

## Mutual evaluation of regulated professions

### Overview of the regulatory framework for sports instructor

*Report based on information transmitted by Member States  
and on the meeting of 4 June 2015*

#### 1. CONTEXT AND AIM OF MUTUAL EVALUATION EXERCISE

In June 2012, in its Communication on the implementation of the Services Directive, the Commission stressed the importance that the framework for professional services needs to remain fit for purpose. Directive 2005/36/EC on the recognition of professional qualifications<sup>1</sup> (“Directive 2005/36/EC”), amended in November 2013, addresses certain issues and lays the basis for a new strategy that requires each Member State to actively perform a review and to modernize their regulations on qualifications governing access to professions or professional titles.

Following the work plan presented by the Commission in its Communication of 2 October 2013<sup>2</sup> on evaluating national regulations on access to professions, and in particular the idea that Member States should not work in isolation when screening their legislation, but should be able to discuss with other countries and compare their systems, this report presents an overview of the information communicated to the Commission by Member States, Iceland, Liechtenstein, Norway and Switzerland either through specific reports or through information uploaded in the database for regulated professions, as well as of the discussions which took place during the meeting of 4 June 2015<sup>3</sup>. This report is established with the aim to facilitate the mutual evaluation exercise and is therefore neither a comprehensive report on the sector nor on the specific profession.

In this context the Commission would like to recall that in order to improve access to professions and to facilitate the mobility of qualified professionals within the internal market as well as the cross-border provision of professional services, a more flexible and transparent regulatory environment in Member States should have a positive impact on the employment situation, in particular for young people, as well as enhancing economic growth.

<sup>1</sup> Directive 2005/36/EC of the European Parliament and of the Council of 7 September 2005 on the recognition of professional qualifications, OJ L 255, 30.9.2005, as amended by Directive 2013/55/EU of the European Parliament and of the Council of 20 November 2013 amending Directive 2005/36/EC on the recognition of professional qualifications and Regulation (EU) No 1024/2012 on administrative cooperation through the Internal Market Information System (‘the IMI Regulation’) OJ L 354, 28.12.2013.

<sup>2</sup> Communication from the Commission to the European Parliament, the Council and the European Economic and Social Committee on Evaluating national regulations on access to professions COM(2013)676 final, 2.10.2013.

<sup>3</sup> For the purpose of this meeting Member States were organised in 4 different groups of 8 Member States (+ Iceland, Liechtenstein, Norway and Switzerland). Groups were organised as follow:  
*Group 1:* Estonia, Cyprus, Denmark, France, Liechtenstein, Romania, Slovenia, Sweden.  
*Group 2:* Austria, Bulgaria, Finland, Luxembourg, Malta, Norway, Slovakia, United Kingdom,  
*Group 3:* Croatia, Greece, Hungary, Iceland, Italy, Latvia, The Netherlands, Spain.  
*Group 4:* Belgium, Czech Republic, Germany, Ireland, Lithuania, Poland, Portugal, Switzerland.

Based on the conclusions of the review exercise, by 18 January 2016, Member States had to submit a report to the Commission in accordance with Article 59(6) of Directive 2005/36/EC.

## 2. ECONOMIC AND STATISTICAL INFORMATION

### 2.1. Introduction

In the NACE classification of economic activities Rev.2<sup>4</sup>, the activities of sports instructors are included into the category 85.51 "Sports and recreation education". This category includes the following activities: provision of instruction in athletic activities to groups of individuals, such as by camps and schools; overnight and day sports instruction camps. It does not include sports instruction in the context of academic schools, public/private schools, colleges and universities. Instruction may be provided in diverse settings, such as the unit's or client's training facilities, educational institutions or by other means. Instruction provided in this class is formally organised.

In the NACE classification there is another category, 93.1 entitled "Sports activities". It includes the operation of sports facilities and the activities of sports clubs (professional or amateur), fitness activities and other sports activities (promoters, athletes, referees, regulating bodies, promotion, fishing/hunting, mountain guides and ski instructors).

The International Labour Organisation manages the International Standard Classification of Occupations (ISCO)<sup>5</sup>. In this classification, the profession of sports instructor classified under the category 342 Sports and fitness workers. This category is further divided into three occupations groups: Athletes and sports players (3421); Sports coaches, instructors and officials (3422); and Fitness and recreation instructors and program leaders (3423).

ISCO defines group 3422 as follows: Sports coaches, instructors and officials who work with amateur and professional sportspersons to enhance performance, encourage greater participation in sport, and organize and officiate in sporting events according to established rules. The following list of activities for the professions of sports coaches and instructors (excluding officials) is given:

- identifying strengths and weaknesses of athletes or teams;
- planning, developing and implementing training and practice sessions;
- developing, planning and co-ordinating competitive schedules and programs;
- motivating and preparing athletes or teams for competitive events or games;
- formulating competitive strategy, developing game plans and directing athletes and players during games or athletic events;
- analysing and evaluating athletes' or teams' performances and modifying training programs;
- monitoring and analysing technique and performance, and determining how future improvements can be made.

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<sup>4</sup> NACE is the European standard classification of economic activities, see [http://ec.europa.eu/eurostat/statistics-explained/index.php/NACE\\_background](http://ec.europa.eu/eurostat/statistics-explained/index.php/NACE_background)

<sup>5</sup> <http://www.ilo.org/public/english/bureau/stat/isco/isco08/index.htm>

According to ISCO, the professions falling under the category 3423 Fitness and recreation instructors and program leaders correspond to the following definition: fitness and recreation instructors and program leaders lead, guide and instruct groups and individuals in recreational, fitness or outdoor adventure activities. Examples of professions in this group include fitness instructor, outdoor adventure guide, underwater diving instructor.

The description of activities given by ISCO for the following:

- planning and carrying out recreational and fitness activities;
- monitoring recreational, sports or fitness activities to ensure safety and provide emergency or first aid assistance when required;
- evaluating and monitoring clients' abilities and fitness and recommending activities;
- demonstrating and teaching body movements, concepts and skills used in fitness routines and recreational activities;
- instructing in the use of equipment;
- explaining and enforcing safety procedures, rules and regulations.

## **2.2. Economic and statistical data**

The sector in question is relatively small in economic terms and so the availability of figures is limited. In 2012, the European Commission published a study into the contribution of sports to economic growth and employment<sup>6</sup>. Although for the purpose of the study 'sport' is understood in a wider context than the more narrow focus of this paper, some of the results focused on sport activities only and can therefore provide an interesting overview of the relative importance of this sector to the economy across Member States and at the European level.

