

## **Business services – Assessment of Barriers and their Economic Impact**

### **I. Introduction**

The objective of this assessment is to gain a better understanding of the regulation of key business services, in particular in terms of the restrictiveness of regulation and its economic impact. The assessment has been undertaken in two stages. Firstly, the identification and assessment across all 28 Member States of existing barriers to the access and exercise of key business services. Secondly, an analysis of the economic impact of these barriers.

The assessment focusses on four key business services sectors: accountants, architects, engineers and lawyers. These have been chosen for their economic importance in terms of value added and employment and because they often are integral parts of integrated value chains and therefore have a wider impact on the economy (including on manufacturing industries). The assessment moreover concentrates on eight types of regulatory barriers, the importance of which has been confirmed by previous studies and stakeholder feedback.

Both, the scope of the activities assessed within each of the business services covered by this assessment and the regulatory barriers assessed are set out below in section II. The results of the barrier assessment are shown in section III. The analysis of the economic impact of the assessed barriers is presented in section IV. Finally, further details on the methodology used for the barrier assessments are provided in section V.

The assessment of regulatory barriers was undertaken in the first quarter of 2015 and reflects legislation in place at that time.

### **II. Scope of Assessment: Activities and Barriers Covered**

#### *Scope of activities covered*

The assessment covers the four business services sectors indicated above. Within these sectors rules may be different according to the type of activity considered. For example, rules on access and exercise might be very different for a civil engineer compared to an engineer specialised in building nuclear power plants. There is a need therefore to define the scope of activities covered under the four business services sectors assessed.

The following are the activities covered for the four business services assessed in this study:

#### Accountants:

- Accounting services including public-sector accounting and book-keeping, but excluding auditing services.

Lawyers:

- Advice on matters predominantly regulated by domestic law;
- Advice on matters predominantly regulated by foreign law;
- Representation of clients before courts;
- Representation before administrative agencies, including on tax matters.

Engineers:

The assessment covers restrictions in place for civil engineers as this is an important part of the engineering sector with important links to the construction sector. It covers rules in place in so far as they apply to the construction of buildings for general housing and commercial use within these broad categories and without taking into account special rules that may exist either for particular buildings such as social housing, shopping malls, kindergartens, sky scrapers, etc. or for particular building construction works such as electrical installations, air conditioning, energy performance, etc. This means that the assessment does not look at rules regarding civil engineering work such as construction of roads, railways, bridges or tunnels. Finally, in Member States where a distinction in rules is made between private and public works, the assessment covers private works.

The following activities are covered:

- Design and planning;
- Representation for obtaining permits (signature of designs);
- Tender and contract administration;
- Project management including monitoring of execution;
- Construction cost management;
- Planning and management maintenance; survey of sites.

Architects:

- Planning (elaboration of blue prints);
- Request for construction permit;
- Preparation and monitoring of construction/execution;
- Construction cost management.

For the purpose of this assessment, existing rules are only scored if the activities considered are reserved to the profession (meaning that no other person than the qualified professional can perform these activities). If anyone can perform the assessed activities and only the title of 'accountant', 'architect', 'engineer' or 'lawyer' is reserved to persons subject to specific rules, then the activities are considered as 'not regulated'. In case there are differences in rules within the activities considered, the more restrictive rules are taken into account for the assessment.

*Barriers covered and weighting methodology*

The overall assessment of restrictiveness is based on the analysis of the following seven regulatory barriers:

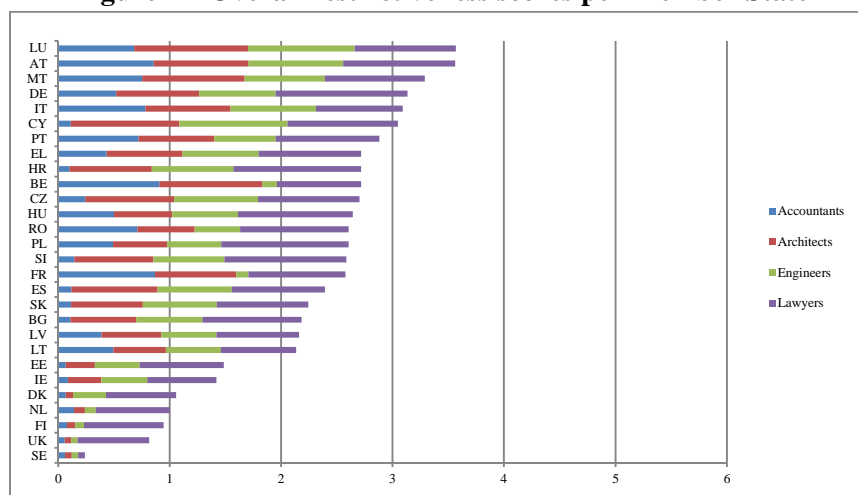
1. Reserved activities
2. Authorisation requirements
3. Compulsory chamber membership requirements
4. Restrictions on corporate form, shareholding structures & multidisciplinary activities
5. Insurance requirements
6. Tariff restrictions
7. Restrictions on advertising

The assessment also includes the analysis of non-regulatory barriers, namely the provision of information on legal requirements and the completion of procedures online through the Points of Single Contact (one common assessment covering the four business services sectors assessed).

