</sup>	3 739 <sup>4</sup>						3 080 <sup>4</sup>	3 194 <sup>4</sup>
F per Mio. of Pop		1 429 <sup>4</sup>	1 454 <sup>4</sup>						757 <sup>4</sup>	770 <sup>4</sup>
Prof per 1000 F										1 237 <sup>4</sup>
T per Prof in 1000 EUR										271 <sup>4</sup>
E per 1000 Prof										3 353 <sup>4</sup>
Prof Density (per Mio. Pop)										953 <sup>4</sup>
T per cap. in EUR		203 <sup>4</sup>	206 <sup>4</sup>						226 <sup>4</sup>	258 <sup>4</sup>
T in % of GDP		0.92 <sup>4</sup>	0.90 <sup>4</sup>						0.72 <sup>4</sup>	0.78 <sup>4</sup>
Vol in POI-adjusted Mio. EUR*		766 <sup>4</sup>	755 <sup>4</sup>						820 <sup>4</sup>	938 <sup>4</sup>
Vol per cap. in EUR*		148 <sup>4</sup>	146 <sup>4</sup>						154 <sup>4</sup>	176 <sup>4</sup>
Vol per firm in 1000 EUR*		104 <sup>4</sup>	100 <sup>4</sup>						204 <sup>4</sup>	229 <sup>4</sup>
Vol per E in 1000 EUR*		38 <sup>4</sup>	39 <sup>4</sup>						50 <sup>4</sup>	55 <sup>4</sup>
Vol per Prof in 1000 EUR*										185 <sup>4</sup>

<sup>1</sup> Source: Eurostat<sup>2</sup> Value refers to year 2001<sup>3</sup> Source: Danish national data from Danmarks Statistik<sup>4</sup> Value calc. by IHS

## Annex B3 Excerpts of Comparable Structure Data --Germany, Technical Services

<b>GERMANY - k742 Technical services</b>	1991	1992	1993	1994	1995	1996	1997	1998	1999	2000
<b>Key Variables:</b>										
F in units										69 880 <sup>1</sup>
T in Mio EUR										32 490 <sup>1</sup>
E in units										360 269 <sup>1</sup>
Professionals in units										130 148 <sup>2</sup>
Population in Mio.										82.16 <sup>1</sup>
GDP in Bil. EUR										20 255 <sup>1</sup>
<b>Key Indicators:</b>										
T per Firm in 1000 EUR										465 <sup>3</sup>
E per 1000 firms										5 156 <sup>3</sup>
T per E in 1000 EUR										90 <sup>3</sup>
E per Mio. of Pop										4 385 <sup>3</sup>
F per Mio. of Pop										850 <sup>3</sup>
Prof per 1000 F										1 862 <sup>3</sup>
T per Prof in 1000 EUR										250 <sup>3</sup>
E per 1000 Prof										2 768 <sup>3</sup>
Prof Density (per Mio. Pop)										1 584 <sup>3</sup>
T per cap. in EUR										395 <sup>3</sup>
T in % of GDP										1.60 <sup>3</sup>
Vol in POI-adjusted Mio. EUR*										29 711 <sup>3</sup>
Vol per cap. in EUR*										362 <sup>3</sup>
Vol per firm in 1000 EUR*										425 <sup>3</sup>
Vol per E in 1000 EUR*										82 <sup>3</sup>
Vol per Prof in 1000 EUR*										228 <sup>3</sup>

<sup>1</sup> Source: Eurostat<sup>2</sup> Value refers to year 2001<sup>3</sup> Value calc. by IHS



**Annex C1 GDP per capita in Purchasing Power Standard (PPS)**

	1991	1992	1993	1994	1995	1996	1997	1998	1999	2000
<b>Belgium</b>	107.2	110.0	113.2	113.0	112.2	110.7	111.0	110.5	109.9	110.5
<b>Denmark</b>	110.4	108.0	113.2	116.6	118.1	119.3	120.0	119.4	118.9	120.4
<b>Germany</b>	106.7	108.8	108.6	110.2	110.0	109.6	107.8	106.1	105.3	104.4
<b>Greece</b>	60.6	62.3	64.2	64.9	65.9	66.7	65.8	66.6	67.2	68.6
<b>Spain</b>	80.9	78.9	79.6	77.9	78.2	79.3	79.8	79.1	80.3	81.0
<b>France</b>	110.3	108.8	107.0	104.8	104.0	101.9	99.2	99.0	99.1	98.7
<b>Ireland</b>	76.8	80.0	83.3	87.9	93.3	94.1	103.6	105.7	112.1	118.9
<b>Italy</b>	105.6	105.1	102.3	103.1	103.4	103.2	102.0	103.4	102.5	101.6
<b>Luxembourg</b>	161.1	163.2	172.2	175.2	170.8	169.3	175.2	178.7	183.3	194.1
<b>Netherlands</b>	104.5	104.2	106.1	106.2	109.2	106.8	112.4	115.2	115.3	116.7
<b>Austria</b>	108.5	108.5	111.7	111.4	110.3	111.6	111.1	109.5	109.7	109.6
<b>Portugal</b>	65.0	65.9	68.4	70.2	70.6	70.6	74.5	72.8	73.8	73.6
<b>Finland</b>	93.7	87.3	91.5	91.4	96.9	95.3	99.3	101.2	100.8	102.9
<b>Sweden</b>	106.4	101.0	100.1	100.5	102.5	101.4	102.2	101.5	101.8	101.9
<b>UK</b>	97.2	98.2	99.3	98.9	96.4	99.1	102.5	103.4	103.9	104.5
<b>EU15</b>	<b>100.0</b>	<b>100.0</b>	<b>100.0</b>	<b>100.0</b>	<b>100.0</b>	<b>100.0</b>	<b>100.0</b>	<b>100.0</b>	<b>100.0</b>	<b>100.0</b>

