

PERFORMANCE CHECK

TOURISM

Eurotrotters is a travel company established in an EU Member State that offers for sale travel packages (normally consisting of at least transport and accommodation which are sold in a combination) as well as single travel services sold separately. When selling travel packages, Eurotrotters acts both as a travel agency and as a travel organiser. They offer their products all over Europe. Sales are done face-to-face in establishments open to the public and also through online sales at their website and via their distribution of travel brochures sent by mail.

Eurotrotters has a liability insurance that covers their potential non-compliance with contractual obligations.

Eurotrotters also has insolvency protection for all the travel packages they sell (in line with the requirements of Article 7 of Directive 90/314 on package travel ("Package Travel Directive")). Their insolvency is secured through contributions to a national travel guarantee fund for cases of bankruptcy in the Member State of their primary establishment.

Eurotrotters has customers in your Member State to whom they provide their services online as well as by mail. Given the number of clients they have and their success in the market in your Member State, they are considering opening up a branch (i.e. a point of sale without legal personality).

Eurotrotters complies with the legislation in their Member State of establishment as regards information requirements on the travel packages that they sell. This legislation implements in verbatim the information requirements in the Package Travel Directive, thus the information requirements in their Member State do not go beyond the requirements of the Package Travel Directive.

Eurotrotters use standard contract terms which are printed on the back of the written contract form the customer is given when concluding a contract with Eurotrotters. These standard contract terms contain the following clause: "*Eurotrotters can at any moment transfer their rights and obligations arising from the contract to another service provider of their choice without the express agreement of the customer, provided this assignment does not affect the content, the quality of the service provided or the guarantees for the consumer.*"

For certain tours, Eurotrotters generally contracts the services of self-employed tourist guides established in their Member State who accompany groups of tourists on their trips to other Member States. Depending on the tours sold, an individual tourist guide would travel up to 30 times per year for several days each to your Member State.

Feedback and input at EU level about problems and difficulties encountered in relation to this scenario are welcome and may be sent to the European Commission at the following address, by 15 October 2011:

markt.e1@ec.europa.eu

You are free to use any format you deem appropriate without necessarily following the questionnaire. Only public administrations are expected to reply to the detailed list of questions. These are made available to stakeholders to illustrate the issues under review.

QUESTIONNAIRE FOR THE TOURISM SCENARIO

When providing replies to this questionnaire, please indicate the legislation, including if applicable regulation by professional bodies that Eurotrotters has to comply with in your Member State regarding the issues set out below and indicate whether there are any legal or administrative obstacles to any of the activities or the way Eurotrotters carries out its business as explained.

PART I - ESTABLISHMENT - OPENING OF A POINT OF SALE IN YOUR MEMBER STATE

[Titles III and IV of Directive 2005/36/EC on the recognition of professional qualification and Article 10(4) Services Directive]

1. PROCEDURES TO FOLLOW CONCERNING THE RECOGNITION OF PROFESSIONAL QUALIFICATIONS

1.1	Does the activity of travel agent constitute a regulated profession (within the meaning of Article 3 of Directive 2005/36) in your Member State?
	Please reply
	If the profession of travel agent is a regulated profession in your Member State, please specify which are the professional qualifications required to access to or pursue the activity of travel agent
	Please detail DETAILED REPLY
1.2	How is the recognition of the professional qualifications (obtained in another Member State) of the professionals who will perform the activities ensured? What are the conditions for recognition?
	Please detail DETAILED REPLY

	<p>MEMBER STATE'S LEGISLATION APPLICABLE:</p> <p>Please provide detailed references (articles, sections etc.) regarding the relevant legislation that the professional has to comply with in your Member State regarding the issues set out in questions 1.1 and 1.2 (including if applicable regulation by professional bodies)</p>
--	---

[Article 14 of Directive 2005/36 on Professional qualifications]

1.4	<p>In case of substantial difference between the qualifications obtained in the Member State of origin of the professional and the qualifications required in your Member State, do you require an adaptation period or an aptitude test? Does the professional have the choice between an adaptation period or an aptitude test?</p>
	<p>Please detail DETAILED REPLY:</p>
	<p>MEMBER STATE'S LEGISLATION APPLICABLE</p> <p>Please provide detailed references (articles, sections etc.) regarding the relevant legislation that the professional has to comply with in your Member State regarding the issues set out in question 1.4 (including if applicable regulation by professional bodies)</p>

[Article 50 and annex VII of Directive 2005/36 on Professional qualifications]