### III. Results of Barrier Assessments

Figure 1 shows the overall results of the assessment, taking into account the results of the 8 barriers assessed cumulatively. High (low) scores indicate higher (lower) restrictiveness.

**Figure 1 – Overall restrictiveness scores per Member State**



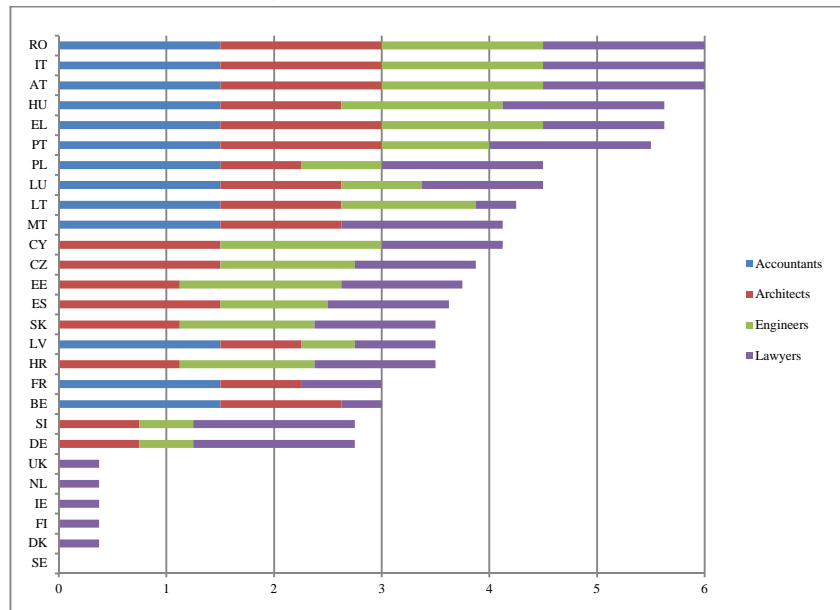
The following weighting has been applied to calculate aggregate scores per profession for the 8 barriers assessed:

Reserved activities	17,5%
Restrictions on corporate form, shareholding & multidisciplinary activities	17,5%
Authorisation requirements	17,5%
Compulsory chamber membership	10,5%
Insurance requirements	10,5%
Tariff restrictions	10,5%
Restrictions on advertising	5,5%
Points of Single Contact	10,5%
<b>Total</b>	<b>100%</b>

The level of services barriers varies greatly between Member States and sectors. Barriers in the least restrictive Member State amount to merely 7% of the barriers in the most restrictive Member State. The differences are of similar magnitude within the sector assessed, with the exception of the legal profession which faces significant barriers in almost all Member States.

Figures 2 to 8 show the results of the assessments for each of the barriers assessed. Further details regarding the assessment of the points of single contact can be found here: [http://ec.europa.eu/growth/tools-databases/newsroom/cf/itemdetail.cfm?item\\_id=8342](http://ec.europa.eu/growth/tools-databases/newsroom/cf/itemdetail.cfm?item_id=8342).

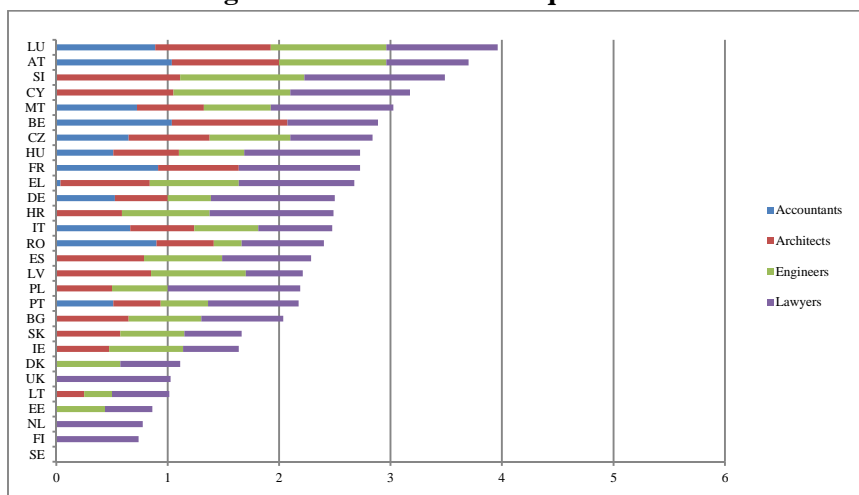
**Figure 2 – Reserved activities<sup>1</sup>**



The large majority of Member States reserve activities for several professions; 21 Member States maintain reserved activities for at least 3 out of the 4 professions.

Overall, the Member States maintaining the most restrictions are AT, IT and RO – reserving activities for all the tasks assessed, followed by HU, EL and PT. The Member States maintaining the fewest reservations are SE (no reserved activities), DK, FI, IE, NL and UK (requirements only for lawyers).