Source: Eurostat

Annex C2 POI – price and output indices<sup>1</sup>

	1991	1992	1993	1994	1995	1996	1997	1998	1999	2000
<b>EU-15</b>					100	100	100	100	100	100
<b>Belgium</b>	106.2	108.7	113.2	114.6	118.3	113.3	109.5	108.3	108.4	107.5
<b>Denmark</b>	136.1	136.9	141.4	144.8	149.5	148.4	145.5	144.9	146.3	146.7
<b>Germany</b>	115.7	120.4	127.2	127.4	130.4	124.0	117.0	115.2	113.2	109.4
<b>Greece</b>	46.1	46.4	47.5	47.5	48.7	50.6	52.5	50.9	52.3	51.8
<b>Spain</b>	73.9	73.9	67.3	64.0	64.5	66.1	64.9	65.8	67.5	68.5
<b>France</b>	109.4	110.3	114.4	113.4	113.5	111.2	107.1	106.7	105.6	103.1
<b>Ireland</b>	70.8	72.6	73.9	76.0	80.0	86.0	99.4	102.8	111.8	121.2
<b>Italy</b>	107.1	104.0	91.9	88.8	82.9	91.4	92.3	91.5	90.4	89.6
<b>Luxembourg</b>	0.0	0.0	0.0	0.0	188.0	184.7	191.2	199.9	202.2	214.4
<b>Netherlands</b>	104.9	105.9	112.3	112.4	116.3	113.0	109.8	110.3	111.1	111.9
<b>Austria</b>	113.2	115.4	122.6	123.1	126.6	122.4	115.9	115.1	114.3	112.0
<b>Portugal</b>	42.5	47.2	45.8	45.3	47.2	48.2	48.8	49.8	51.0	51.1
<b>Finland</b>	128.8	103.4	89.7	97.6	109.7	106.0	108.3	110.3	109.7	112.8
<b>Sweden</b>	0.0	0.0	0.0	0.0	117.8	126.2	122.8	119.0	120.2	123.4
<b>UK</b>	93.8	89.1	87.9	89.0	84.4	86.8	103.0	106.8	109.6	116.1

Source: Eurostat

<sup>1</sup> Constructed as the product of Purchasing Power Parities (PPP) deflators, which remove the effect of price level differences between countries, and GDP per capita in Purchasing Power.

**Annex D1 Sources of Estimates for 'Number of Professionals' - Legal Services**

country	number	reference year	value given for	sources
AUT	4 592	2001	2000	1) Österreichische Rechtsanwaltskammer (ÖRAK) - member statistic (sent by ÖRAK electronically) 2) Österreichische Notariatskammer (ÖNK) - IHS questionnaire
BEL	14 888	2001	2000	1) Ordre des barreaux francophones et germanophones - telephone 2) Vereniging van Vlaamse Balies - telephone 3) Fédération Royale des Notaires de Belgique - IHS questionnaire
DNK	4 359	unclear 2000 or 2001	2000	1) Det Danske Advokatsamfund - IHS questionnaire
FIN	2 120	2002	2000	1) Suomen Asianajaliitto - website < <a href="http://www.asianajaliitto.fi">http://www.asianajaliitto.fi</a> >
FRA	39 940	2000	2001	1) Ministry for Justice - website < <a href="http://www.justice.gouv.fr">http://www.justice.gouv.fr</a> > 2) Conseil National des Barreaux - IHS questionnaire 3) Conseil Supérieur du Notariat Français - IHS questionnaire
GER	105 724	2000	2000	1) Bundesrechtsanwaltskammer (BRAK) - website < <a href="http://www.brak.de">http://www.brak.de</a> > (BRAK-member statistic) 2) Bundesnotarkammer - website < <a href="http://www.bnotk.de">www.bnotk.de</a> > (BNK - member statistic)
GRC	~	~	~	~
IRL	7 476	2001	1999	1) Law Society of Ireland - IHS questionnaire 2) Bar Council - website < <a href="http://www.lawlibrary.ie">http://www.lawlibrary.ie</a> >
ITA	139 500	2001	2000	1) Autorità garante della concorrenza e del mercato
LUX	830	2001	2000	1) Ordre des Avocats du Barreau de Luxembourg - IHS questionnaire 2) Chambre des Notaires du Grand-Duché de Luxembourg - telephone
NLD	13 222	2001	1999	1) Nederlandse Orde van Advocaten - IHS questionnaire 2) Koninklijke Notariële Beroepsorganisatie - IHS questionnaire
PRT	~	~	~	~
ESP	105 269	2001	1999	1) Consejo General del Notariado - questionnaire, 2) Consejo General de la Abogacía Española - website < <a href="http://www.cgae.es/">http://www.cgae.es/</a> > (Censo de Colegiados 2001)
SWE	8 480	2000	2000	1) Sveriges Advokatsamfund - IHS questionnaire 2) IHS calculations
UK	111 772	2001	2000	1) General Council of the Bar - IHS questionnaire 2) Law Society England and Wales - IHS questionnaire 3) Faculty of Advocates of Scotland - telephone 4) Law Society of Scotland - IHS questionnaire 5) General Council of the Bar in Northern Ireland - IHS questionnaire

## Annex D2 Sources of Estimates for 'Number of Professionals' - Accountancy Services

country	number	reference year	value given for	sources
AUT	3 068	2000	2000	1) Kammer der Wirtschaftstreuhänder - IHS questionnaire
BEL	~	~	~	~
DNK	5 077	2001	2000	1) Foreningen Registrerede Revisorer (FRR) - IHS questionnaire 2) Foreningen af Statsautoriserede Revisorer (FSR) - IHS questionnaire
FIN	3 126	2001	2000	1) Central Chamber of Commerce of Finland - IHS questionnaire 2) KHT-yhdistys, Föreningen CGR RY, Finnish Institute of Authorised Public Accountants - telephone
FRA	14 800	2002	2000	1) Conseil Supérieur de l'Ordre des Experts-Comptables (Mr. Monnot) - telephone
GER	14 078	2000	2000	1) Wirtschaftsprüferkammer - website < <a href="http://www.wpk.de/">http://www.wpk.de/</a> > (WPK-member statistic)
GRC	~	~	~	~
IRL	2 696	2001	2000	1) The Institute of Chartered Accountants in Ireland - IHS questionnaire 2) IHS - estimate
ITA	88 421	2001	2000	1) Consiglio Nazionale dei Dottori Commercialisti - IHS questionnaire 2) Consiglio Nazionale dei Ragionieri Commercialisti - IHS questionnaire
LUX	346	2001	2000	1) Ordre des Experts-Comptables - telephone
NLD	6 359	2001	1999	1) Koninklijk Nederlands Instituut van Registeraccountants - website < <a href="http://www.nivra.nl/">http://www.nivra.nl/</a> > (NIVRA - member statistic)
PRT	~	~	~	~
ESP	5 162	1999	2001	1) Instituto de Auditores-Censores Jurados de Cuentas de Espana - telephone
SWE	4 100	2001	2000	1) Revisorsnämnden (RN) - website < <a href="http://www.revisorsnamnden.se">http://www.revisorsnamnden.se</a> >
UK	51 675	2001	2000	1) Accountancy Foundation Review Board 2) Institute of Chartered Accountants of England and Wales - website < <a href="http://www.icaew.co.uk">http://www.icaew.co.uk</a> > (ICAEW - member statistic) 3) The Chartered Institute of Management Accountants - telephone 4) The Chartered Institute of