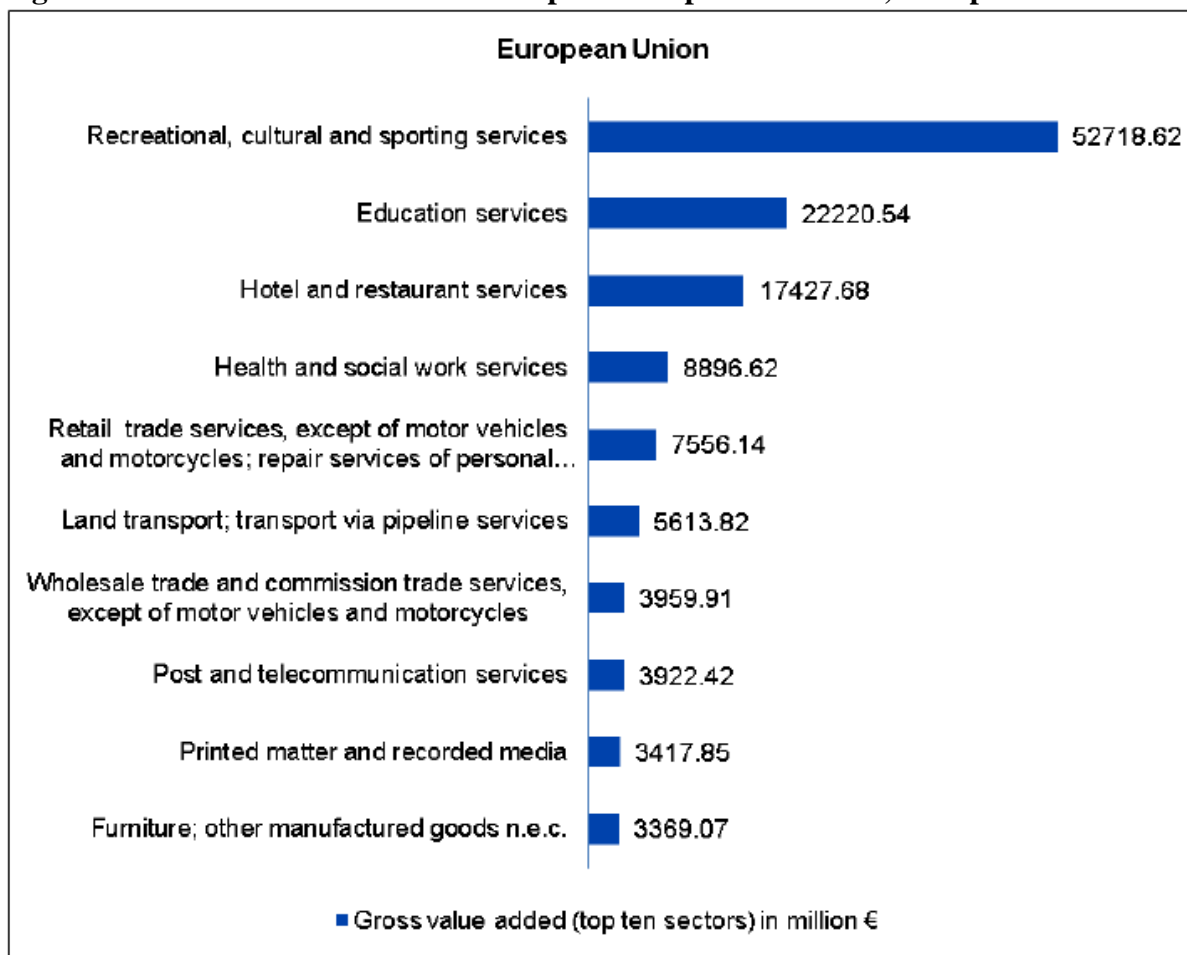
The statistical definition used in the 2012 study comprises the activities found under previously used NACE category 92.6 and defined as "Sporting activities"<sup>7</sup>. This includes the activities of sports instructors but also those related to the operation of sports facilities and sports professionals. On the basis of this definition, the authors of the study estimated sporting activities at a European level to account for 0.28% (€ 28.16 bn when study was published) of all value-added produced. Enlarging the definition of sports activities, to encompass activities which are necessary to take part in sporting activities or which require sport as an input, the estimated contribution of sports to the economy was estimated at 1.76% of GDP (€173.86 bn).

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<sup>6</sup> <http://bookshop.europa.eu/en/study-on-the-contribution-of-sport-to-economic-growth-and-employment-in-the-eu-pbNC0213128/>

<sup>7</sup> 92.6 refers to the version rev 1.1 of the NACE classification.