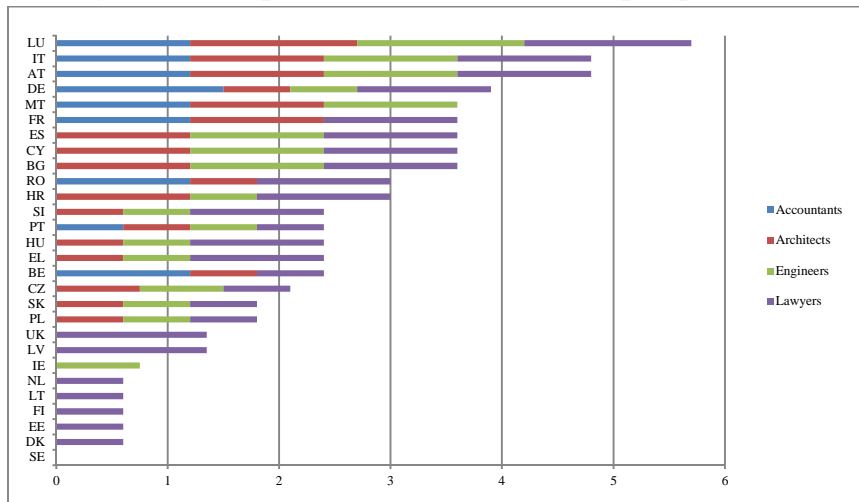
**Figure 3 – Authorisation requirements**



The restrictiveness level varies greatly between Member States. All Member States (except Sweden due to a different system for legal professions) maintain restrictions. The most restrictive Member States are LU, AT and SI. The least restrictive Member States are SE, FI and NL. All Member States with restrictions apply them on the authorisation of lawyers (27), followed by engineers (22), architects (22) and accountants (12).

<sup>1</sup> BG not included in the analysis given missing data

**Figure 4 – Compulsory chamber membership requirements**

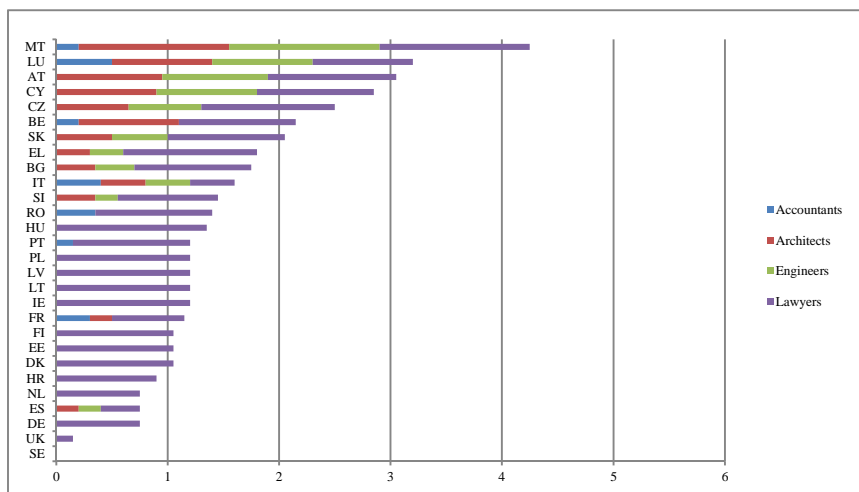


The use of requirements on compulsory chamber membership differs greatly across sectors, mode of supply and Member States.

Overall, the Member States maintaining the most restrictions are LU, IT, AT and DE. All these Member States apply membership requirements for all four business services assessed. The Member States maintaining the fewest restrictions are SE (no such requirement) as well as DK, EE, FI, LT, NL, LV and UK (requirements only for lawyers) and IE (only for engineers).

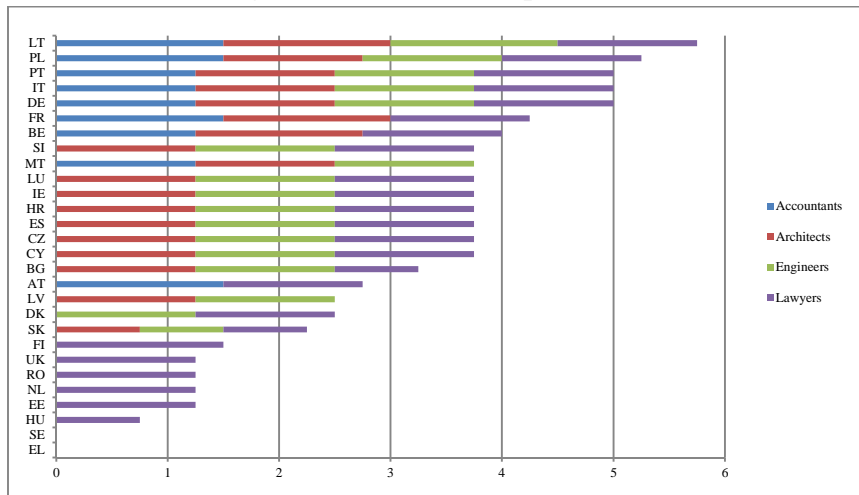
Most Member States (27) maintain membership requirements for at least one of the four business services sectors assessed, with membership in the Bar Association for establishment being the most prevalent requirement (25). For architects, 19 Member States maintain chamber membership requirements. For engineers, 17 Member States maintain chamber membership requirements. For accountants, 9 Member States maintain chamber membership requirements.