**Annex D3 Sources of Estimates for 'Number of Professionals' - Technical Services**

country	number	reference year	value given for	sources
AUT	7 673	2000	2000	1) Bundeskammer der Architekten und Ingenieurkonsulenten - IHS questionnaire 2) Fachverband Technische Büros - Ingenieurbüros - IHS questionnaire
BEL	~	~	~	~
DNK	11 595	2000	2000	1) Danish Association of Consulting Engineers - IHS questionnaire 2) Federation of Danish Architects - IHS questionnaire
FIN	6 500	2001	2000	1) The Finnish Association of Graduate Engineers TEK - telephone 2) Finnish Association of Architects SAFA - telephone
FRA	80 300	2000	2000	1) Conseil national de l'Ordre des architectes - IHS questionnaire 2) Consiglio Nazionale degli Architetti, Pianificatori, Paesaggisti e Conservatori - website < <a href="http://www.archieuro.archiworld.it/">http://www.archieuro.archiworld.it/</a> > 3) Conseil national des ingénieurs et des scientifiques de
GER	130 148	2001	2000	1) Bundesarchitektenkammer - IHS questionnaire 2) Bundesingenieurkammer - IHS questionnaire
GRC	~	~	~	~
IRL	7 189	2001	1999	1) Royal Institute of the Architects of Ireland - IHS questionnaire 2) The Institution of Engineers of Ireland - IHS questionnaire
ITA	131 448	2001	2000	1) Sindacato Nazionale Ingegneri Liberi - Professionisti Italiani - IHS questionnaire 2) 2) Consiglio Nazionale degli Architetti, Pianificatori, Paesaggisti e Conservatori - website < <a href="http://www.archieuro.archiworld.it/">http://www.archieuro.archiworld.it/</a> >
LUX	789	2001	2000	1) Ordre des Architectes et Ingénieurs Conseils de Luxembourg OAI - IHS questionnaire
NLD	39 000	2001	1999	1) Koninklijk Instituut van Ingenieurs (KIVI) - telephone 2) Royal Institute of Dutch Architects - IHS questionnaire
PRT	~	~	~	~
ESP	48 723	2001	2000	1) Consejo Superior de los Colegios de Arquitectos de España (CSCAE) - IHS questionnaire 2) TECNIBERIA CIVIL - Asociación Española de Empresas Consultoras de Ingeniería Civil - IHS questionnaire
SWE	17 850	2001	2000	1) STD - Swedish Federation of Architects and Consulting Engineers - report
UK	199 039	2000	2000	1) The Engineering Council - report 2) Architects Registration Board - IHS questionnaire

## Annex D4 Sources of Estimates for 'Number of Professionals' - Pharmacy Services

country	number	reference year	value given for	sources
AUT	4 581	2001	2000	1) Österreichische Apothekerkammer - IHS questionnaire
BEL	8 000	2001	1999	1) Ordre des Pharmaciens- Conseil National - telephone
DNK	1 008	2001	2000	1) Danish Ministry of the Interior and Health - letter to IHS
FIN	4 200	2002	2000	1) The Finnish Pharmacists' Association - website < <a href="http://www.farmasialiitto.fi/sflinenglish.htm">http://www.farmasialiitto.fi/sflinenglish.htm</a> >
FRA	57 650	2002	2000	1) Pharmazeutische Zeitung - website < <a href="http://www.pharmazeutische-zeitung.de/pza/2002-36/titel.htm">http://www.pharmazeutische-zeitung.de/pza/2002-36/titel.htm</a> >
GER	46 078	2000	1999	1) Bundesvereinigung Deutscher Apothekerverbände (ABDA) - IHS questionnaire
GRC	~	~	~	~
IRL	2 966	1999	1999	1) The Pharmaceutical Society of Ireland - IHS questionnaire
ITA	64 000	2000	2000	1) Federazione Ordini Farmacisti Italiani - IHS questionnaire
LUX	292	1998	2000	1) World Health Organization - Health for all - Database
NLD	2 528	1999	1998	1) World Health Organization - Health for all - Database
PRT	9 498	2001	2000	1) Ordem dos Farmacêuticos - IHS questionnaire
ESP	19 641	2000	2000	1) Consejo General de Colegios Oficiales de Farmaceuticos España - website < <a href="http://www.portalfarma.com/home.nsf">http://www.portalfarma.com/home.nsf</a> >
SWE	5 000	2001	2000	1) Sveriges Farmaceutföbund - telephone
UK	31 000	2001	2000	1) Royal Pharmaceutical Society of Great Britain (RPSGB) - IHS questionnaire