**Figure 1 - Gross value added at market prices of sports activities, European Union**

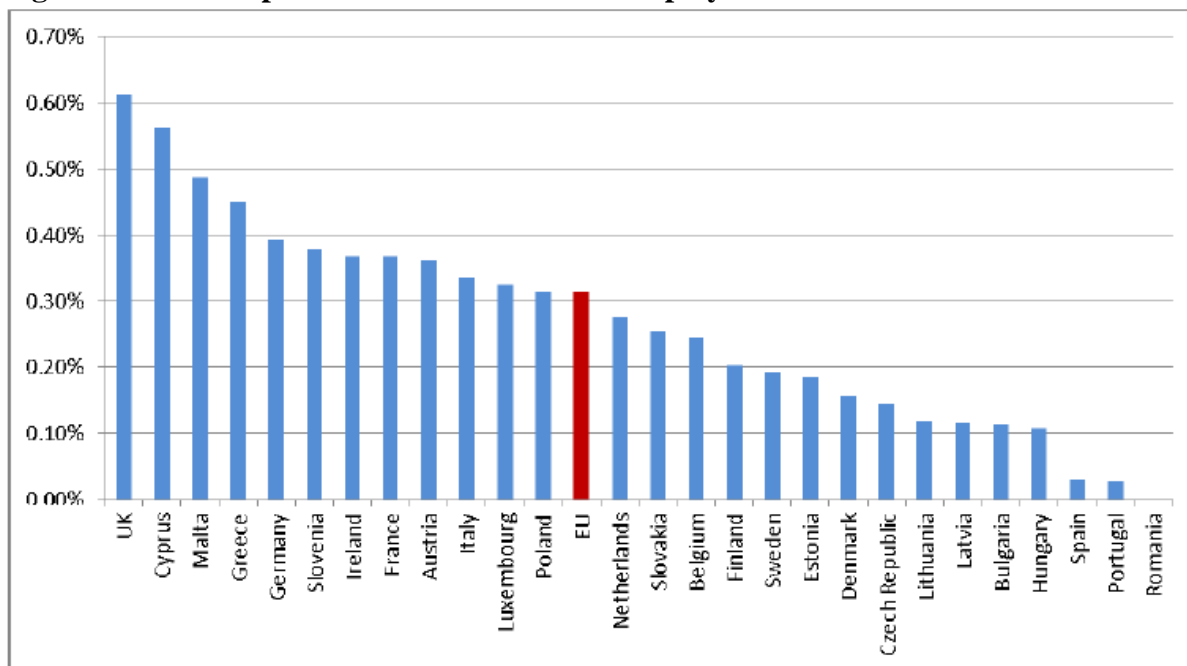


Source: SportsEconAustria, 2012

Figure 1 lists the most important sectors which through trickle down effects contribute to the overall sports-related value-added. The most important sector relates to recreational, cultural and sporting activities. This is followed by sports education activities. The study reports the exceptionally high share of sports education in sport-related gross value-added in **Denmark, Estonia and Latvia** compared to the other Member States. Both **Estonia** and **Latvia** regulate the profession of sports instructor but **Denmark** does not. The third most important sector refers to hotel and restaurant services, for which active sport holidays play an important role in explaining the relevance of this sector for sports. According to this study, this aspect is particularly relevant for **Austria, Germany, Italy** and **Sweden**. Again, here no correlation can be made to the regulation or not, with **Sweden** not regulating the profession and with **Austria, Germany** and **Italy** having specific professional qualifications for sports instructors (mainly winter or mountain sports).

The study also looks at the interrelation between sectors. For this purpose, it calculates sectoral multipliers which measure the degree to which the sectors in an economy are interrelated by calculating the impact to total economic activity generated by a one-unit change in one sector. According to their calculations, sports education has a relatively low multiplier, i.e. impact on the creation of value in other sectors, because of its limited consumption of intermediate goods compared to wages paid to those employed in the sector. It is however considered as an important sector in the whole network of value creation in sports, especially in the Nordic and Baltic countries.

**Figure 2 Share of sports activities in national employment**



HR, RO: no data available

Source: SportsEconAustria, 2012

In terms of employment, for the EU as a whole, on the basis of the NACE rev 1.1 category 96.2, sports activities contribute to 0.31% of total employment corresponding to 659 800 persons employed (using the broader definition as explained above, sports-related employment represents 2.12% of total employment or 4 460 900 persons employed). **UK, Cyprus, Malta and Greece** have the highest values. **Romania, Hungary, Spain, Portugal and the Nordic countries** have lower shares than the EU average. From these figures, a relationship between the level of regulation and the size of the sector in overall employment cannot be established. Both countries regulating sports instructors (e.g. **Cyprus, Greece, Slovenia, France**) and countries without entry conditions to the sports instructor profession or limited to a few specific sports (e.g. **UK, Malta, Germany**) have the share of sports activities in total employment contributing more than the EU average. At the same time, countries like **Spain and Portugal** which also regulate access to the profession have amongst the lowest contribution of sports activities to total employment.

Country	Employment	Wages (monthly)	Companies	Additional information
Austria	Tyrol: about 7000 ski instructors, 753 mountain and ski guides, 343 canyon guides, 1510 mountain hiking guides Carinthia: 100 mountain guides, 75 canyoning guides and around 170 hiking guides		Tyrol: 325 ski schools, incl. 106 one-man ski schools Carinthia: 15 alpine schools	800 000 guests

Belgium (Flanders)	22 844 coaches with a coach qualification of which : - minimum 14.074 hold the qualification of 'Initiator', - minimum 1.395 hold the qualification of 'Instructor B', - minimum 4.706 hold the qualification of 'Trainer B' - minimum 2.666 hold the qualification of 'Trainer A'.			In Belgium a total of 720.000 people are member of 820 health and fitness clubs, which is the equivalent of 6,4% of the total population and 7,7% of the population 15 years and above
Bulgaria	2 000 sports coaches/instructors 1000 fitness instructors and related (2010)	Sport coaches/instructors: 711 BGN; fitness instructors: 321 BGN (excl. extraord. Bonuses and social benefits)		
Denmark	133 000 voluntary sports instructors (2010)	Mostly done on voluntary basis unpaid but also paid in certain organisations and elite sport		
Germany (mainly Bavaria)	Ca. 2000 certified Skiing instructors; Ca. 13000 skiing instructors with lower Qualifications (organized in the DSLV) able to work in professional Skischools.		270 "professional Skischools" organized in the DSLV	
Spain	189.400 sports coaches/instructors and related		931 Companies of Sports activities, sports clubs and gyms	
Finland		Sports manager: 3300-4600 EUR Sports instructor 2100-2500 EUR Recreation secretary: 1700 - 2500 EUR		
Hungary	Manager of sports and recreational activities: 127 persons Qualified coach, sports organiser and conductor: 207 persons	Manager: 407,095 HUF Coach/sports organiser etc: 241,160 HUF		
Ireland	Since 1993, over 120,000 coaches/instructors have been certified under the CDPI by			

	Coaching Ireland.			
Italy				Sports represents between 2.7 and 3.0 points of GDP
Lithuania	About 2500 physical education and sports specialists			83% of those employed have a higher education degree, the rest are licence holders
Malta			49 licensed dive centres in Jan 2015	101 000 recreational divers expected in 2015
Netherlands	150 000 employed in 2010 in the sector			The sector accounts for 0.9% of GDP, 10.5 billion euro in 2010. Revenue of sports providers in this sector was 2.8 billion euros in 2010
Norway	18 659 employed in 2013	38 600 NOK ( 4 418 EUR)		
Poland	Sports instructors in sports clubs: 15 192 in 2012			75 000 persons obtained a qualification as sports instructor
Portugal				17 728 fitness instructors titles issued; 3032 training update courses certificated
Sweden	5935 sports instructors in 2013 (16-64 years old)	2100 EUR		
Slovakia		Sport trainers: 808 euros Fitness instructors: 626 euros (2014)	106 accredited education institutions	

Source: national sector reports

### 3. REGULATION IN MEMBER STATES

#### 3.1. Number of regulating Member States

The national reports and/or the information notified through the regulated professions database do not use a consistent terminology. Sometimes sports instructor or sports coach are considered to have the same meaning (for instance in the **UK**) while some Member States only refer to sports teachers (**Luxembourg**) or use other terms like animator or trainer. More confusion is added by the range of activities performed by the different categories notified under the title of sport instructor. In order to have a comprehensive view of the regulation in the different Member States, the report therefore includes information on the different professions notified by the Member States, independently of the terminology used, under the term “sport instructor”.

According to the regulated profession database and the reports submitted by Member States<sup>8</sup>, **the profession of sports instructor is regulated in 19 Member States: Austria, Croatia, Cyprus, Czech Republic, Estonia, France, Germany, Greece, Hungary, Italy, Latvia, Lithuania, Luxembourg (only the swimming instructor), Malta (only diving instructor), Portugal, Romania, Slovakia, Slovenia and Spain. Switzerland** also regulates this profession. The profession is not regulated in 9 Member States (**Belgium<sup>9</sup>, Bulgaria<sup>10</sup>, Denmark, Finland, Ireland, The Netherlands, Poland, Sweden and United Kingdom**), **Iceland<sup>11</sup>** and Norway.