**Figure 5 - Restrictions on corporate form, shareholding structures & multidisciplinary activities**



A group of Member States (MT, LU, AT, CY, CZ, BE, SK) imposes relatively strict requirements for several business services. On the other side of the spectrum, almost half of the MSs (HU, PL, LV, LT, IE, FI, EE, DK, HR, NL, DE, UK) impose no restrictions apart from on legal service companies. One MS (SE) imposes no restrictions for any of the business services reviewed.

**Figure 6 – Insurance requirements**

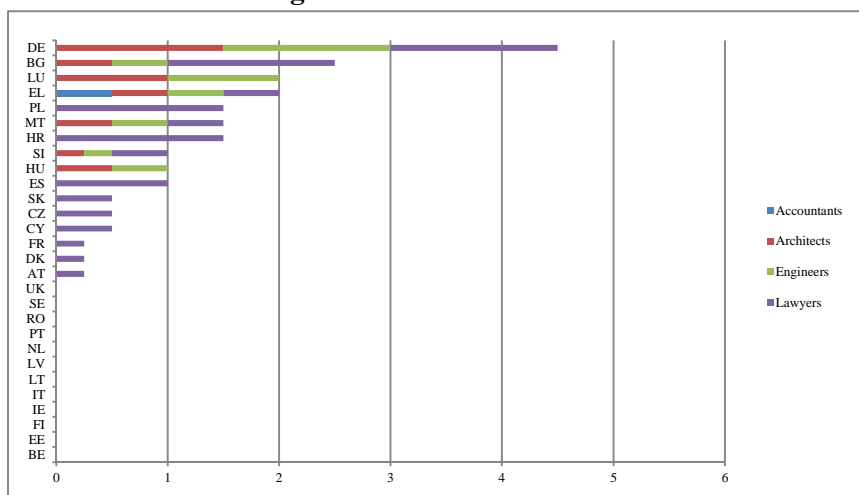


Some Member States maintain strict insurance requirements for all business services assessed. These are LT, PL, PT, IT and DE. Several Member States have strict requirements in place for architects, engineers and lawyers. These are SI, LU, IE, HR, ES, CZ, CY and BG. FR and BE have strict requirements in place for accountants, architects and lawyers.

SK has requirements in place for architects, engineers and lawyers, but these are less restrictive than in other Member States because it has both a clause and a procedure in place to provide for the mutual recognition of insurances obtained in another Member State. FI, UK, RO, NL, EE and HU have insurance requirements in place only for lawyers. SE and EL have no insurance requirements in place.

Insurance requirements for lawyers are most prevalent requirement (in 24 Member States). Insurance requirements for architects and/or engineers are in place in 19 Member States. Insurance requirements for architects and engineers are often similar. For accountants they exist in 9 Member States.

**Figure 7 – Tariff restrictions**

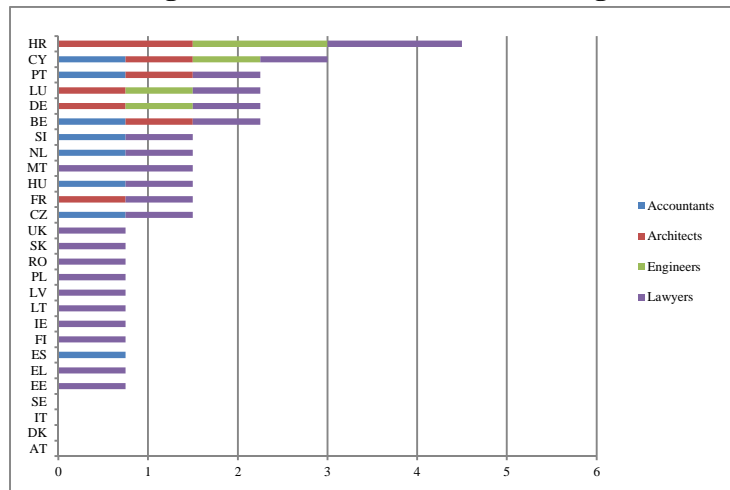


The restrictions identified are concentrated in legal services where a majority of Member States have been identified as having tariffs in place. Tariffs in the other professions are less widespread but still important in several Member States mainly for architects and engineers.

The Commission's assessment shows that there are less tariff restrictions in place than indicated by the OECD's 2013 PMR indicators. A large number of Member States (BE, BG, CY, CZ, DE, EL, ES, FR, HR, HU, LU, MT, PL, PT, RO and SI) have seen their scoring revised compared to the OECD assessment. Part of this difference is also related to the different scope of activities assessed.

Seven Member States (DE, BG, LU, EL, MT, SI and HU) impose tariffs for more than one profession. The other Member States impose either no tariffs (BE, EE, FI, IE, IT, LT, LV, NL, PT, RO, SE and UK) or only for legal services (PL, HR, ES, SK, CZ, CY, FR, DK and AT).