## Annex E1 Returns of IHS Questionnaires from member states - Summary statistics

Correspondence overview - Summary statistics		PROFESSIONAL SERVICES				other contracts	ALL QUESTIONNAIRES			Nat. Umbrellas + Ministries			national PROF. BODIES			'key' correspondents			'key' and in Case Studies		
		LEGAL	ACCOUNT- TANCY	TECHNICAL	PHARMACY		number of ALL contacts	number of replies from ALL contacts	Return in % per member state (ALL)	Number of nat. umbrella minist- ries	Replies from nat. umbrella as / minist- ries	Return in % per member state	Number of mem. state Prof. Bodies	Replies from mem. State Prof. Bodies	Return in % per member state	Number of contacts desig- nated as 'key'	Replies from contacts desig- nated as 'key'	Return in % per member state	Number 'key'+ case studies (prof. org. only)	Replies 'key'+ case studies (prof. org. only)	Return in % per member state
Country																					
Austria	Number of contacts No. of quest. returned Percentage returned	2 2 100.0	3 1 33.3	4 2 50.0	3 1 33.3		12 6 50.0	4 0 0.0	8 6 75.0	5 5 100.0	1 1 100.0										
Belgium	Number of contacts No. of quest. returned Percentage returned	3 2 66.7	3 0 0.0	11 1 9.1	3 2 66.7		20 5 25.0	5 0 0.0	15 5 33.3	8 5 62.5	0 0 0										
Denmark	Number of contacts No. of quest. returned Percentage returned	2 2 100.0	3 2 66.7	7 4 57.1	5 3 60.0		17 11 64.7	9 4 44.4	8 7 87.5	7 7 100.0	1 1 100.0										
Finland	Number of contacts No. of quest. returned Percentage returned	1 1 100.0	2 1 50.0	5 2 40.0	8 2 25.0		16 6 37.5	6 1 16.7	10 5 50.0	5 3 60.0	2 0 0.0										
France	Number of contacts No. of quest. returned Percentage returned	8 2 25.0	3 1 33.3	6 2 33.3	9 0 0.0		26 5 19.2	5 1 20.0	21 4 19.0	6 4 66.7	5 4 80.0										
Germany	Number of contacts No. of quest. returned Percentage returned	5 4 80.0	5 5 100.0	12 2 16.7	3 1 33.3	1 1	26 13 50.0	6 1 16.7	20 12 60.0	7 7 100.0	4 4 100.0										
Greece	Number of contacts No. of quest. returned Percentage returned	2 1 50.0	2 1 50.0	5 1 20.0	2 1 50.0		11 4 36.4	7 1 14.3	4 3 75.0	6 3 50.0	0 0 0										
Ireland	Number of contacts No. of quest. returned Percentage returned	3 1 33.3	3 0 0.0	7 3 42.9	3 1 33.3		16 5 31.3	5 0 0.0	11 5 45.5	8 5 62.5	1 1 100.0										
Italy	Number of contacts No. of quest. returned Percentage returned	5 1 20.0	3 2 66.7	6 4 66.7	5 3 60.0		19 10 52.6	7 1 14.3	12 9 75.0	9 7 77.8	5 3 60.0										
Luxembourg	Number of contacts No. of quest. returned Percentage returned	3 1 33.3	2 1 50.0	4 2 50.0	2 0 0.0		11 4 36.4	3 0 0.0	8 4 50.0	7 4 57.1	0 0 0										
Netherlands	Number of contacts No. of quest. returned Percentage returned	2 2 100.0	3 0 0.0	7 2 28.6	4 2 50.0		16 6 37.5	6 1 16.7	10 5 50.0	7 5 71.4	2 0 0.0										
Portugal	Number of contacts No. of quest. returned Percentage returned	3 0 0.0	1 1 100.0	5 1 20.0	10 1 10.0		19 3 15.8	5 0 0.0	14 3 21.4	6 3 50.0	1 1 100.0										
Spain	Number of contacts No. of quest. returned Percentage returned	2 1 50.0	2 2 100.0	6 3 33.3	3 0 0.0		13 5 38.5	5 0 0.0	8 5 62.5	7 5 71.4	2 2 100.0										
Sweden	Number of contacts No. of quest. returned Percentage returned	1 1 100.0	3 0 0.0	7 2 28.6	5 2 40.0		16 5 31.3	4 1 25.0	12 4 33.3	5 3 60.0	1 1 100.0										
U.K. Eng/Wal.	Number of contacts No. of quest. returned Percentage returned	4 3 75.0	7 5 71.4	17 6 35.3	4 1 25.0		32 15 46.9	6 0 0.0	26 15 57.7	12 12 100.0	3 3 100.0										
U.K. Scotland	Number of contacts No. of quest. returned Percentage returned	3 2 66.7	2 0 0.0	8 1 12.5	2 0 0.0		15 3 20.0	0 0 0.0	15 3 20.0	3 3 100.0	2 2 100.0										
U.K. NI	Number of contacts No. of quest. returned Percentage returned	2 2 100.0	1 0 0.0	3 0 0.0	1 0 0.0		7 2 28.6	0 0 0.0	7 2 28.6	2 2 100.0	2 2 100.0										
summary statistics	Number of contacts No. of quest. returned Percentage returned	54 28 51.9	49 22 44.9	125 37 29.6	82 20 24.4		292 108 37.0	83 11 13.3	209 97 46.4	110 83 75.5	32 25 78.1										
European umbrellas	Number of contacts No. of quest. returned Percentage returned	3 0 0.0	5 0 0.0	5 1 20.0	0 0 0.0		13 1 7.7														

NOTE: Shaded fields denote Case Studies

**Annex E2 Synopsis of IHS Questionnaire returns from professional bodies - for Case Study countries/professions<sup>1</sup>**

Pro- fession- al field	Country	Contacts	re- plied	part 1	part 2	part 3		
						number of mem- bers or profs.	Other data	All data
Legal Services	Denmark	Det Danske Advokatsamfund	✓	✓	✓	✓	✓	
	Germany	Bundesrechtsanwaltskammer	✓	✓	✓	✓	✓	✓
		Deutscher Anwaltverein e. V.	✓	✓	✓	✓		
		Bundesnotarkammer	✓	✓	✓	✓		
		Deutscher Notarverein						
		Landesnotarkammer Bayern	✓	✓	✓	✓	✓	
	U.K. England/Wales	General Council of the Bar	✓	✓	✓	✓		
		The Law Society	✓	✓		✓	✓	✓
		The Faculty Office of the Archbishop of Canterbury	✓	✓	✓	✓		
	U.K. Scotland	Scrivener's Company (London Notaries)						
		Faculty of Advocates	✓	✓	✓	✓	✓	
		The Law Society of Scotland	✓	✓	✓	✓	✓	
	U.K. North. Ireland	Society of Solicitor Advocates						
		General Council of the Bar of Northern Ireland	✓	✓	✓	✓	✓	
	Italy	Law Society of Northern Ireland	✓	✓	✓	✓	✓	✓
		Consiglio Nazionale Forense						
		Consiglio dell'Ordine degli Avvocati e Procuratori di Roma						
		Consiglio dell'Ordine degli Avvocati e Procuratori di Milano						
		Consiglio Dell'Ordine degli Avvocati e Procuratori di Napoli						
	France	Consiglio Nazionale del Notariato	✓	✓	✓	✓	✓	✓
		Barreau de Paris						
		Conférence des Batonniers						
		Association française des Avocats Conseils d'Entreprise						
Confederation Nationale des Avocats								
Fédération Nationale des Unions de Jeunes Avocats								
Syndicat des Avocats de France								
Conseil National des Barreaux		✓	✓	✓	✓	✓		
Conseil Supérieur du Notariat Français	✓	✓	✓	✓	✓	✓		
Account- ancy	Netherlands	Koninklijk Nederlands Instituut van Registeraccountants						
		De Nederlandse Orde van Belastingadviseurs						
		De Nederlandse Federatie van Belastingadviseurs						
	Germany	Wirtschaftsprüferkammer	✓	✓	✓	✓	✓	
		Institut der Wirtschaftsprüfer in Deutschland	✓	✓	✓	✓	✓	
		Bundesverband Deutscher Unternehmensberater BDU e.V.	✓	✓	✓	✓	✓	
		Bundessteuerberaterkammer	✓	✓	✓	✓	✓	✓
		Der Deutsche Steuerberaterverband	✓	✓	✓	✓	✓	
		Conseil Supérieur de l'Ordre des Experts-Comptables	✓	✓	✓	✓	✓	✓
	France	Institut Français des Experts Comptables (IFEC)						
		La Compagnie Nationale des Commissaires aux Comptes						
		Consiglio Nazionale dei Dottori Commercialisti	✓	✓	✓	✓	✓	
	Italy	Consiglio Nazionale dei Ragionieri Commercialisti ed Economisti d'impresa	✓	✓	✓	✓		
Associazione Nazionale Tributaristi Italiani								

<sup>1</sup> Parts of Questionnaire: Part 1- current regulations; Part 2 – recent changes in regulation; Part 3 – structure data etc.