**No information** is available for **Liechtenstein**.

It is interesting to note that from the 106 professions notified under the regulated profession database, 54 were notified by **France<sup>12</sup>**. While certain countries regulate the profession of sports instructor without a reference to a specific sport (e.g. **Bulgaria, Cyprus, Czech Republic, Estonia**), other countries have in place regulations for specific sport disciplines (winter sports, mountain sports, water sports, track and field, fitness, etc.) – for instance, **France, Austria, Germany, Portugal and Switzerland**.

#### *Member States regulating the profession of sports instructors for all sports*

Some countries indicate that the profession is organised by different levels (i.e. **Hungary, Italy and Slovakia**). For instance, in **Hungary** the activity of teaching of sport motions and coaching of sport trainings/practices is pursued at multiple levels: sports instructor, sports trainer, physical educator and trainer, and specialised sports coach.

In the national report, **Italy** indicated that the profession of sports instructor is not regulated. However, later in the process of transposition of the Directive 2013/55/EU Italy notified under the regulated profession database the following professions: fencing master, athletic trainer expert, master coach, apprentice coach, senior coach, coach and jockey (besides the one of ski instructor, already notified).

Some countries regulate the profession of sports instructor both for the activities developed in the education sector (i.e. schools) and sports clubs (i.e. **Estonia**), while the **Czech Republic** distinguishes between entrepreneurs and employees providing physical education and sport services, with different qualification requirements and different reserves of activities.

Several countries indicated that they have different professions of sports instructor and sports coach (**Croatia, Italy, Latvia, Lithuania, Spain** for the Autonomous Regions of Catalonia, La Rioja and Extremadura). Contrary to this, **Romania** regulates only the profession of sports coach.

For all these countries, it is not clear if there is additional regulation of the profession by specific sport discipline.

#### *Member States regulating the profession of sports instructors for specific sports*

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<sup>8</sup> No reports were submitted by Greece, Latvia and Liechtenstein.

<sup>9</sup> However, Belgium regulates the education. See section 3.5.

<sup>10</sup> However, Bulgaria regulates the education. See section 3.5.

<sup>11</sup> However, Iceland regulated the education. See section 3.5.

<sup>12</sup> Among the professions notified by France, we can quote: golf animator/trainer, martial arts trainer, ski instructor, gymnastics, fitness and strength activities animator/trainer, team sports animator/trainer, horse-riding trainer, potholing instructor (moniteur de speleologie), parachuting instructor, mid-mountain guide, high mountain guide, sailing instructor, swimming instructor.



Some Member States regulate in particular winter sports or mountain sports: **Austria** (ski and snowboarding instructors, cross country skiing instructor and sports climbing instructors), **Germany** (Bavaria - snowsport instructor including ski instructor and snowboarding instructor), **Italy** (ski instructor) and **Switzerland** (winter sports instructor, climbing instructor, river rafting and white water rafting instructor).

**France** notified a wide range of sport instructors as the regulation is done both according to the sports sector (e.g. cycling activities trainer, horse-riding trainer, swimming instructor, ski instructor) as well as horizontally for all sports (e.g. animator for all sports). The animator for all sports only performs initiation and discovery of the basics of sports activities, with the exception of the sports training. Moreover, France distinguishes between animator (21 professions notified in the Regulated Professions Database), coach (19 professions notified) and instructors (14 professions). However, France builds this variety of professions on a common and unique concept of sport educator. In a similar manner, **Cyprus** regulates 17 sport disciplines considered to need specific qualifications (e.g. martial arts).

According to the regulated professions database, the profession of diving instructor is regulated in **Greece, Malta, Portugal and Spain**.

**Portugal** regulates also the profession of fitness instructor. **Luxembourg** regulates only the swimming instructor.

*Member States not regulating the profession of sports instructor*

**Iceland** does not regulate the profession. However, the education programme is organised by 5 levels according to which activities may be performed. Level 1 prepares the instructor to work with the training of children and young persons, level 2 in training youth and grown-ups for competitive sports and level 3 to train teams who compete for sports clubs. No information regarding levels 4 and 5 is available.

**Finland, The Netherlands, Poland, Sweden and United Kingdom** do not regulate the profession of sports instructor.

Country	Reserved activities	Duration of education/training	Method to obtain qualification	Mandatory traineeship	State exam	Mandatory registration in professional bodies
<b>Austria</b>	Y	1 year	Vocational training	n	n	n
<b>Belgium (not regulated)</b>	NA	Level 5 EQF (for personal trainer - FL)	Variable	n	n	n
<b>Bulgaria</b>	Y	Level 4 EQF Level 5EQF	Vocational secondary (?) and post-secondary education	n	y	n
<b>Cyprus</b>	Y	PS3 - Diploma of post-secondary level (3-4 years)	General or vocational Post-secondary education	n	n	n
<b>Czech Republic</b>	Y	Variable (from 160hours to 3 years)	Vocational post-secondary/Higher education	n	n (possible for entrepreneurs)	n

<b>Denmark (not regulated)</b>	NA	Variable	Variable	n	n	n
<b>Germany</b> (ski/snowboarding instructor) – only Bavaria	Y	150 days divided on weekly modules over 3 years	Vocational secondary education	y	y	n
<b>Greece</b> (diving instructor)	No information available	No information available	No information available	No information available	No information available	No information available
<b>Spain</b>	Y	3 years	General Secondary Education /Post Secondary Education	y	n	y
<b>Estonia</b>	Y	Level 3 EQF	Secondary education+specific training	No information available	No information available	No information available
<b>Finland</b> (not regulated)	NA	Variable	Vocational Secondary Training/Competence-based Test/Vocational Adult Education/University (Bachelor+Master)	n	n	n
<b>France</b>	Y	100-150h/12 months/2 years/3 years/5 years	Vocational secondary and post secondary education	y	n	n
<b>Hungary</b>	Y	400-600hours/3 years	Vocation Secondary level/Higher Education (Bachelor, Master)	y	y	n
<b>Croatia</b>	Y	300 hours	Vocational post-secondary education level	n	n	n
<b>Ireland (not regulated)</b>	NA	no information available	no information available	n	n	n
<b>Italy</b> (ski instructor)	Y	12/14 months	General secondary education and training course	y	n	n
<b>Italy</b> (coach/trainer)	Y	200 hours/from 1 to 4 years	Vocational training after general or vocational education level/ secondary education level is the title necessary to access the training course	y	n	y
<b>Lithuania</b>	Y	700 hours	Bachelor, Master	y	y	N (but licence)
<b>Latvia</b>	Y	320 hours	Vocational education	n	y	n
<b>Luxembourg</b> (only swimming instructor)	No information available	No information available	No information available	No information available	No information available	No information available
<b>Malta</b> (diving instructor)	No information available	No information available	No information available	No information available	No information available	No information available
<b>Netherlands</b> (not regulated)	NA	Variable (few weeks to 4 years)	Vocational secondary level/Higher education	n	n	n
<b>Poland</b> (not regulated)	NA	Level 3 EQF (as planned)	General post-secondary education	n	n	n
<b>Portugal</b>	Y	Level 5 /Level 6 EQF	General or vocational Post-secondary education	y	n	y
<b>Romania</b> (sport coach)	Y	2 years	Vocational post-secondary education	y	n	n
<b>Slovenia</b>	Y	160h/at least 4 years	Secondary level/Higher Education	y	y	n
<b>Slovakia</b>	Y	50h/100h/150h/3 years/5 years	General and vocational secondary and post-secondary education	n	n	y
<b>United Kingdom</b> (not regulated)	NA	Variable	Vocational education	n	n	No information available