**Figure 8 – Restrictions on advertising<sup>2</sup>**



There is only a small number of Member States that restrict advertising and marketing activities for at least three of the professions analysed. These are HR, CY, PT, LU, DE and BE.

Some Member States do not restrict advertising and marketing activities for the four professions analysed. These are: AT, DK, IT and SE.

Several Member States restrict advertising and marketing activities only for lawyers.

<sup>2</sup> BG not included in the analysis given missing data



#### IV. Analysis of the Economic Impact of the Identified Barriers

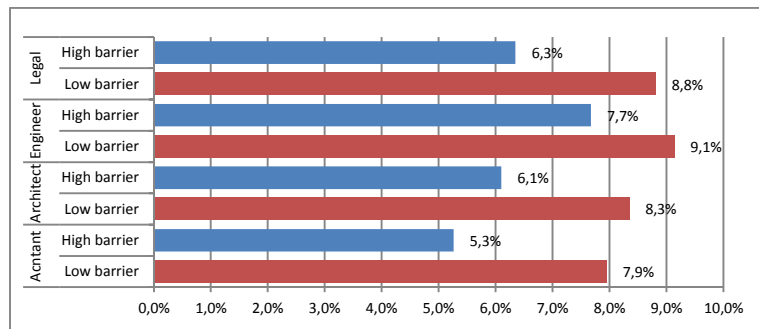
The economic impact of the identified barriers in the four business services sectors analysed is significant regarding intensity of competition, sector profitability and efficiency of resource allocation.

##### *Impact on competition*

Figure 9 shows the share of companies newly establishing in a market (relative to all firms in a market, ‘birth rate’) for Member States with more restrictive versus those with less restrictive barrier levels<sup>3</sup>. It illustrates that Member States with more restrictive barrier levels have on average a lower number of new service providers entering their markets in each of the four sectors analysed.

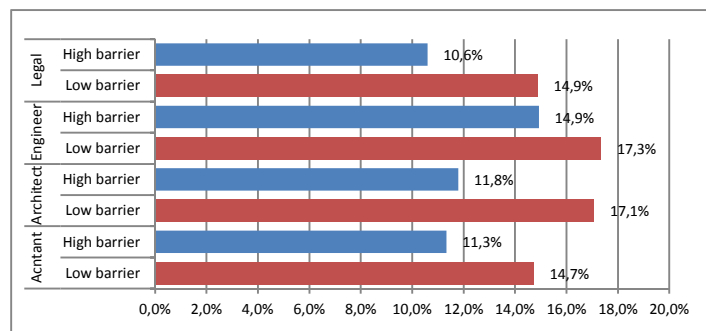
As a result, competition is lower in these Member States and market dynamics are constrained. Indeed, figure 10 shows that the Member States with more restrictive barrier levels have on average also a lower combined share of companies entering and exiting the market (‘churn rate’) in each of the four sectors analysed<sup>4</sup>.

**Figure 9 - Average birth rates for high vs. low restrictive Member States**



Source: Eurostat, Commission assessment, 2015

**Figure 10 - Average churn rates for high vs. low restrictive Member States**



Source: Eurostat, Commission assessment, 2015

High market birth and churn rates are associated with high levels of competition as more productive companies replace less productive ones, increasing the overall competitiveness of a sector.

<sup>3</sup> The graph compares the (simple) average of birth rates (average 2010-2012) for the 10 most versus the 10 least restrictive Member States in each sector. EL and HR are excluded from the analysis given no or low data availability.

<sup>4</sup> The graph compares the (simple) average of churn rates (average 2009-2011) for the 10 most versus the 10 least restrictive Member States in each sector. EL and HR are excluded from the analysis given no or low data availability. One outlier has been removed from the analysis (RO – legal).

A quantification of the relationship between barrier levels and birth rates can be assessed through a regression analysis<sup>5</sup>. To this end, an econometric model is created with birth rate as a dependent variable and barrier level as an explanatory variable. Average firm size in a sector is used as a control variable to approximate the possible impact on birth rates caused by the presence of additional possible entry barriers created by large incumbents. Two sets of dummies (fixed effects for sectors and for countries) also enter the equation.

**Table 1 – Results of regression analysis barrier levels – birth rates**

Barrier level	-0.658*** (0.003)
Average firm size	-0.103 (0.395)
R <sup>2</sup>	0.976
Adjusted R <sup>2</sup>	0.966
F	91.1 (0.000)

The results of this regression analysis (Table 1) confirm a negative and statistically significant<sup>6</sup> relation between barrier levels and birth rates. In other words, Member States can increase the number of new service providers entering into their markets by reducing barrier levels.

On this basis, the potential impact of reducing barrier levels on birth rates can be estimated. Two alternative “reform” scenarios are considered:

- A “central scenario” in which barrier levels are assumed to be reduced to the *average* level across all EU Member States in a given sector;
- An “ambitious scenario” in which barrier levels are assumed to be reduced to the average of the “*top 5*” EU Member States, where the “*top 5*” represents the five countries with the lowest barriers in a given sector.