1.5	<p>Which documents does your Member State require for the recognition of professional qualifications?</p>
	<p>Please detail DETAILED REPLY:</p>
	<p>MEMBER STATE'S LEGISLATION APPLICABLE</p> <p>Please provide detailed references (articles, sections etc.) regarding the relevant legislation that the professional has to comply with in your Member State regarding the issues set out in questions 1.5 (including if applicable regulation by professional bodies)</p>

2. LIABILITY INSURANCE AND INSOLVENCY SECURITY AND INFORMATION TO BE GIVEN TO CONSUMERS

[Article 5 of Directive 90/314/EEC on package travel]

2.1	Are there any insurance requirements laid down by legislation in your Member State with a view to covering Eurotrotters' legal liabilities?
	Please reply
	MEMBER STATE'S LEGISLATION APPLICABLE Please provide detailed references (articles, sections etc.) regarding the relevant legislation that Eurotrotters has to comply with in your Member State regarding the issues set out in question 2.1 (including if applicable regulation by professional bodies)
	Please detail DETAILED REPLY:

[Article 7 of Directive 90/314/EEC on package travel]

2.2	What are the requirements laid down in your Member State relating to the security to be provided in the event of Eurotrotters' insolvency (e.g. is insurance required for the sale of single travel services, too, or only for travel packages), in particular, whether and how compliance with the national law in Eurotrotters' MS of primary establishment is taken into account.
	Please detail DETAILED REPLY:
	MEMBER STATE'S LEGISLATION APPLICABLE Please provide detailed references (articles, sections etc.) regarding the relevant legislation that Eurotrotters has to comply with in your Member State regarding the issues set out in question 2.2 (including if applicable regulation by professional bodies)

[Articles 3, 4 and 8 of Directive 90/314/EEC on package travel]

2.3	Information that Eurotrotters is required to provide to the consumer in your Member State when selling package holidays
	MEMBER STATE'S LEGISLATION APPLICABLE Please provide detailed references (articles, sections etc.) regarding the relevant legislation that Eurotrotters has to comply within your Member State regarding the issues set out in question 2.3.1 to 2.3.4 (including if applicable regulation by professional bodies)
2.3.1	Which information is Eurotrotters required to provide to the consumer when selling package holidays <u>in brochures which are made public</u>?
	Please detail DETAILED REPLY:
2.3.2	Which information is Eurotrotters required to provide to the consumer when selling package holidays <u>before the contract is signed</u>?
	Please detail DETAILED REPLY:
2.3.3	Which information is Eurotrotters required to provide to the consumer when selling package holidays <u>before departure</u>?
	Please detail DETAILED REPLY:
2.3.4	Which information is Eurotrotters required to provide to the consumer when selling package holidays <u>in the contract</u>?
	Please detail DETAILED REPLY:

2.4	Do all the above-mentioned requirements stemming from the Package Travel Directive apply if Eurotrotters sells travel packages in situations other than a business to consumer contract (B2C) (e.g. where Eurotrotters sells packages to companies (B2B contracts) or to any entity that is not an individual consumer such as a charitable organisation or an educational trust.)?
	Please reply

	<p>MEMBER STATE'S LEGISLATION APPLICABLE:</p> <p>Please provide detailed references (articles, sections etc.) regarding the legislation relevant that Eurotrotters has to comply with in your Member State regarding the issues set out in question 2.4 (including if applicable regulation by professional bodies)</p>
--	--

3. CONTRACT TERMS

[Articles 3, 8 and Annex of Directive 93/13/EEC on unfair terms in consumer contracts]

3.1	Can Eurotrotters use the general contract term as described in the scenario in your Member State?
	Please reply
	<p>MEMBER STATE'S LEGISLATION APPLICABLE:</p> <p>Please provide detailed references (articles, sections etc.) regarding the legislation relevant that Eurotrotters has to comply with in your Member State regarding the issues set out in question 3.1</p>

4. (FOR FEDERAL OR QUASI FEDERAL COUNTRIES) OPENING OF A SECOND POINT OF SALE IN A DIFFERENT REGION IN THE TERRITORY OF YOUR MEMBER STATE

[Directive 2005/36/EC on the recognition of professional qualifications, Title III, and in particular Article 10(4) Services Directive]

[Articles 5 and 7 of Directive 90/314/EEC on package travel and Article 10(4) Services Directive l]

Eurotrotters would like to open a second point of sale in a different region in the territory of your Member State.

