

Estonian National Action Plan – January 2016

1. Transparency Exercise: internal process

- commissioned analysis of all Estonian legal acts in order to map/record regulated professions and professional activities (autumn 2013)
- began updating RPQ database with newly-discovered regulations (winter 2013/14)
- completed new fields in database (screening), updated existing information (competent authority details, etc)
- held first meeting of newly-convened inter-ministerial transparency exercise working group (representatives from each regulating ministry) (spring 2014) explaining the transparency exercise
- ministries received Excel file excerpts from the database for each ministry's regulated professions, containing all details recorded for the profession; ministries were requested to check the screening information and answer the proportionality questions
- autumn 2014: started the first round of bilateral meetings with each ministry (and separately with each ministry department, in certain cases), also discussing the answers to the proportionality questions. The information exchange during these meetings has been very useful: it is important to find out why a certain profession or activity was regulated in the first place, and whether those conditions still exist

Ministerial Bilateral Meetings: Transparency Exercise

Ministry of Economic Affairs and Communications:

- Construction Dept (+ Technical Regulatory Authority)
- Roads and Railways Dept (+ Roads Board)

Ministry of the Environment:

- Environmental Organization Dept
- Water Dept
- Climate and Radiation Dept
- Land Board and Environment Board

Ministry of Culture

- Sports Dept

Ministry of Education and Research

- Teachers' Dept
- Youth Dept

Ministry of Agriculture

- Fishery Dept

Ministry of Justice

- Crime Policy Dept
- Justice Administration Dept

Ministry of Finance

- Enterprise and Accounting Dept

Ministry of the Interior

- Order and Crime Policy Dept
- Emergency and Crisis Management Dept
- Emergencies Board

Ministry of Social Affairs

- Social Care Dept
- Health Care Dept

- winter 2014/15: first round of bilateral meetings continued
- spring 2015: held second meeting of inter-ministerial working group to give an interim report on progress in the transparency exercise. Since the meeting was held as a seminar/roundtable the range of attendees was extended to interested partners (Qualifications Authority, State Secretariat, our ministry colleagues dealing with EU matters and higher/vocational/adult education). The opportunity was used to inform the group about various studies on the effects of regulation, especially the study on occupational regulation by Maria Koumenta which was presented at various Single Market Forums
- summer/autumn 2015: second round of ministerial bilateral meetings in order to discuss the proportionality responses and to clarify the content and reserved activities for the regulated professions/professional activities. Feedback from the mutual evaluation meetings, and the respective reports, was very useful in providing the ministries with an EU-wide perspective on the (non-)regulation of certain professions
- autumn 2015: official letter by the Minister for Education and Research to all regulating ministries requesting updated proportionality information, and input regarding any previous or planned changes in regulation. In order to assist the ministries in providing the requested information, the letter was accompanied by a table with the details of every regulated profession under the relevant ministry, according to information held in the RPQ database
- winter 2015: follow-up to the ministries' responses to the official letter by our minister in order to finalize the National Action Plan report and to prepare the corresponding 'light export' table
- January 18, 2016: Estonian NAP report and table uploaded into RPQ database

2. Information per economic sector**a) Business services sector**

- *architect* (examined in the mutual evaluation exercise as an example of the sector) is not regulated but we have regulated education and training
- professions/activities regulated: sworn/internal auditor (competent authority: Ministry of Finance); advocate, patent agent, sworn translator (Ministry of Justice); veterinary surgeon (Veterinary and Food Board); land organizer, geodetic worker, environmental impact assessor (Ministry of the Environment); pest control manager (Ministry of Social Affairs); security guard, chimney sweep (Ministry of the Interior)

- proportionality analysis showed that the responsible ministries considered the respective regulations to be necessary and proportional (public safety), with no changes planned. In general, there have also been no recent changes in the requirements. The exception is the environmental impact assessor where the requirements have been made more stringent (higher requirements re education, work experience, passing a test)
- Note: the level of regulation by the Ministry of the Environment can be explained by the concern of the state regarding the lack of capacity in local governments to ensure abidance by environmental requirements

b) Construction sector

- *civil engineer* (examined in the mutual evaluation exercise as an example of the sector) is not regulated, but we have regulated education and training
- professions/activities regulated: electrical work supervisor/inspector, competent person in field of issuing energy certificates / energy audits, person in charge of machinery operation / lifting equipment work, competent person in charge of building design / owner supervision / building surveys / expert assessment / construction (competent authority: Technical Regulatory Authority); person responsible for road work quality, road traffic controller (Ministry of Economic Affairs and Communication); hydrogeologist (Ministry of the Environment)
- proportionality analysis showed that the responsible ministries considered the respective regulations to be necessary and proportional (public safety), with no changes planned. Although the Construction Act and the various safety acts were recently upgraded, there have been no substantive changes in regulation.

c) Manufacturing sector

- no regulated professions but have regulated education and training throughout the vocational education system
- *electrician* (examined in the mutual evaluation exercise as an example of the sector) is not a regulated profession (see b) Construction sector: for the regulated electrical work activities)

d) Real estate sector

- *real estate agent* (examined in the mutual evaluation exercise as an example of the sector) is not regulated, does not have regulated education and training but has voluntary certification
- regulated profession/activity: land valuer (Ministry of the Environment)
- for proportionality, see note on the level of regulation by the Ministry of the Environment in point a).

e) Transport sector

- *driving instructor* (examined in the mutual evaluation exercise as an example of the sector) is a regulated profession
- other regulated professions/activities: locomotive train driver / assistant, person responsible for railway traffic safety / management (Ministry of Economic Affairs and Communications)

- proportionality analysis showed that the responsible ministry considered the respective regulations to be necessary and proportional (public safety), with no changes planned. There have been no substantive changes in regulation.