The results of these two scenarios for each of the four business services sectors analysed are shown in figure 11. Under the central scenario relative births intensity could increase by 2.7% to 6.5%<sup>7</sup> (EU weighted average), depending on the sector concerned. Under the ambitious scenario birth rates could increase by 10.0% to 18.3%<sup>8</sup> (EU weighted average).

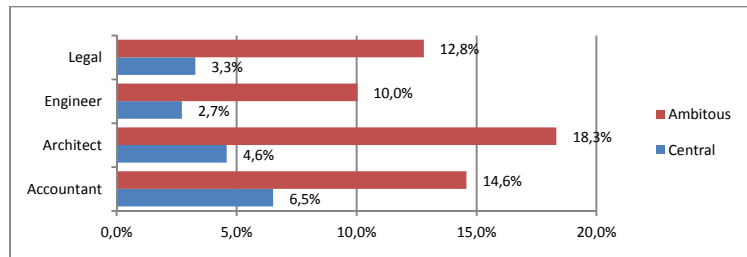
<sup>5</sup> The regression analysis covers the four business services sectors analysed and 28 Member States. Average of 2010-2012 birth rates per Member State and sector were used.

<sup>6</sup> Weighted OLS regression (with the size of a sector in each country, in terms of employment, as a weight) with two-dimensional fixed effects (country dummies and sector dummies, included but not reported in the table) based on 102 observations. The *p*-values are in the parentheses. The barrier level is statistically significant (at *p*-value well below 1%) and the model has a large explanatory power (high *R*-squared and *F*-statistic).

<sup>7</sup> This corresponds to the increase of the birth rate by between 0.24 percentage point and 0.43 percentage point. The impact in per cent is calculated as a relative increase in the birth rate.

<sup>8</sup> The corresponding increase of the birth rate: between 0.88 percentage point and 1.41 percentage point.

**Figure 11 – Estimated relative impact of reduced barriers on births intensity**

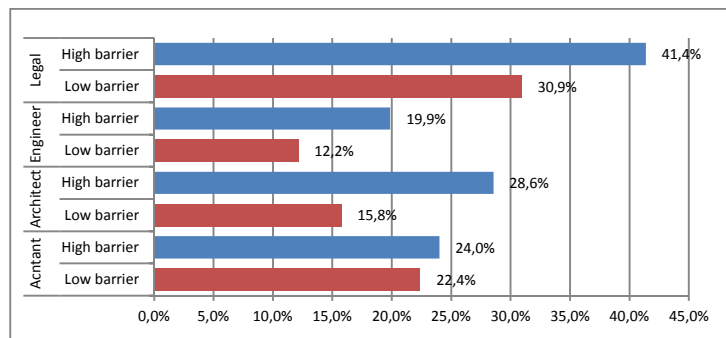


Source: Eurostat, Commission assessment, 2015

*Impact on profitability*

Figure 12 shows average profit rates<sup>9</sup> for Member States with more restrictive versus less restrictive barrier levels<sup>10</sup>. It shows that Member States with more restrictive barriers have on average higher profit rates in each of the four business services sectors analysed. This is also indicative of the fact that consumers in those Member States are paying higher prices for these services than consumers in Member States with lower barriers.

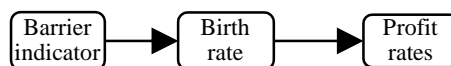
**Figure 12 – Average profit rates for high vs. low restrictive Member States**



Source: Eurostat, Commission assessment, 2015

Combining the results of the above econometric analysis on the link between barrier levels and birth rates with a recent Commission study quantifying the impact of birth rates on profit rates in the four sectors analysed,<sup>11</sup> the relationship between barrier levels and profit rates can be estimated. The underlying reasoning for this is that changes in barrier levels affect business dynamics and, through it, the profit rates of the sector.

**Graph 1 – Link barrier levels and profit rates**



This two-step approach (illustrated in graph 1) allows us to estimate the potential impact of reducing barrier levels on profit rates. For this, two alternative reform scenarios are again considered, the

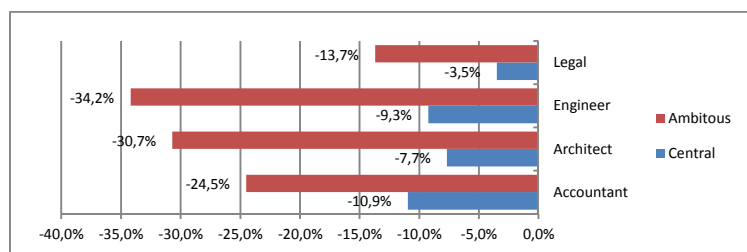
<sup>9</sup> Approximated by gross operating surplus/turnover

<sup>10</sup> The graph compares the (simple) average profit rates (average 2010-2012) for the 10 most versus the 10 least restrictive Member States in each sector. Some data is missing for CZ.

<sup>11</sup> Canton E., Ciriaci D., and Solera I., 'The Economic Impact of Professional Services Liberalisation', *European Economy, Economic Papers 533*, 2014

central scenario and the ambitious scenario illustrated above. In the central scenario, profitability in the sectors analysed could be reduced by 3.5% to 10.9%<sup>12</sup> (EU weighted average) depending on the sector concerned. In a more ambitious scenario, they could decrease by 13.7% to 34.2%<sup>13</sup> (EU weighted average).