Liechtenstein (no info)						
Iceland (not regulated)	NA	No information available	No information available	n	n	n
Sweden (not regulated)	NA	Variable	Variable	n	n	n
Switzerland	Y	Variable	General or Vocational Post-secondary level	n	n	n
Norway	NA	Variable	Post-secondary education (Bachelor, Master, PhD)	n	n	n

### 3.2. Related professions

#### Sport (physical education) teacher

This profession seems to be regulated in most Member States. However only a few Member States provided the relevant information in their reports: **Austria, Estonia, Luxembourg, Netherlands, Spain, UK and Norway**. Whereas in most of the countries that mentioned this profession, a sports teacher is understood as providing activities in public/private schools, Spain explains that a sport education teacher is rather a professional that teaches study programmes that lead to a sports instruction qualification ["Tecnico deportivo" (Sport technician) and "Tecnico deportivo superior" (Superior sport technician)].

Generally, the qualification requirements for the profession of sport teacher are higher than for sport instructors, which could imply that sport teachers could exercise the activities performed by the latter. However, no country indicated this.

#### Mountain guides, ski guides, canyoning guides, mountain hiking guides

In some Member States (**Austria, Germany (Bavaria), Italy, Switzerland**), while the guiding element is predominant, some of professionals may also perform activities that are normally performed by sports instructors. In the Tyrol province, for instance, mountain and skiing guides, mountain hiking guides and canyoning guides are authorised to "commercially instruct people in mountaineering and ski mountaineering skills, mountain hiking, canyoning and sport climbing including imparting knowledge about such areas".

#### Sports/Fitness technical director

This profession is only regulated in **Portugal and Spain**. In Portugal, among other activities, a fitness technical director directs and supervises fitness instructors' activities as well as coordinating and supervising the prescription and conducting of fitness programs and activities by those other instructors. The main reason given for this distinction is to ensure that all sports facilities opened to the public and providing services regarding fitness and weight training include a person with academic preparation in the area of Physical Education and Sport.

In Spain, a 'sports technical director' performs activities related to the promotion, management, programming, planning, coordination, control and supervision of sports centres, services and establishments, either public or privately owned, putting into practice knowledge and techniques in the field of sports science.

**Other professions** notified under the title of sports instructor in the regulated professions database or in national reports include:

- **Austria:** Mountain guides, ski guides, snowboarding guides, mountain hiking guides, canyoning guides;
- **Hungary:** Sport masseur, coach of motion therapy and sport rehabilitation;
- **Portugal:** Technical Director of Mixture Filling and Respiratory Supply Station – Recreational ScubaDive, Recreational Scuba Diving Coordinator;
- **Slovakia:** Delegate - referee observer in professional football, Organizer of sports events, Delegate - referee observer in amateur football, Referee – I, II and III qualification level, sports administrator, sports manager – IV and V qualification level.
- **Czech Republic** also indicated two non-regulated but related professions: Operating physical education and sport facilities and organising sport activities, and out-of-school education and training, organisation of courses, trainings, including lecturing activities not related to sport.
- **Spain** indicated three related professions, that exist in the Autonomous Regions of Catalonia and La Rioja: physical trainer, guide of natural environment and sports assistant on competitions.

Countries regulating the profession of sports instructor both for all sports and by sport discipline should appropriately notify in the regulated professions database, in order to allow for a comprehensive view and comparability of data.

The multitude of categories, the unclear delimitation between categories and the overlap between different categories of the profession may constitute a barrier for mobility of professionals as well as for consumers.

### 3.3. Types of regulation in Member States

The following countries have not provided information on the type of regulation in operation: **Bulgaria, Czech Republic, Estonia, Switzerland.**

In almost all other regulating Member States, the profession is regulated by reserves of activities. Some Member States also protect the title (**Austria, Estonia, France, Germany** (Bavaria) -, **Lithuania, Portugal**).

### 3.4. Reserved activities

As explained above, some Member States regulate the profession of sports instructor in a horizontal manner (covering all sports), while others focus on regulation in relation to the specific sports. Additionally some Member States also regulate the profession of sports coach.

### *Description of reserved activities for the profession of sports instructors for all sports*

As explained above, **the Czech Republic** distinguishes between different sporting fields and different levels depending on the role of employee or entrepreneur. The Czech Republic explained that the reserved activities cover only teaching sport (by sport discipline). For entrepreneurs, the reserve of activities also includes the management of public physical education and sports schools.

**Hungary** regulates the professions of sports instructor (with an indication of the specific sport), sport trainer (with an indication of the specific sport), physical educator and trainer and specialised sports coach, as well as conductor of recreational and health preserving sports programmes and sessions. Hungary gave a comprehensive list of activities that may be performed by each category, but the boundaries between different specialisations or types of professional are unclear. The same applies for **Romania** (four levels for sport coach), **Slovakia** (four levels for trainers and instructors) and **Portugal** (four levels for sport coach).

**Lithuania** and **Spain** distinguish between sports instructor and sports coach, depending on whether the activities are focused or not on competition. **Estonia** reserves the activity of training minors (below 18 years old) in government-subsidised recreational schools only to qualified sport instructors. **Latvia** as well regulates the profession only for activities performed in publicly run institutions.

**Bulgaria** and **Cyprus** did not mention any reserved activities.

### *Description of reserved activities for the profession of sports instructors for specific sports*

In **Austria**, professions are regulated at the level of the federal provinces and focus on winter sports and mountain sports. More specifically the professions of ski instructor, providing skiing lessons or accompanying persons on off-piste descents and skiing routes, in a commercial capacity is only permitted within the framework of licensed ski schools (after complying with higher qualification requirements – see below under the section "Qualification requirements"). Moreover, the reserves of activities for ski, snowboarding and cross-country ski instructors depend on the level of the qualification. For instance, only Level 2 (Landeslehrer) ski instructors, Level 3 (Diplom) ski instructors, Level 2 (Landeslehrer) snowboarding instructors and Level 3 (Diplom) snowboarding instructors can teach off-piste.