**Annex E2 (cont'd) Synopsis of IHS Questionnaire returns from professional bodies - for Case Study countries/professions <sup>2</sup>**

Pro- fession- al field	Country	Contacts	re- plied	part 1	part 2	part 3		
						number of mem- bers or profs.	Other data	All data
Technical services	Austria	Bundeskammer der Architekten und Ingenieurkonsulenten	✓	✓	✓	✓		
		Fachverband Technische Büros - Ingenieurbüros	✓	✓	✓	✓		
		Verband Österreichischer Ingenieure						
		Österreichischer Ingenieur- und Architekten-Verein						
	Spain	Consejo Superior de los Colegios de Arquitectos de España CSCAE	✓	✓	✓	✓		
		Asociación Española de Consultores en Ingeniería y Organización						
		Colegio de Ingenieros de Caminos, Canales y Puertos						
		TECNIBERIA CIVIL - Asoc. Espanola de Empresas Consultadoras de Ingeniería Civil	✓	✓	✓	✓	✓	✓
		Instituto de la Ingeniería de España						
	Finland	Finnish Association of Architects SAFA						
		Finnish Association of Consulting Firms	✓	✓	✓	✓*	✓	
		The Finnish Association of Graduate Engineers TEK	✓	✓				
		The Association of Finnish Civil Engineers						
	France	Conseil national de l'Ordre des architectes	✓	✓	✓	✓		
		Union Nationale des Syndicats Français d'Architectes UNSFA						
		Chambre des Ingénieurs-Conseils de France						
		Syntec-Ingénierie						
		Conseil national des ingénieurs et des scientifiques de France						
		Ordre des géomètres-experts - Secrétaire Général	✓	✓	✓	✓	✓	
	Pharma-cies	Germany	ABDA, Bundesvereinigung Deutscher Apothekerverbände	✓	✓	✓	✓	✓
Sweden		Apoteket AB						
		Sveriges Farmaceutförbund	✓	✓		✓	✓	
		Socialstyrelsen - National Board of Health and Welfare (Leif Gudmundson)	✓	✓	✓			
		Ministry of Health and Social Affairs (Mr Lars Hedengran)						
Ireland		The Pharmaceutical Society of Ireland	✓	✓	✓	✓	✓	
		Hospital Pharmacists Association - Ireland						
		Irish Pharmaceutical Union						
Portugal		Associação Nacional das Farmácias						
		Sindicato Nacional dos Farmacêuticos						
		Ordem dos Farmacêuticos	✓	✓	✓	✓		
	Associação dos Farmacêuticos Católicos							
	Associação Portuguesa dos Farmacêuticos Hospitalares - APFH							
	Associação Portuguesa dos Jovens Farmacêuticos - APJF							
	Instituto Nacional da Farmacia e do Medicamento							

\* members are industrial firms (not individuals)

<sup>2</sup> Parts of Questionnaire: Part 1- current regulations; Part 2 – recent changes in regulation; Part 3 – structure data etc.

## Annex E3 - IHS Questionnaire



# Survey Questionnaire “Professional Services”

These data sheets may be filled in ‘electronically’. For this purpose two types of grey input-boxes are provided:

- square click-boxes (☐). Click as appropriate to reply “yes” or “no” to questions.
- rectangular text-boxes ( ). Fill in if question elicits a response of a number, a name or a few words or sentences. The size of the box depends on the amount of text-input.

## Part I. INFORMATION ON PROFESSIONAL REGULATIONS

### 1. General Information

#### 1.1. Professional Field

*(please choose)*

Accountancy Services	<input type="checkbox"/>
Legal Services	<input type="checkbox"/>
Architectural Services	<input type="checkbox"/>
Engineering Services	<input type="checkbox"/>
Pharmacists	<input type="checkbox"/>

#### 1.2. Name of Profession

*(please fill in)*

Official Name:	
English Name (where appropriate)	

#### 1.3. This Data Sheet was filled in by ...

<b>Name:</b>	
<b>Organisation and Position:</b>	
<b>Postal Address</b>	
Street name and No.:	
City and Postal Code:	
Country:	
E-Mail Address:	
Tel. Nr.:	
Fax. Nr.:	

## 2. Organisational Characteristics of the Profession

2.1. The following is true for the main organisational structure of the profession...(see Note 1)

*(please choose one)*

Licensing and compulsory membership in a professional association	<input type="checkbox"/>
Licensing without compulsory membership in a professional association.	<input type="checkbox"/>
No compulsory licensing and voluntary membership in a professional association (=certification).	<input type="checkbox"/>
No compulsory licensing nor voluntary membership in a professional association (=certification).	<input type="checkbox"/>

2.2. Regulations are created ...

*(please choose one)*

exclusively by public authorities	<input type="checkbox"/>
exclusively by the responsible professional association	<input type="checkbox"/>
by public authorities and by the professional association	<input type="checkbox"/>

2.3. The implementation of the regulations is organised and controlled...

exclusively by public authorities	<input type="checkbox"/>
exclusively by the responsible professional association	<input type="checkbox"/>
by public authorities and by the professional association	<input type="checkbox"/>

2.4. Disciplinary sanctions for failure to respect these regulations are decided...

exclusively by public authorities	<input type="checkbox"/>
exclusively by the responsible professional association	<input type="checkbox"/>
by public authorities and by the professional association	<input type="checkbox"/>
there are no such sanctions	<input type="checkbox"/>

### 3. Market Entry Regulations

	Yes	No
3.1. Are there specific regulations on access to the profession / gaining a professional title?	<input type="checkbox"/>	<input type="checkbox"/>

	Yes	No
3.2. Are there specific regulations on access to the professional market / tasks or services offered exclusively by licensed professionals if "no" go to question 3.4.	<input type="checkbox"/>	<input type="checkbox"/>

3.3. a. Please list (up to ten) services that your profession has a **exclusive** right to offer.