**Figure 13 – Estimated relative impact of reduced barriers on profitability**

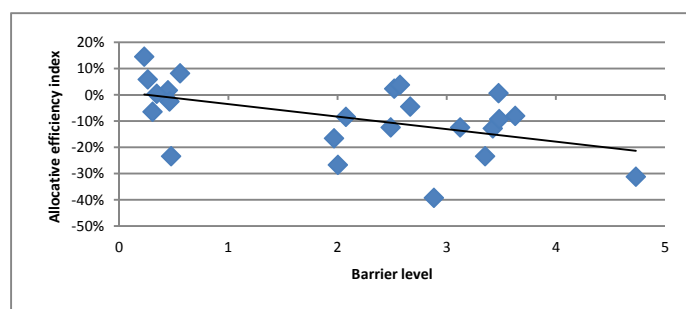


Source: Eurostat, Commission assessment, 2015

### *Impact on productivity / efficient resource allocation*

Allocative efficiency reflects the extent to which productive factors are allocated towards their most efficient use (based on the market shares of more versus less productive firms) and thereby constitutes a key measurement of the productivity and competitiveness of a given economic sector. The four sectors assessed are characterised by low and even negative levels of allocative efficiency in most Member States.

**Figure 14 – Relation allocative efficiency index and barrier levels**



Source: Eurostat, Commission assessment, 2015

Figure 14 shows the relationship between the allocative efficiency index<sup>14</sup> and barrier levels<sup>15</sup>. This indicates that Member States with higher barrier levels have a less efficient flow of resources to their most productive use, which has a negative impact on overall productivity in these sectors.

<sup>12</sup> This corresponds to the decrease of the profit rate by between 1.6 percentage point and 3.0 percentage points. The impact in per cent is calculated as a relative decrease in the profit rate.

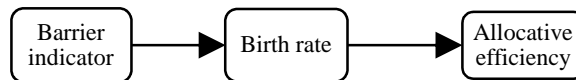
<sup>13</sup> The corresponding decrease of the profit rate: between 6.1 percentage points and 6.2 percentage points.

<sup>14</sup> This index is calculated on the basis of labour productivity and market shares statistics, capturing the extent to which more productive firms have higher market shares. The potential increases are expressed in percentage points given that in several cases this index has a negative value. For additional details on the Allocative Efficiency index see European Commission, 'Product Market Review 2013: financing the real economy', 2013

<sup>15</sup> The graph shows average allocative efficiency (AE) indices for the accounting and legal sector and for those Member States where this data is available. There is no disaggregated data available on AE for the architect and engineer sectors.

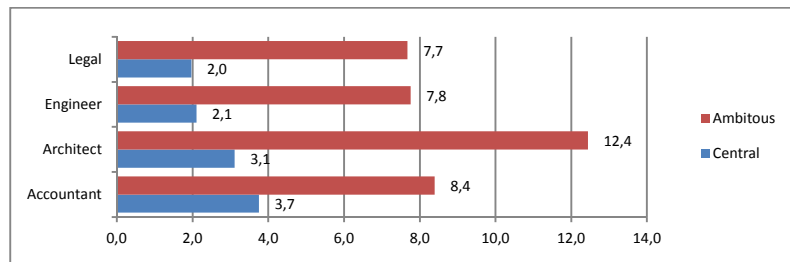
Again combining the results the econometric analysis on the link between barrier levels and birth rates with the above-mentioned recent Commission study also quantifying the impact of birth rates on allocative efficiency in the four business services sectors analysed, we are able to estimate the relationship between barrier levels and allocative efficiency. The underlying reasoning for this is that changes in barrier levels affect business dynamics and, through it, the allocative efficiency of the sector (see graph 2 below).

**Graph 2 – Link barrier levels and allocative efficiency**



This two-step approach allows estimating the potential impact of reducing barrier levels on allocative efficiency, again using the same two alternative “reform” scenarios as above (graph 2). In the “central scenario” the allocative efficiency index in the sectors analysed could be increased by 2.0 to 3.7 percentage points (EU weighted average) depending on the sector concerned. In a more ambitious scenario, they could increase by 7.7 to 12.4 percentage points.

**Figure 15 – Estimated impact of reduced barriers on allocative efficiency (percentage points)**



Source: Eurostat, Commission assessment, 2015

### Conclusion

The analysis undertaken confirms that reducing barrier levels in the four services sectors assessed would generate more intensive competition as a result of more firms entering the market. It would also lead to benefits for consumers in terms of lower prices as a result of reduced profit rates. Finally, the analysis confirmed that lower barriers would lead to more performant sectors characterised by a stronger allocative efficiency.

## V. Methodology for Barrier Assessment

This section gives further details on the methodology used to assess the 8 barriers included in the analysis of the four business services sectors covered.

### 1. Reserved Activities

The assessment of this barrier uses data from the OECD PMR indicator as a basis (professional services - [http://www.oecd.org/eco/reform/Database\\_NMR.xlsx](http://www.oecd.org/eco/reform/Database_NMR.xlsx)). Adjustments are nevertheless made on the basis of these scores, taking into account the more limited scope activities covered by this study.