f) Wholesale and retail sector

- no regulated professions in this sector
- no *opticians* (examined in the mutual evaluation exercise as an example of the sector), but we have *optometrist* which has regulated education and training

g) Education sector

- *sports instructor* (examined in the mutual evaluation exercise as an example of the sector) is a regulated profession (competent authority: Ministry of Culture)
- other regulated professions: teacher (from pre-school to upper-secondary), youth camp director / counsellor (Ministry of Education and Research)
- proportionality analysis showed that the responsible ministries considered the respective regulations to be necessary and proportional (youth safety), with no changes planned. In general, there have also been no recent changes in the requirements.

h) Tourism sector

- no regulated professions in this sector
- *tourist guide, travel agent* (examined in the mutual evaluation exercise as an example of the sector): tourist guide has voluntary certification

i) Health and social services sector

- *dental hygienist, physiotherapist, psychologist* (examined in the mutual evaluation exercise as examples of the sector) are not regulated professions; physiotherapist has regulated education and training, dental hygienist and psychologist have voluntary certification
- regulated professions in the health sector are the sectoral professions (*doctor, dentist, pharmacist, nurse, midwife*) and *pharmaceutical assistant* (competent authority: Health Board). Note: All medical and dental specialties, except for five medical, are included in Annex V (national training requirements)
- regulated professions/activities in the social services sector: child care worker, substitute home child care worker, person carrying out special care (Ministry of Social Affairs)
- proportionality analysis showed that the responsible ministry considered the respective regulations to be necessary and proportional (health/safety), with no substantive changes having recently occurred or planned.

j) Beauty care sector

- *hairstylist, wigmaker, beautician* (examined in the mutual evaluation exercise as examples of the sector) are not regulated professions.
- no regulated professions in this sector but have regulated education and training throughout the vocational education system

k) Network services

- regulated professions/activities: person responsible for handling hazardous waste, radiation expert, person handling ozone layer depleting substances (competent authority: Ministry of the Environment); supervisor/checker in gas work (Technical Regulatory Authority); specialist in charge of fire alarm systems (Ministry of the Interior)
- proportionality analysis showed that the responsible ministries considered the respective regulations to be necessary and proportional (public safety), with no changes planned. There have been no substantive changes in regulation.

I) Other

- regulated profession/activities: coastal fisherman (Ministry of Rural Affairs); stove maker (Ministry of the Interior); supervisor/checker of pressure vessel work, specialist in charge of mining activities, blaster / person in charge explosive substances / pyrotechnical products (Technical Regulatory Authority); forest surveyor (Ministry of the Environment)
- proportionality analysis showed that the responsible ministries considered the respective regulations to be necessary and proportional (public safety), with no changes planned. There have been no substantive changes in regulation.
- see note on the level of regulation by the Ministry of the Environment in point a).

3. Assessment of progress

The reception by the various ministries to the information provided, to the requests for background information, to the bilateral discussions, has been varied. Some ministry departments are open to the possibility of change in regulation, others are convinced that the only way to ensure quality is to regulate the person. Other ministries admit that they have succumbed to pressure exerted by some professional associations who seem to see regulation as a way of increasing the prestige of their profession (although the reason given for regulation is again the hope that regulating the person will guarantee quality).

We have a new Minister for Education and Research due to the change of government after the 2015 national elections. We are hopeful that our minister will agree to take the case for reduced regulation to the cabinet at some time in 2016, where the issue of regulating professions/professional activities could be discussed in light of the stated aim of the government to reduce bureaucracy and reduce the involvement of the state. The minister became familiar with the Directive, and the concern regarding over-regulation, in the summer of 2015 when the legislative package for the transposition of the updated Directive needed to be approved by the Government. The involvement of the minister continued whilst the legislation was being debated in the parliament (autumn 2015 – adopted Dec 2015), and when the secondary acts needed to be adopted by the government. The minister is aware of the fact that the number of regulated professional activities has been increasing over the years, and has expressed concern.

To summarize, it could be said that the transparency exercise was useful in providing a platform for information exchange. The fact that carrying out the exercise was an obligation regarding the transposition of the updated Directive did open doors to the ministries and ensure that attention was paid during the bilateral meetings. The ministries received information about the problems associated with (over-)regulation and the coordinating ministry received background information about the historical reasons for regulating certain professions/activities in the first place. However, it cannot be said that the exercise has resulted in a general commitment to deregulate or reduce the level of regulation. Some ministries did express the opinion that they would reconsider the necessity of the regulations when the respective laws come up for modification, and some admitted that the original reasons for a particular regulation no longer applied and that the regulation could probably be removed (during the next modification).

Finally one aspect of concern should be noted. Estonia has a voluntary certification scheme run by the Qualifications Authority, which has grown and developed over the years, with many new professional standards (using EQF levels) being added. In itself this is a positive development, especially since courses taught in Estonia follow curricula that are based on the respective professional standards (in vocational and higher education), and the system helps persons already in the labour market to upgrade their qualifications. Unfortunately, the professional certificates that are issued to persons who have fulfilled the conditions of the professional standards are being increasingly used by legislating ministries as qualification requirements – i.e. the voluntary professional certificate is being made mandatory in certain sectors (e.g. construction), and could therefore be seen as becoming a de facto market access barrier.

In conclusion, Estonia is not a highly regulated country and the number of regulated professions, as such, is actually quite low. When Estonia regulates it tends to regulate, not a profession per se, but a particular activity, or job. (This is reflected in the RPQ database where it is often quite difficult to select the appropriate generic field under which a new regulated professional activity can be entered.) It could be inferred from this type of regulation that the numbers of persons affected could be quite low – we therefore look forward to clarification provided by the official results (expected January 2016) of the Commission's recent major survey, where the initial results seem to indicate the opposite for Estonia.