Type of exclusive service

1.	
2.	
3.	
4.	
5.	
6.	
7.	
8.	
9.	
10.	

3.3. b. Please list (up to ten) services that **your profession and other professions** have the right to provide, and name these other professions.

Type of service		This type of service may also be offered by (please fill in name of profession/s)	
1.		1.	
2.		2.	
3.		3.	
4.		4.	
5.		5.	
6.		6.	
7.		7.	
8.		8.	
9.		9.	
10.		10.	

	Yes	No
3.4. Is a University Degree a necessary precondition to enter the profession?	<input type="checkbox"/>	<input type="checkbox"/>
if "yes", which degree and what is the minimum duration of study:		
name of degree		
years (please give exact information)		

	Yes	No
3.5. Is there any other higher education qualification enabling application for entrance to the profession?	<input type="checkbox"/>	<input type="checkbox"/>
if "yes", of what duration:		
name of qualification		
years (please give exact information)		

	Yes	No
3.6. Are there requirements in regard of relevant practice in order to become a full member of the profession?	<input type="checkbox"/>	<input type="checkbox"/>
if "yes", of what duration:		
years (please give exact information)		

	Yes	No
3.7. Does there exist a requirement to pass one or more special professional exams in order to become a full member of the profession and offer services that are restricted to the profession?	<input type="checkbox"/>	<input type="checkbox"/>
if "yes", how many?		
(please fill in the number and names)		

	Yes	No
3.8. Is compulsory membership in a professional association required in order to become a full member of the profession and offer services that are restricted to the profession?	<input type="checkbox"/>	<input type="checkbox"/>
if "yes": are there more than one such professional organisations for this profession?	<input type="checkbox"/>	<input type="checkbox"/>
if "yes", how many?		
(please fill in the number and names)		

	Yes	No
3.9. Is the establishment of a business in the profession restricted to specific forms of business (such as limited liability partnerships or public companies)?	<input type="checkbox"/>	<input type="checkbox"/>
if "yes": please click on the kinds of business structures which are not permitted:		
Sole practitioners	<input type="checkbox"/>	
Limited Liability Partnerships	<input type="checkbox"/>	
Public limited companies	<input type="checkbox"/>	
Private company	<input type="checkbox"/>	
Other, ( <i>please name</i> )		

	Yes	No
3.10. Is the establishment of a business in the profession restricted by quotas/economic needs tests? (see Note 2)	<input type="checkbox"/>	<input type="checkbox"/>

	Yes	No
3.11. Are there regulations on compulsory professional indemnity insurance?	<input type="checkbox"/>	<input type="checkbox"/>
if "yes": what is the minimum amount for which professionals must be insured (please fill in EUR)		
per case		
per business		

#### 4. Regulations on market behaviour

	Yes	No
4.1. Are there special regulations for the fees/prices for services the profession is offering?	<input type="checkbox"/>	<input type="checkbox"/>
if "no" go to question 4.3.		

4.2. Of what kind are these regulations? (please choose one)

binding minimum prices for all kinds of services	<input type="checkbox"/>
binding maximum prices for all kinds of services	<input type="checkbox"/>
binding minimum prices for some kinds of services	<input type="checkbox"/>
binding maximum prices for some kinds of services	<input type="checkbox"/>
non-binding recommended prices for all kinds of services	<input type="checkbox"/>
non-binding recommended prices for some kinds of services	<input type="checkbox"/>
other, ( <i>please describe</i> ):	



	Yes	No
4.2. a. Are these prices/recommendations always respected in practice?	<input type="checkbox"/>	<input type="checkbox"/>
	Higher	Lower
If "no", are real prices higher or lower, on average?	<input type="checkbox"/>	<input type="checkbox"/>

	Yes	No
4.2. b. Are there any restrictions on particular pricing arrangements (e.g. contingency fees)?	<input type="checkbox"/>	<input type="checkbox"/>
If "yes", please specify:		

	Yes	No
4.3. Are there special regulations on advertising and marketing?	<input type="checkbox"/>	<input type="checkbox"/>
if "no" go to question 4.5.		

4.4. Of what kind are these regulations?

all forms of advertising are strictly forbidden,	<input type="checkbox"/>
most forms of advertising are forbidden	<input type="checkbox"/>
some forms of advertising are forbidden, these being:	<input type="checkbox"/>
direct mailing	<input type="checkbox"/>
price advertising (general)	<input type="checkbox"/>
comparative price advertising	<input type="checkbox"/>
other ( <i>please fill in</i> ):	
1.	
2.	
3.	

	Yes	No
4.5. Are there special regulations on location and diversification?	<input type="checkbox"/>	<input type="checkbox"/>
if "no" go to question 4.7.		

4.6. Of what kind are these regulations?

geographical restrictions on offering services	<input type="checkbox"/>
restrictions on establishing branch offices	<input type="checkbox"/>
other, ( <i>please describe</i> ):	

	Yes	No
4.7. Are there special regulations on interprofessional co-operation?	<input type="checkbox"/>	<input type="checkbox"/>
if "no" go to question 4.9.		

4.8. Of what kind are these regulations?

interprofessional co-operation of any form is generally forbidden.	<input type="checkbox"/>
interprofessional co-operation only in the form of incorporation is generally forbidden.	<input type="checkbox"/>
interprofessional co-operation only with some comparable licensed professions is allowed in various commercial forms (incl. incorporation).	<input type="checkbox"/>
interprofessional co-operation in the form of incorporation is allowed only with comparable licensed professions, incorporation is forbidden.	<input type="checkbox"/>

If other circumstances pertain, please describe briefly:

	Yes	No
4.9. Is continuing education an obligation to the members of the profession?	<input type="checkbox"/>	<input type="checkbox"/>

if "yes": To what extent and how is the continuing education organised and controlled?

Please describe briefly:

	Yes	No
4.10. Are there any regulations on specialisation in the profession ( <i>for example see Note 3</i> )	<input type="checkbox"/>	<input type="checkbox"/>

if "yes": how is specialisation organised?; is there a right to a title for this specialisation?; may this specialisation be advertised?