In general, **France** regulates professions according to sport discipline. There are however two exceptions: animator for all sports (teaching sports activities to make people discover different sports), and health and motivation animator (teaching sports with the aim of health, well-being and strengthening of motivation). It is not clear if certain activities are shared between these professionals.

Among the professions regulated by sport discipline, France distinguishes between the level of animator (initiating to a specific sport), instructor (teaching at higher level) and trainer (training for competition). For certain sports, France regulates only the profession of instructor (e.g. ski instructor), while for others only trainer (e.g. horse-riding trainer) or both animator and trainer are regulated (for the majority of sports). The choice to regulate a certain profession as instructor is justified by the particularly dangerous nature of the sport. The reserves of activities seem to be different for each category.

The reserved activities for ski instructors in **Italy** are explained as follows: "*teaches professionally to individuals and to groups of people, also in a non-exclusive, non-continuous way, the following activities: skiing techniques, in all their specializations, carried out with any type of equipment, on the ski slopes, ski routes, paths; off-piste skiing and ski tours that do not involve difficulties requiring the use of mountaineering techniques and materials*". **Italy** gives also a detailed description of reserved activities for the different levels of coach/trainer.

The activities reserved to the fitness instructors in **Portugal** are the following although it is unclear the delimitation with the activities reserved to the fitness technical directors: "*The Fitness Instructor develops his/her work in facilities that provide sports services in the fitness area, like gyms, or health clubs and performs the following functions: a) Plan and prescription of fitness activities to sports participants, under the supervision of a Fitness Director; b) Guide and lead fitness activities; c) Assess the quality of services provided and propose or implement measures to improve its quality; d) Cooperate in the struggle against doping in sport.*"

**Switzerland** regulates the following professions: winter sports instructor, climbing instructor, river rafting and white water rafting instructor, and bungee jumping instructor. Certain activities are reserved to the mentioned professions, while others, as explained above, can be shared with mountain guides, for instance. As an example, the winter sports instructor offers ski lessons with different devices (ski, Telemark, snowboard, cross-country ski) to children, young adults and adults of any level. He can also provide ski tours up to a certain difficulty step.

In **Malta**, the activities reserved to the diving instructor are the following: training and education in recreational diving, organised and guided diving for certified divers, and rental of diving equipment. There is no clear definition of reserve of activities for the profession of diving instructor in **Greece, Portugal and Spain**.

While in some regulating countries, the scope of reserves of activities is limited to trainings related to participation in competition, or covers only the public sector, in other countries, the scope of the reserves of activities appears to be very wide and Member States should carry out a proper assessment of the proportionality of the regulatory framework.

Member States are invited to check and clarify in the database if and how the reserves of activities are shared between the different levels/categories of the profession. For instance, several countries distinguish between different levels (employee/entrepreneur, animator/instructor/trainer, apprentice coach/senior coach etc.) without however distinction in the corresponding reserved or shared activities.

### 3.5. Qualification requirements

Generally, in the countries where there are different levels/grades for the profession of sports instructor, the qualification requirements varies from vocational secondary education (e.g. **Hungary, Slovakia**) for the lower levels, to Bachelor degree (e.g. in **Czech Republic** for entrepreneurs, **Portugal** for sport coaches) or Master degree (e.g. **Hungary** for the specialised sport coach, **Slovakia** for level 5 instructor/trainer) for the higher levels.

Compulsory exams exist in the following countries: **Austria** (e.g. for operating a ski school), **Germany** (Bavaria), **Lithuania** and **Romania** (to accede to different levels of sports coach).

Some countries indicated that they have in place different methods to acquire the qualification (e.g. **Czech Republic, Finland, France, The Netherlands, Slovenia**) and sometimes that both formal and informal routes are considered (e.g. **Czech Republic**). For instance, **France** recognizes different qualifications to perform the profession of animator in several sport fields: University degrees, State diplomas and professional certificates.

For the profession of sports instructor without reference to a specific discipline, the qualification requirements vary from general/vocational secondary education (e.g. **Bulgaria, Estonia**) to general or vocational post-secondary education of 3 years (e.g. **Cyprus, Slovenia, Spain**).

**Austria** indicated qualification requirements by province. Accordingly, e.g. in Carinthia, in order to operate a ski school (independent provision of services) the following requirements are needed: Level 3 (Diplom) ski instructor exam, ski guide exam, employment as a level 3 (Diplom) ski instructor at a ski school in this country for at least 2 seasons after passing the Level 3 (Diplom) ski instructor exam, and a business exam.

Winter sports instructors in **Switzerland** must hold a vocational post-secondary degree of 2.5 years duration. In contrast a ski instructor in **Italy** must only have a vocational secondary education (90 days).

In **France** the qualifications requirements differ depending on the level of animator/trainer. For the level of animator, different professional qualifications are accepted and can be provided also by private entities (one year State diploma is also available). For the level of trainer, a vocational post-secondary education of 2-4 years (State diploma or University degree) is required. However, there are exceptions: as an example, for winter sports instructors (such as ski instructors) France requires a vocational post-secondary level education of 5 years (given that the training can be performed only during the winter season). All State diplomas require passing a final exam and a traineeship. Only a university degree allows performing the profession in different sport fields.

In **Portugal**, the qualification requirement for fitness instructors is a university degree in the area of physical education and sports (level 6 EQF), or a vocational qualification course structured specifically for this profession (level 5 EQF).

In **Italy** the qualifications requirements differ depending on the level of coach/trainer. The qualification requirement is, for instance for the Fencing Master, a general or vocational education secondary education level and a diploma certifying that the holder has successfully completed a post-secondary course of four years' duration. On the other hand, the qualification requirement for athletic trainer expert is a 3 year vocational training after general or vocational secondary education.

The following countries indicated the qualification requirements for the profession of sports teacher: **Estonia** (Master degree), **Luxembourg** (after passing an entry exam, 2 years of training must be followed then finalised with a State exam), **UK** (if a person wants to take up a teaching post in a publically funded primary, secondary or special school, he must have a qualified teacher status (QTS). The National College for Teaching

and Leadership (NCTL), an executive agency of the Department for Education, is the awarding body for QTS. However, this is not a requirement on the teachers in free schools.)

Among the non-regulating countries, **Belgium** regulates the education for sport instructors (for instance, the education provided by the Vlaamse Trainersschool). While **Iceland** reported that the profession of sport instructor is not regulated, there are requirements regarding the education allowing the exercise of some types of activities. **Bulgaria** regulates the training through State educational requirement and distinguishes between the following qualifications: assistant instructor in sports and tourism activity, instructor in sports and tourism activity, instructor in adapted physical activity and sport for persons with disabilities, fitness instructor, instructor in ergonomics, assistant fitness instructor.