4.1	Is the profession of travel agent regulated in all regions in your Member State?
	Please reply
4.2	<p>If the profession is regulated in some of the regions (see question 4.1) but not in all of them, please explain what happens when:</p> <p>(a) a service provider is established in a region where the profession is regulated and wishes to provide services in the territory of a region where</p>

	<p>the profession is not regulated</p> <p>DETAILED REPLY</p> <p>(b) a service provider is established in a region where the profession is not regulated and wishes to provide services in the territory of a region where the profession is regulated</p> <p>Please detail</p> <p>DETAILED REPLY</p>
4.3	<p>In order to open a second point of sale in a different region in the territory of your Member State, are there any formalities to be complied with regarding the recognition of professional qualifications for the professionals managing the agency (if travel agencies/travel organisers are a regulated profession in your country)?</p>
	<p>Please reply</p>
	<p>Please detail</p> <p>DETAILED REPLY:</p>
	<p>MEMBER STATE'S LEGISLATION APPLICABLE:</p> <p>In this context, please provide detailed references (articles, sections etc.) regarding the legislation relevant that Eurotrotters has to comply with in your Member State regarding the issues set out in question 4.2 and 4.3 (including if applicable regulation by professional bodies)</p>
4.4	<p>In particular, are there any documents to be submitted or translations required?</p>
	<p>Please reply</p>
	<p>Please detail</p> <p>DETAILED REPLY:</p>

[Article 5 of Directive 90/314/EEC on package travel]

4.5	<p>In order to open a second point of sale in a different region in the territory of your Member State, are there any other insurance requirements (other than those applicable to the first point of sale) with a view to covering</p>
-----	--

	Eurotrotters' legal liabilities?
	Please reply
	<p>MEMBER STATE'S LEGISLATION APPLICABLE</p> <p>Please provide detailed references (articles, sections etc.) regarding the relevant legislation that Eurotrotters has to comply within your Member State regarding the issues set out in question 4.5 (including if applicable regulation by professional bodies)</p>
	<p>In case additional insurance requirements covering Eurotrotters' legal liabilities are required, please provide details:</p> <p>DETAILED REPLY:</p>

[Article 7 of Directive 90/314/EEC on package travel]

4.6	In order to open a second point of sale in a different region in the territory of your Member State, are there any other requirements (other than those applicable to the first point of sale) relating to the security to be provided in the event of Eurotrotters' insolvency (e.g. is insurance required for the sale of single travel services, too, or only for travel packages)?
	<p>Please detail</p> <p>DETAILED REPLY:</p>
	<p>MEMBER STATE'S LEGISLATION APPLICABLE</p> <p>Please provide detailed references (articles, sections etc.) regarding the relevant legislation that Eurotrotters has to comply with in your Member State regarding the issues set out in question 4.6 (including if applicable regulation by professional bodies)</p>

PART II - CROSS-BORDER SERVICES PROVISION VIA SENDING OF BROCHURES AND PER TELEPHONE OR MAIL

5. PROCEDURES THAT THE FIRM NEEDS TO FOLLOW CONCERNING THE RECOGNITION OF PROFESSIONAL QUALIFICATIONS OF THE PROFESSIONALS MANAGING THE AGENCY (IF TRAVEL AGENCIES/TRAVEL ORGANISERS ARE A REGULATED PROFESSION IN YOUR COUNTRY)

[Article 16 of Directive 2006/123/EC]

5.1	Are there any formalities to be complied with regarding the recognition of professional qualifications for the professionals managing the travel agency (who will not move to the territory of your Member State)?
	Please reply
	MEMBER STATE'S LEGISLATION APPLICABLE: In this context, please provide detailed references (articles, sections etc.) regarding the relevant legislation that Eurotrotters has to comply within your Member State regarding the issues set out in question 5.1 (including if applicable regulation by professional bodies)
	Please detail DETAILED REPLY:

6. LIABILITY INSURANCE AND INSOLVENCY SECURITY AND INFORMATION TO BE GIVEN TO CONSUMERS

[Article 5 of Directive 90/314/EEC on package travel]

6.1	Do you apply any insurance requirements to the cross-border provision of Eurotrotters with a view to covering its legal liabilities?
	Please reply
	MEMBER STATE'S LEGISLATION APPLICABLE: In this context, please provide detailed references (articles, sections etc.) regarding the relevant legislation that Eurotrotters has to comply within your Member State regarding the issues set out in question 6.1 (including if applicable regulation by professional bodies)