Please describe briefly:

## 5. Other Instruments for Quality Control

	Yes	No
5.1. Do there exist special information or benchmarking systems for the profession, where information about the quality of services of individual firms is given?	<input type="checkbox"/>	<input type="checkbox"/>

if "yes": please describe briefly and give a short overview of the experience with these instruments:

---



---

	Yes	No
5.2. Are there any special (voluntary) certification systems, which coexist alongside the traditional licensing or certification model (see Note 4)	<input type="checkbox"/>	<input type="checkbox"/>

if "yes": please describe briefly and give a short overview of the experience with these instruments:

---



---

	Yes	No
5.3. Does there exist any other special instrument of quality control not mentioned in the data sheet so far?	<input type="checkbox"/>	<input type="checkbox"/>

if "yes": please describe briefly and give a short overview of the experience with these instruments:

---



---

*Thank you for completing this part of the questionnaire. Now please turn to Part II.*

## Part II. Background to the Regulatory Framework

### 6. Changes, Reforms and Innovations in Regulations

Please give a brief outline of areas in which regulation of the profession has been changed in the past 10 years. If you wish to include a longer exposition, reports, or study results (e.g. Regulatory Impact Analysis), please indicate this.

	Area of Regulation	Change in Regulation (and Date of Implementation)	Purpose of and Advantages / Disadvantages associated with this change
1.			
2.			
3.			
Further:			
Further:			

## 7. Regulations currently being reviewed

Please give a brief outline of areas in which regulation of the profession is currently being discussed. If you wish to include a longer exposition, reports, or study results, please indicate this.

	Area of Regulation	Change in Regulation under Discussion (proposed by Profession?, Government?)	Proposed Purpose of and Benefits claimed for this change / Arguments against change
1.			
2.			
3.			
Further:			
Further:			

## 8. Reasons for Regulation/Liberalisation

*You may be aware that regulations on your profession vary, sometimes greatly between EU countries. If you have any knowledge of the regulatory systems of other countries, please fill out the table below. Please give brief details of areas in which the profession is known to be differently regulated, or liberalized, (in comparison to the regulatory system elsewhere), along with a synopsis of the reasons for adopting this position. If you wish to include a longer exposition, reports, or study results, please indicate this.*

	Area of Regulation/Liberalisation	Reasons for Regulation	OR: Reasons for Liberalisation
1.			
2.			
3.			
Further:			
Further:			

*Thank you for completing this part of the questionnaire. Now please turn to Part II*

### Part III. Structure and Dynamics of the Profession

#### 9. Data Source-Year

*In this section data is requested for the years 1990, 1995 and 2001. If some data for 2001 is not yet available, please give all data for 2000 and click here accordingly:*

Most recent data is for:

<input type="checkbox"/>	2000 <i>(please click if appropriate)</i>
<input type="checkbox"/>	2001 <i>(please click if appropriate)</i>

**If you are NOT representing a professional body, please proceed to question 12 in this section (questions concerning the profession as a whole).**

#### 10. Membership of the Professional Body

Please state, if known

	Total no. of members		
	1990	1995	2000/01
Total Membership of your Professional Body			
By membership category (name as appropriate)			

#### 11. Stages in Access to the Profession

Please fill in the number of ...

	Total no.		
	1990	1995	2000/01
newly admitted profession members in year...			
professional trainees (in all stages of pre- Qualification)			
trainees passing Final Qualifying Examinations in year...			
trainees taking Final Qualifying Examinations in year...			
new trainee entrants in year ...			
graduates from relevant disciplines, if known (e.g. law faculties)			

## 12. Questions about the Profession as a whole (see Note 5)

12.1. Country of reference: \_\_\_\_\_ Country or Jurisdiction (see Note 6)

**Please answer all the following questions with concrete data, or, if this is not available, with an estimate!**

### 12.2. Professionals

	1990	1995	2000/01
	Total no.		
Total no. of professionals (regardless of professional affiliation) practicing in your country			
Percentage of above, self-employed			
Percentage of above, non-self-employed			
	Total no.		
No. of professionals with professional affiliation in your country practicing abroad			
No. of professionals with professional affiliation in your country practicing in rest of EU or EU candidate countries			
No. of professionals with professional affiliation in your country practicing in other (non EU/Candidate) countries			

### 12.3. Total Employment (Professionals and Non-professionals) in your country

	1990	1995	2000/01
	Total no.		
Professionals and Non-professionals (see Note 7)			
Percentage of above, full-time employment			
Percentage of above, part-time employment			

### 12.4. Firms Practicing the Profession in your country (see Note 8)

	1990	1995	2000/01
	Total no.		
Firms in your country			
	%		
Percentage of above, non-incorporated status			
Percentage of above, incorporated status			



12.4.1. Size of Firms (in terms of Professionals)

	1990	1995	2000/01
Percentage of Firms with...	%		
1 Qualified Professional			
2 Qualified Professionals			
3-5 Qualified Professionals			
5-30 Qualified Professionals			
more than 30 Qualified Professionals			

12.4.2. Size of Firms (in terms of Non-professional Employees)

	1990	1995	2000/01
Percentage of Firms with...	%		
0 Employees			
1-2 Employee			
3-10 Employees			
10-50 Employees			
more than 50 Employees			

12.4.3 Size of Firms (locational). (see Note 9)

	1990	1995	2000/01
Percentage of Firms with...	%		
1 Office			
2-5 Offices			
5-20 Offices			
20-50 Offices			
more than 50 Offices			

12.5. Firms with head office in your country: Cross-Border Activity

	1990	1995	2000/01
Firms with offices outwith your country in...	Total no.		
All countries			
rest of EU or EU Candidate countries			
other countries			

12.5.1. Firms with head office in other countries: country of origin (EU or non-EU) with largest number of offices registered in your country (in descending order).

	Name of the country
Country with largest no. of offices	
Country with second largest no. of offices	
Country with third largest no. of offices	

## 12.6. Output of the Profession

12.6.1. Please indicate the branch represented by your profession (see Note 10)

Branch ( <i>Please give name</i> )	
------------------------------------	--

12.6.2. Please indicate currency used for economic data in the questions below:

	1990	1995	2000/01
Currency ( <i>see Note 11</i> )			

12.6.3. Turnover

	1990	1995	2000/01
Turnover before tax of branch in...			
own country			
All countries abroad			
Rest of EU and EU Candidate countries			
other countries			

12.7. Concentration of the Branch (see Note 12)

	1990	1995	2000/01
	%		
Market Share of the 5 (five) largest firms			
Market Share of top 10% largest firms			
Market Share of top 30% largest firms			

12.8. Cost Structure of Firms

(Please enter best estimates)

	1990	1995	2000/01
The 'median firm' has costs broken down into...	%		
Remuneration of Professionals			
other Salaries and Wages			
Cover for Professional Insurance and Risk			
Investment in office premises			
Investment in technology (Computers)			
on-going professional education (courses)			
other costs			
Sum of above	100%	100%	100%

*Thank you for completing these questions. Please send questionnaire when completed to:*

<b>'Electronic' version (preferred):</b>	<b>graf@ihs.ac.at</b>
<b>Hardcopy versions:</b>	<b>Institute for Advanced Studies Department of Economics and Finance 'SURVEY OF PROFESSIONAL SERVICES' (Iain Paterson) Stumpergasse 56 A-1060 Vienna Fax: ++43 - 1 - 599 91 - 555</b>

## Notes supplementary to the Survey Questionnaire

### **Note 1: Professional Institutional Model**

„*Licensing*“ stands for cases where there is a requirement for official/legal permission to offer specific services on the market. Such licensing is typically carried out by public authorities and/or the responsible professional association. In this model only the service providers licensed in this way are allowed to use a specific professional title.