The assessment showed that the qualification requirements vary widely between the Member States. Member States should assess if the qualification requirements are appropriate and correspond to the activities to be performed.

### 3.6. Additional requirements

*Mandatory registration with professional bodies/ Continuous Professional Development(CPD)/ Professional indemnity insurance/ Other requirements*

In **Portugal**, the Portuguese Institute of Sport and Youth - IPDJ (government) is responsible for the certification of fitness instructors, delivering a Fitness Instructor Professional Title, mandatory document for the exercise of this activity. The Professional Title delivered is valid for five years. At the end of this period it should be renewed. During this period the Fitness Instructor must accomplish a total of 10 hours in technical and scientific update training courses certified by IPDJ (seminars, workshops, etc.), carried out by High Education establishments and Coaching Centers or other certificated education providers operating in the area of physical activity and sport.

**Malta** requires that diving instructors are registered with a licensed dive center. In order to obtain the licence, the center has to ensure that all staff possess the qualifications required by law, the possession of third party liability insurance. The center has to register also a director of diving who is basically a diving instructor with additional requirements such as good character and a minimum amount of logged dives as an instructor.

In Catalonia and La Rioja (**Spain**), in order to practice the regulated sporting professions, professionals must be registered in the Official Register of Sports Professionals of Catalonia or, if applicable, they must be members of the corresponding professional body. **France** requires the possession of a professional card certifying the qualifications.

Some Member States require professional indemnity insurance as well (e.g. **France**) or mandatory registration with professional bodies (e.g. **Italy, Slovakia**).

Several countries indicated the requirement to have a licence issued by a State authority and/or the concerned sport federation (i.e. **Romania, Slovakia, Slovenia**).



#### 4. RESULTS OF TRANSPARENCY/SCREENING EXERCISE

According to Article 59(3) of Directive 2005/36/EC, Member States must examine whether regulatory requirements are compatible with the principles of non-discrimination, necessity and proportionality.

##### 4.1. Non discrimination

Member States should ensure that professionals can access regulated professions without being a national of the host country and without having to reside in its territory. The requirements under the national legal system can be neither directly nor indirectly discriminatory on the basis of nationality or residence.

Those Member States that communicated information to the Commission on this issue did not report any existing discrimination based on nationality or residence.

##### 4.2. Justifications and proportionality

Under EU law, in order to be maintained, measures restricting access to a profession must not only be non-discriminatory; they must also be justified by overriding reasons of general interest<sup>13</sup>, be suitable for securing the attainment of the objective which they pursue and must not go beyond what is necessary in order to attain it. Therefore, one should also assess whether there are other less restrictive means than the measure in question capable to attain the same objective.

Member States were asked to report overriding reason(s) in the general interest that justified their regulatory frameworks. The following reasons were cited:

- *protection of consumers and recipients of services*: **Croatia, Czech Republic, Cyprus, France, Germany, Italy, Latvia, Malta, Portugal, Slovakia, Slovenia, Spain, Switzerland;**
- *public health*: **Croatia, Czech Republic, France, Italy, Latvia, Portugal, Romania, Slovakia, Slovenia, Spain;**
- *health and safety*: **Cyprus, Hungary;**
- *public security*: **France, Italy, Switzerland;**
- *protection of the environment*: **France;**
- *protection of minors*: **Estonia;**
- *prevention of fraud*: **Italy;**
- *road safety*: **France.**

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<sup>13</sup> For instance, on grounds of public policy, public security or public health. It should be noted that these are EU law concepts which stem directly from Article 52 of the TFEU. These concepts have been consistently interpreted by the Court of Justice of the EU in a narrow sense, meaning that there must be a genuine and serious threat to a fundamental interest of society and it is for the Member State invoking these public interest objectives to demonstrate the risks involved (see Case C-72/83 *Campus Oil* [1984] ECR 2727, paragraph 34; Case 348/96 *Calfa* [1999] ECR I-00011, paragraph 21; Case C-158/96 *Kohll v Union des caisses de maladie*, [1998] ECR I-01931, paragraph 51).

**Austria** indicates that the need for regulation of the profession of ski instructor and mountain sports guide arises due to the hazardous nature of these activities: alpine hazards, safety and quality. In relation to the profession of winter sports instructor, **Switzerland** also indicates that the necessity to have a qualification has the benefit that the customers are safely accompanied for off-piste skiing (in particular regarding the danger of avalanches). However, the activities reserved include also on-piste skiing.

The **Czech Republic** explains that the activity of sport instruction, if performed by professionally incompetent persons, without regulation by professional qualification requirements, could lead in particular to harming the interest of the service recipients (health risks). It is therefore considered important that every person performing the discussed activity not only possesses the necessary sum of knowledge and habits for high-quality performance of the activity, but in particular is aware of all risks related to the activity and able to recognise them in time and eliminate them as far as possible and, if applicable, also give first aid in case of an injury or sudden nausea. Compliance with hygiene principles was also mentioned.

**Estonia** considers that the regulation of the profession of sports instructor is mainly due to concern regarding the wellbeing of the young people being trained, and the conviction that high standards for sports instructors reduce the risks to those being trained. However, no data on accidents or injuries suffered have been presented.

**France** considers that regulating professions that imply a certain risk for health and safety could prevent/reduce accidents. Offering training of a certain quality could in addition strengthen the practice of sports. A qualification is considered as a mark of quality for consumers and reduces the risk of abuse (by presenting a professional card mentioning the qualifications acquired). France provides statistical data (number of death/accidents in a certain sport branch), for instance, 40% of non-professional golf players suffer injuries during the practice of sports (due mainly to the excessive practice of sport). In 2012, there were 1238 drowning incidents of which 4.2% were in public pools while 12.9% in private pools (family pools or private pools with open access). It is not clear if the number of injuries was reduced after regulation was put in place for golf animator/trainer and swimming instructor.

**France** also provides statistics demonstrating the positive impacts of practice of sports on health of the population (for instance, 30% less morbidity if 30 minutes of practice per day), which leads to important economies for the national health system.

**Portugal** states that given the nature of activities carried out in fitness and weight training and the risk that is associated with such practice, they could have important consequences especially for people with chronic diseases. For this reason, it became imperative to find legislative solutions in order to guarantee compliance in providing these services with minimum standards of quality.

**Slovenia** explains that the main purpose of regulation is the protection of consumers and is related to the spending of public funds in the case of severe injuries. Slovenia also indicated that the measure is justified by the substantial increase in the proportion of children and adolescents that are overweight and obese, as well as declining motor abilities, especially those who are associated with prolonged work, so the strategic objectives up to 2023 for Slovenia are aimed at providing at least an hour a day of intensive enough, and quality controlled, sports exercise.