For each of the four business services covered by this study, the analysis under this section covers whether or not there is an exclusive or shared exclusive right<sup>16</sup> to provide and the activities covered within scope.

### 2. Authorisation Requirements

The assessment of this barrier consists of eight parts (assessed for each of the four business services covered):

- Authorisation procedures for professionals: Assessment of authorisation procedures (for natural persons) in place for accessing the profession and for exercising specific activities within the scope of the profession, which go beyond a check of educational requirements. Authorisations are any procedures (irrespective of how they are called in national legislation) that require the applicant to obtain from a competent authority a formal or an implied decision concerning access to a service activity or the exercise thereof. Simple declarations or notifications that do not require the service provider to wait for a decision are not considered. The assessment refers to primary establishment cases.
- Authorisation procedures for companies: Assessment of authorisation procedures in place for practising as a legal person in addition to those concerning access by individual professionals. The assessment refers to primary establishment cases.
- Mutual recognition (secondary establishment): Assessment of whether there is a mutual recognition clause in place (horizontal or sector-specific) in case legal persons established in another Member State and authorised to provide the same services in their home Member State would set up a secondary establishment. In addition, the analysis assesses whether there is an established procedure to mutually recognise authorisations issued in other Member States. Mutual recognition of professional qualifications (applicable to natural persons only) and indemnity insurances (covered separately) are excluded from the scope of this assessment.
- Validity of authorisations: Assessment of the time validity of authorisations for the establishment of professionals.
- Tacit approval: Assessment of whether there is a 'silence is consent' rule (i.e. that licenses are issued automatically if the competent licensing office has not acted by the end of the statutory

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<sup>16</sup> A profession has an *exclusive right* over a particular activity when that activity is reserved by law solely to that profession. A profession has a *shared exclusive right* over an activity when that activity is reserved by law to that profession and other professions.

response period) that is systematically used. The assessment refers to establishment of professionals.

- Territorial validity: Assessment of whether authorisations are valid throughout the national territory of the Member State where it is issued. The assessment refers to establishment of professionals.
- Requirements for temporary cross-border service provision (professionals): Assessment of whether there are authorisation or notification procedures imposed for temporary cross-border providers (natural persons).
- Requirements for temporary cross-border service provision (companies): Assessment of whether there are authorisation or notification procedures imposed for temporary cross-border providers (legal persons).

### **3. Compulsory Chamber Membership**

This question assesses for the four business services covered whether membership in a professional organisation is compulsory in order to carry out the services activities within scope of this study. A declaration obligation to the professional chamber that does not entail membership is not taken into account. The analysis of this barrier covers both, establishment and temporary cross-border provision scenarios. It also covers both legal persons and natural persons.

### **4. Restrictions on Corporate Form, Shareholding Structures & Multidisciplinary Activities**

The assessment of this barrier analyses four types of restrictions to the establishment of a services provider (assessed separately for each of the four business services covered):

- Legal form requirements: restrictions regarding the legal form under which the profession can be exercised;
- Shareholding requirements: for those legal forms which include shareholders whether there are requirements on the shareholding structure and if so, the percentage of shares affected;
- Voting rights/management control: for those legal forms which include shareholders whether there are requirements on the voting rights and if so, the percentage of voting rights affected;
- Requirements on the joint exercise of professions: restrictions which would prevent a company from providing to its clients several types of services, some of which may be reserved to different professions (for example a company that would provide architecture, construction and real-estate services). Sometimes the prohibitions might result from incompatibilities imposed on the individual professionals themselves.

Finally, the analysis also covers an assessment of whether companies from other Member States are allowed to offer their services cross-border on a temporary basis without being obliged to comply with host country rules on legal form, shareholding requirements, and requirements on voting rights / management control.

## **5. Insurance**

The analysis of this barrier assesses whether professional indemnity insurance is mandatory and if so, whether there is a mutual recognition regime with relevant procedures in place. The assessment refers to establishment cases and covers the activities within scope for each of the four business services.

## **6. Tariff Restrictions**

The analysis of this barrier assesses whether the fees/prices that the profession charges for its services are regulated by the government or self-regulated by the profession itself. The assessment is done for each of the four professions covered.

The 2013 OECD's PMR data is used as a basis for this assessment but has been modified to reflect the most recent information available to the Commission with regard to compulsory tariffs in place and the scope of activities covered by this study.

## **7. Restrictions on Advertising**

The analysis of this barrier assesses whether there are restrictions on advertising and marketing by professionals. The assessment is done for each of the four business services covered. The 2013 OECD's PMR data is used for this assessment without amendments.

## **8. Points of Single Contact**

This assessment is based on the results of a recent study contracted by DG GROW which assessed PSC performance per Member State. Further details regarding the assessment of the points of single contact can be found here: [http://ec.europa.eu/growth/tools-databases/newsroom/cf/itemdetail.cfm?item\\_id=8342](http://ec.europa.eu/growth/tools-databases/newsroom/cf/itemdetail.cfm?item_id=8342).