	<p>If requirements are imposed on cross-border service providers, how do you assess the need (and scope) of the additional liability insurance required? Please indicate whether and how compliance with the national law in Eurotrotters' MS of establishment is taken into account?</p> <p>DETAILED REPLY:</p>

[Article 7 of Directive 90/314/EEC on package travel]

6.2	<p>Do you apply any requirements on the security to be provided in the event of insolvency to the cross-border activities of Eurotrotters (e.g. is insurance required for the sale of single items of travelling, too, or only for travel packages)?</p>
	Please reply
	<p>MEMBER STATE'S LEGISLATION APPLICABLE:</p> <p>In this context, please provide detailed references (articles, sections etc.) regarding the relevant legislation that Eurotrotters has to comply with in your Member State regarding the issues set out in question 6.2 (including if applicable regulation by professional bodies)</p>
	<p>If requirements are imposed on cross-border service providers, how do you assess the need (and scope) of the additional liability insurance required? Please indicate whether and how compliance with the national law in Eurotrotters' MS of establishment is taken into account?</p> <p>DETAILED REPLY:</p>

[Articles 3, 4 and 8 of Directive 90/314/EEC on package travel]

6.4	<p>Are there any additional information requirements that Eurotrotters will have to comply with other than those imposed by the Package Travel Directive in order to offer travel packages in your Member State?</p>
	Please reply
	<p>MEMBER STATE'S LEGISLATION APPLICABLE:</p> <p>In this context, please provide detailed references (articles, sections etc.) regarding the relevant legislation that Eurotrotters has to comply within your Member State regarding the issues set out in question 6.4 (including if</p>

	applicable regulation by professional bodies)
	If so, please detail. DETAILED REPLY:

7. CONTRACT TERMS

[Articles 3 and 8 and Annex of Directive 93/13/EEC on unfair terms in consumer contracts. Article 8 states that Member States may adopt or retain the most stringent provisions compatible with the Treaty in the area covered by this Directive, to ensure a maximum degree of protection for the consumer]

7.1	Can Eurotrotters use the contract terms as described in the scenario when providing services in your Member State (considering that these terms are fully compliant with legislation in their Member State of establishment)?
	Please reply
	MEMBER STATE'S LEGISLATION APPLICABLE: In this context, please provide detailed references (articles, sections etc.) regarding the relevant legislation that Eurotrotters has to comply within your Member State regarding the issues set out in question 7.1
	If using the contract terms (as described in the scenario) is impossible when providing services into your Member State, please detail: DETAILED REPLY:

PART III- CROSS-BORDER SERVICES PROVISION VIA EUROTRROTTERS' WEBSITE AND PER E-MAIL
--

[Directive 2000/31/EC on e-commerce in particular Article 3 and the Annex]

8.1	<p>Considering the application of the e-commerce directive, please specify if the legal requirements imposed on Eurotrotters would be different from the ones applied for cross-border services without using electronic means (as discussed in Part II)?</p>
	<p>Please reply</p>
	<p>MEMBER STATE'S LEGISLATION APPLICABLE:</p> <p>In this context, please provide detailed references (articles, sections etc.) regarding the relevant legislation that Eurotrotters has to comply within your Member State regarding the issues set out in question 8.1 (including if applicable regulation by professional bodies)</p>
	<p>If the requirements imposed on Eurotrotters would be different in case of cross-border services provision via its website and per e-mail, please detail which specific requirements would apply:</p> <p>DETAILED REPLY:</p>

PART IV - CROSS-BORDER PROVISION OF TOURIST GUIDE SERVICES

9. PROCEDURES THAT THE SELF-EMPLOYED GUIDES WHOSE SERVICES ARE HIRED BY EUROTROTTERS NEED TO FOLLOW CONCERNING THE RECOGNITION OF THEIR PROFESSIONAL QUALIFICATIONS (IF TOURIST GUIDES ARE A REGULATED PROFESSION IN YOUR COUNTRY)

[Title II, Articles 5 to 7 of Directive 2005/36/EC on the recognition of professional qualifications]

9.1	Are tourist guides a regulated profession in your Member State (as defined in Directive 2005/36/EC on the recognition of professional qualifications)?
	Please reply
9.2	If tourist guide is a regulated profession in your Member State, please specify which are the professional qualifications required to access to or pursue the activity of tourist guide. Is there any reference to standards in legislation?
	Please detail DETAILED REPLY
9.3	How does your Member State distinguish in practice between cross-border service provision and establishment? (in particular referring to the information given above on the continuity, frequency and duration of the tourist guides activities in your Member State)
	MEMBER STATE'S LEGISLATION APPLICABLE: In this context, please provide detailed references (articles, sections etc.) to substantiate the reply in question 9.3 (including if applicable regulation by professional bodies)
	Please detail DETAILED REPLY:

[Article 7 of Directive 2005/36 on Professional qualifications]

9.4	Is there any annual prior declaration to be sent? Which documents should be sent with this declaration? Which information must the prior declaration contain?
-----	--

	Please reply
	<p>MEMBER STATE'S LEGISLATION APPLICABLE</p> <p>Please provide detailed references (articles, sections etc.) regarding the relevant legislation that tourist guides have to comply with in your Member State regarding the issues set out in question 9.4 (including if applicable regulation by professional bodies)</p>
	If an annual prior declaration is required, please detail which documents should be sent with this declaration and which information must the prior declaration contain.
	DETAILED REPLY:

[Article 6 of Directive 2005/36 on Professional qualifications]

9.5	In particular is there any obligation for the professional to register pro forma with a professional Chamber? Which formalities have to be completed by the professional? Which documents have to be sent?
	Please reply
	<p>MEMBER STATE'S LEGISLATION APPLICABLE</p> <p>Please provide detailed references (articles, sections etc.) regarding the relevant legislation that the professional has to comply with in your Member State regarding the issues set out in question 9.5 (including if applicable regulation by professional bodies)</p>
	If such an obligation is imposed and formalities and/or documents required, please detail. DETAILED REPLY:

[Article 5 of Directive 2005/36 on Professional qualifications]

9.6	What happens if the profession is not regulated in the Member State of establishment of the tourist guides? Does your Member State require that the professional has exercised the same profession in his Member State of establishment for at least 2 years within the last 10 years before allowing any provision of services?
-----	---

	Please reply
	<p>MEMBER STATE'S LEGISLATION APPLICABLE</p> <p>Please provide detailed references (articles, sections etc.) regarding the relevant legislation that the professional has to comply with in your Member State regarding the issues set out in question 9.6 (including if applicable regulation by professional bodies)</p>
	<p>Please detail.</p> <p>DETAILED REPLY:</p>
9.7	<p>If reply to question 9.6 is positive, how do you control that the professional has exercised the same profession in his Member State of establishment?</p> <p>Please detail the criteria/procedures you apply.</p> <p>DETAILED REPLY:</p>
	<p>MEMBER STATE'S LEGISLATION APPLICABLE</p> <p>Please provide detailed references (articles, sections etc.) regarding the relevant legislation that tourist guides have to comply with in your Member State regarding the issues set out in question 9.7 (including if applicable regulation by professional bodies)</p>
9.8	<p>Does your Member State foresee an exemption to the requirement of two years prior experience in case of regulated education and training in the Member State of establishment?</p>
	<p>MEMBER STATE'S LEGISLATION APPLICABLE</p> <p>Please provide detailed references (articles, sections etc.) regarding the relevant legislation (including if applicable regulation by professional bodies)</p> <p>Please reply</p>
	<p>Please detail.</p> <p>DETAILED REPLY:</p>

9.9	<p>For federal or quasi federal countries, please specify what happens if tourist guides are a regulated profession at regional level. Does one declaration (see</p>
-----	---

	question 9.4 above) or one registration (see question 9.5 above) allow for the provision of services in the entire national territory?
	Please reply
	<p>MEMBER STATE'S LEGISLATION APPLICABLE:</p> <p>In this context, please provide detailed references (articles, sections etc.) regarding the relevant legislation that the professionals have to comply within your Member State regarding the issues set out in question 9.9 (including if applicable regulation by professional bodies)</p>

9.10	Please explain how compliance with the above-mentioned obligations is checked on the grounds by authorities in your Member State (regular checks at buses, museums, etc.)
	DETAILED REPLY:

9.11	Are there any places that cannot be shown by the tourist guide providing cross-border services without the assistance of a tourist guide established in your Member State?
	Please reply
	<p>MEMBER STATE'S LEGISLATION APPLICABLE:</p> <p>In this context, please provide detailed references (articles, sections etc.) regarding the relevant legislation that Eurotrotters has to comply within your Member State regarding the issues set out in question 9.9 (including if applicable regulation by professional bodies)</p>
	<p>If the reply to question 9.11 is positive, please explain the reasons why.</p> <p>DETAILED REPLY:</p>