**Spain** indicates that sports activities are part of a wide range of sectors such as leisure, recreation, education, health and tourism, which has brought more jobs related to sports and therefore the good quality of services needs to be ensured. Spain also states that, by regulating the profession, the number of accidents related to sports practice will be reduced. However, no evidence is presented as to whether this is actually the case.

Several Member States, like **France, Hungary, Slovenia** make reference to the general policy on the promotion of practice of sports in general.

**Bulgaria, Lithuania and Luxembourg** did not mention an overriding reason justifying the regulation.

The majority of the Member States did not present factual information on or an assessment of the effects of the regulatory measures.

## **5. PROTECTION OF GENERAL PUBLIC INTEREST IN COUNTRIES NOT REGULATING THE PROFESSION OF SPORTS INSTRUCTOR**

Member States not regulating a profession may still want and need to protect general public interests. In general, this is ensured by other legislation, mainly concerning consumer protection and/ or health and safety issues.

**Denmark** explains that anti-doping rules and retrieval of statements regarding previous convictions in respect of children are a prerequisite to the appointment or employment of staff and are implemented through the internal rules of sports organisations and clubs, and therefore regulation is not needed.

**The Netherlands** states that the profession does not involve a public interest of such a nature that regulation becomes necessary. It is therefore the responsibility of the sector to render high quality services. When, in an exceptional case, the consumer is seriously negatively affected by bad advice from a certain sports instructor or fitness centre, the consumer could choose to sue the person or company responsible. Moreover, regulating the profession by requesting certain certificates could potentially limit the level of innovation, because of regulatory burden.

**Poland** states that the basic reason for deregulating the profession of a sports instructor was to give to Polish sports associations and sports clubs the power to determine the qualification requirements for persons performing the profession. This empowerment of the sports entities should be achieved primarily through autonomous licensing systems established by the Polish sports associations.

**Sweden** considers that the overriding reason of consumer protection and health and safety is already achieved by the legislation in place. The Swedish Product Safety Act may under circumstances be applicable to sport instructor services such as diving instructors, horse riding instructors and mountain guides. Any economic operator is obliged to ensure that the consumer receives the safety information necessary in order to make it possible for the consumer to assess the risks connected with the service and thus protect themselves against those risks. In cases where the economic operator has provided a dangerous service, he or she is obliged to take the corrective action necessary in order to remedy the damage related or caused by the dangerous service or provide a refund covering the cost for the damage to be corrected by someone else. In a similar

manner, **Norway** and **Malta** (for other disciplines than diving instructor) state that general legislation, like for instance on protection of consumers, health and safety, and environment, as it applies also to the provision of sport services, ensure the protection of the general interest.

**UK** explains that the general interest objectives such as consumer protection, health and safety at work are protected by sports instructors holding a specialist insurance or public liability indemnity policy. In many cases this is included in the membership of the respective National Governing Body of Sport (NGB) or professional body. In addition, coaches working in a number of sports take specialist insurance through the national lead agency sports coach UK.

Based on the information submitted by Member States in writing and during the meeting of 5 June 2015, it can be concluded that there is a wide variety and great deal of complexity in regulatory approaches adopted with the view of protecting the general interest which sometimes is the same for both regulating and not regulating countries. This might affect the mobility of sport instructors wishing to practice in a different Member State.

Member States are invited to actively compare their current regulation with those of other Member States in order to determine whether their approach is optimal or whether the same objectives could also be achieved by other, less restrictive means, such as protection of the title only or certification.

Member States are invited to provide an analysis of effects of regulatory measures based on data (reduced number of accidents, more practice of sports etc.).

## **6. VOLUNTARY CERTIFICATION SYSTEMS AND OTHER MECHANISMS TO PROTECT A GENERAL INTEREST**

Several Member States (**Denmark, Malta, The Netherlands, Sweden** and **UK**) indicate that there are a number of voluntary professional bodies that aim to ensure the quality of services provided by sport instructors. One of these is the Register of Exercise Professionals (REPs) - an independent, public register that provides a system of registration for fitness instructors and personal trainers at an international level.

## **7. CONCLUSION BY MEMBER STATES ON THEIR SCREENING EXERCISE**

**Austria, Bulgaria, Czech Republic, Denmark, Hungary, Latvia, Lithuania, Finland, France, Germany, Iceland, Luxembourg, The Netherlands, Portugal, Romania, Switzerland** do not consider any reform.

- *Some Member States decided to introduce more regulation.*

**Czech Republic** deregulated the profession in 1996 and decided to regulate again in 2000, after the reassessment of the related risks, initially with more stringent requirements giving access only to graduates of universities and vocational colleges specialising in physical education. The requirements were afterwards lowered (see above).

Qualification requirements in **Bulgaria** were introduced in 2012-2013. No information of the assessment of the risks related to the profession is available.

- *One Member State indicated the decision to deregulate the profession of sports instructor.*

In **Poland**, from 2010 to 2013, persons intending to practice the profession of a sports instructor were required to hold specified qualifications. In order to obtain the qualification, the person had to hold a university-level degree ensuring the specialist knowledge and skills of a sports instructor, or complete at least post-secondary school education and have attended a specialist course ending with a final examination. The Act of 13th of June 2013 amending acts regulating certain professions lifted the qualification requirement.

- *Several Member States indicated that review of regulation is ongoing.*

**Cyprus** indicates that there is scope for improvement of the regulatory framework with the aim of making it less burdensome without however indicating what specifically could be improved.

In **Spain**, the regional legislation in Catalonia, La Rioja and Extremadura are currently being subject to a conflict of jurisdiction between the State and the mentioned Autonomous Regions on the constitutionality of these rules.

At the same time, there are several legislative projects for the regulation of professions related to sports in other autonomous communities (such as Andalucía, Madrid, Canary Islands or the Basque Country).

**Italy** stated that given the presence of several regional laws that provide for regulation of the profession of sports instructor, there is an ongoing process of reflection on the possible further regulation as well as on homogenization of regional training routes outside the context of activities of the CONI (Italian National Olympic Committee).

According to its national report, **Slovenia** is in the process of amending the Law on Sport which will significantly change the regulation of the profession of sports instructor. However, no further details were provided.

**Hungary** is regularly undertaking an internal screening on the qualification required for practising certain activities in the field of sports. However, for the time being, the screening showed that the regulation needs to be maintained.

The legislation is under review in **Malta** as the requirement regarding the director of diving is considered too burdensome for small dive centres.

**Ireland** announced as well that the introduction of regulation in the area of adventure sports is currently being assessed. The option to establish a statutory accreditation scheme and register of adventure centres is being analysed.

Several Member States indicated their intention to review their current regulatory framework. Information is not always provided on the rationale for undertaking or ongoing reforms, in particular on the objectives sought, what other methods of achieving these objectives were considered or any evidence base that was used / impacts compared in designing the reported reforms.