„*Certification*“ stands for cases where there is no requirement for licensing in order to offer specific services on the market, but usually where (some/not all) service providers are organized in one or more professional bodies and for this certification have to fulfil certain quality (e.g. educational) requirements. Usually only the service providers certified in this way are allowed to use a specific professional title.

### **Note 2: Quota Restrictions**

In general terms this question deals with quantitative limits on the number of people who may enter the profession / offer the respective professional services. Such limits may be related to economic needs tests or other types of proviso.

### **Note 3: Specialisation**

Specialisation may take different forms. A lawyer may, for example, acquire specific skills and some kind of additional certification (see note 1) in the field of marriage law. In this context “specialisation” means that the respective member of the profession not only has the advantage of acquiring specific skills but that this specialisation is recognised by some kind of institutionalised certification. This may take place within the traditional licensing or certification model adopted by the profession, or as a separately organised grouping.

### **Note 4: Additional Certification**

For the term “certification” see note 1. This question deals with special voluntary certification that, for example, may exist in the context of further specialisation (see note 3) or international co-operation (e.g. lawyers in different countries specialising in European Community Law and setting explicit quality standards for the co-operating members).

### **Note 5: Questions about the Profession as a whole**

Membership of a Professional Body may not necessarily extend to include all professionals in your field. Nevertheless in this section information regarding your knowledge about the profession as a *whole* is sought. Please answer with concrete data, or, where this is not available, with an estimate based on your knowledge of the profession. If you wish to draw attention explicitly to the fact that an entry to a question is an estimate, you may choose to enclose the estimate in brackets.

### **Note 6: Country of reference**

Unless otherwise indicated questions refer to the professionals and firms in the country of your own professional body. In many cases this will be identical

**Note 9: Office Locations**

Location here refers access by clients/consumers. Different offices (branch offices) in the same town or city are also different locations.

**Note 10: Branch**

Branch refers to the economic sector activity relevant to your professional body. This may be different in different member states. For example, in some countries Notaries will be a separate branch, in others it will possibly be included under 'Lawyers'. Please name the relevant branch for your profession.

**Note 11: Currency**

Please indicate as appropriate e.g. BEF, DEM, GBP, EUR etc.

**Note 12: Concentration**

'Market Share' refers to the percentage of total branch turnover. 'Largest' firms are those with highest turnover before tax.

\*\*\*\*\*

ON FILLING OUT THIS DOCUMENT ELECTRONICALLY IT MAY INCREASE IN LENGTH AND LOSE ITS ORIGINAL 'SHAPE'. *THIS IS NOT IMPORTANT: JUST SEND THE FILLED-IN VERSION WITHOUT REGARD TO APPEARANCE..*

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*Thank you for completing these questions. Please send questionnaire when completed to:*

<b>'Electronic' version (preferred):</b>	<b><a href="mailto:graf@ihs.ac.at">graf@ihs.ac.at</a></b>
<b>Hardcopy versions:</b>	<b>Institute for Advanced Studies Department of Economics and Finance 'SURVEY OF PROFESSIONAL SERVICES' (Iain Paterson) Stumpergasse 56 A-1060 Vienna Fax: ++43 - 1 - 599 91 - 555</b>

## About ENEPRI

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The European Network of Economic Policy Research Institutes (**ENEPRI**) is composed of leading socio-economic research institutes in practically all EU member states and candidate countries that are committed to working together to develop and consolidate a European agenda of research. **ENEPRI** was launched in 2000 by the Brussels-based Centre for European Policy Studies (CEPS), which provides overall coordination for the initiative.

While the European construction has made gigantic steps forward in the recent past, the European dimension of research seems to have been overlooked. The provision of economic analysis at the European level, however, is a fundamental prerequisite to the successful understanding of the achievements and challenges that lie ahead. **ENEPRI** aims to fill this gap by pooling the research efforts of its different member institutes in their respective areas of specialisation and to encourage an explicit European-wide approach.

**ENEPRI** is composed of the following member institutes:

CASE	Center for Social and Economic Research, Warsaw, Poland
CEE	Center for Economics and Econometrics, Bogazici University, Istanbul, Turkey
CEPII	Centre d'Études Prospectives et d'Informations Internationales, Paris, France
CEPS	Centre for European Policy Studies, Brussels, Belgium
CERGE-EI	Centre for Economic Research and Graduated Education, Charles University, Prague, Czech Republic
CPB	Netherlands Bureau for Economic Policy Analysis, The Hague, The Netherlands
DIW	Deutsches Institut für Wirtschaftsforschung, Berlin, Germany
ESRI	Economic and Social Research Institute, Dublin, Ireland
ETLA	Research Institute for the Finnish Economy, Helsinki, Finland
FEDEA	Fundación de Estudios de Economía Aplicada, Madrid, Spain
FPB	Federal Planning Bureau, Brussels, Belgium
IE-BAS	Institute of Economics, Bulgarian Academy of Sciences, Sofia, Bulgaria
IER	Institute for Economic Research, Bratislava, Slovakia
IER	Institute for Economic Research, Ljubljana, Slovenia
IHS	Institute for Advanced Studies, Vienna, Austria
ISAE	Istituto di Studi e Analisi Economica, Rome, Italy
NIER	National Institute of Economic Research, Stockholm, Sweden
NIESR	National Institute of Economic and Social Research, London, UK
NOBE	Niezalezny Osrodek Bana Ekonomicznych, Lodz, Poland
PRAXIS	Center for Policy Studies, Tallinn, Estonia
RCEP	Romanian Centre for Economic Policies, Bucharest, Romania
SSB	Research Department, Statistics Norway, Oslo, Norway
SFI	Danish National Institute of Social Research, Copenhagen, Denmark
TÁRKI	Social Research Centre Inc., Budapest, Hungary

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