

Thinking ahead for Europe

BETTER QUANTIFICATION ?

**ASSESSING THE NEW COM'S REGULATORY RESTRICTIVENESS
INDICATOR FOR PROFESSIONAL SERVICES**

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Structure of presentation

- Purpose(s) of EU regulatory indicators
- Why a new EU indicator for professional services ?
- Design of the 'PRO-SERV' indicator
- Deepening & widening of PMRs with PRO-SERV
- Assessing the PRO-SERV indicator (6 aspects)
- Does PRO-SERV make a difference ?
- Risk vs. Economic regulation
- Technical aspects, MR, what is not incorporated
- More on service quality
- Economic studies using PRO-SERV
- Conclusions on PRO-SERV



Purposes of EU regulatory indicators

- **Attractiveness /efficiency of business environment**
 - >>> for growth & jobs, structurally over time
 - >>> not *strictly* for the single market, yet linked
 - >>> e.g. Doing Business (WB), quality of REG, rule-of-law & corruption (WB), goods market efficiency (WEF), efficiency judicial system (CEPEJ)
- **Restrictiveness of REG hindering proper market functioning**
 - >>> esp. national REG, labour & product markets (single market links)
 - >>> e.g. EPL indicator (labour) ; OECD-PMR indicators (goods, services)
- **Pure single-market indicators**
 - >>> Single-Market-Scoreboard (transposition rate)
 - >>> Single-Market-Gap indicator [Pelkmans, Luchetta et al, 2014, for the IMCO Ctee], not applied yet

Why a new EU indicator for professional services ?

- The PRO-SERV indicator blends two important policy rationales:

>>> disproportionate and/or not-targeted REG for professional services may hinder proper market functioning, causing low economic performance, without this restrictiveness helping to address market failures any better [**growth objective**]

>>> disproportionate and/or not-targeted REG in MS unduly hinders free movement of services and of providers, and possibly establishment [**single market motive**, EU's foremost tool for (additional) growth]

Given today's deep market integration, motivated by (additional) growth, the two rationales are no longer separated, but complementary ['MS economic policies a common concern', art. 121/1, TFEU]



Why a PRO-SERV EU indicator (2)

- The two rationales together turn the issue of qualifications, access-to-professions and REG on their exercise (also) into an EU economic issue
- Apart from the case-law requirements of ‘proportionality’ [see the interesting SWD(2016) 463 doc] and non-discrimination,
- Art.s 119 + 121, TFEU and substantial empirical economic literature [on the macro & micro costs of overly restrictive REG of professional services], justify an evidence-based economic analysis before sound (EU) policy recommendations to MS can be formulated



Design of the PRO-SERV indicator

- ‘deepening’ and ‘widening’ of OECD PMR indicator
- The PMR is a successful indicator of the degree of restrictiveness of ‘economic’ regulation
- In contrast to ‘risk regulation’ [for health, safety, environment, savers/investor and consumer prot.], ‘economic’ regulation is not based on “market failures”
- Hence, going from “high” to “low” restrictiveness should help markets function better >> pro-growth, without loss of ‘economic welfare’



Deepening: including many access restrictions

	Restrictions included in PRO-SERV indicator	Weights	Explanation/comments
A	<u>Regulatory exclusiveness</u> <input type="checkbox"/> 'reserved activities' <input type="checkbox"/> protection of the title	31 %	<input type="checkbox"/> legal monopoly, strong restriction <input type="checkbox"/> light restriction, entry/competition open
B	<u>Qualification requirements</u> <input type="checkbox"/> years educat/training <input type="checkbox"/> no. of pathways to obtain qualifications <input type="checkbox"/> mandatory trainingships <input type="checkbox"/> prof. experience for full cap. <input type="checkbox"/> mandatory state exam <input type="checkbox"/> cont. prof. developm. duty	17 %	<input type="checkbox"/> automatic vs. discretionary M.R. <input type="checkbox"/> more pathways, less restrictive <input type="checkbox"/> [common in many professions] <input type="checkbox"/> relevant when auth.n is staggered <input type="checkbox"/> restrictive, without M.R. <input type="checkbox"/> restriction, but only after access

Deepening: many access/exercise restrictions (2)



	Restrictions included in PRO-SERV indicator	weights	Explanation/comments
C	<u>Other entry restrictions</u> O membership or registration professional Body compulsory O quota of licences O qualifications regional O age restrictions O other auth.n req.ts	21 %	O registration is a light restriction O quotas can be highly restrictive O can be quite restrictive O restrictive, hard to grasp why O addit. specific auth.n, restrictive
D	<u>Exercise requirements</u> O restric.s on corp. Form O shareholding req.ts O voting rights control O no joint exercise prof.s O incompatibilities O prof. indemnity insur.e O tariff restrictions O advertising restrictions	30 %	O most restrictive, if 'as sole practit.r' O % share, held by professionals O idem, for voters (manag.t control) O avoiding 'conflicts of interest' O idem O for 'establishment' only O rules on fees can be quite restrictive O ban or conditionality of adverts

Widening : more professions, other extensions

- The COM has selected the four professions in PMR: lawyers, accountants [but not auditing!], (civil) engineering and architects
- Plus 3 more : patent agents, real estate agents and tourist guides
- very thorough 3-step verification process of the data, with M.S., starting with the Mutual Evaluation
- Explicitly embedded in qualitative expositions, too



Assessing the PRO-SERV indicator

- First, for all the efforts by the COM and the MS, does the PRO-SERV indicator make a difference?
- Second, 'risk' versus 'economic' regulation
- Third, technical issues of the PRO-SERV indicator
- Fourth, PRO-SERV and harmonisation/MR ?
- Fifth, what is not incorporated in PRO-SERV but should be ?
- Sixth, discussing economic impact studies using PRO-SERV



Does PRO-SERV make a difference ?

For many EU M.S. we can compare the 2013 PMRs for 4 of 7 professions, with the new EU indicator

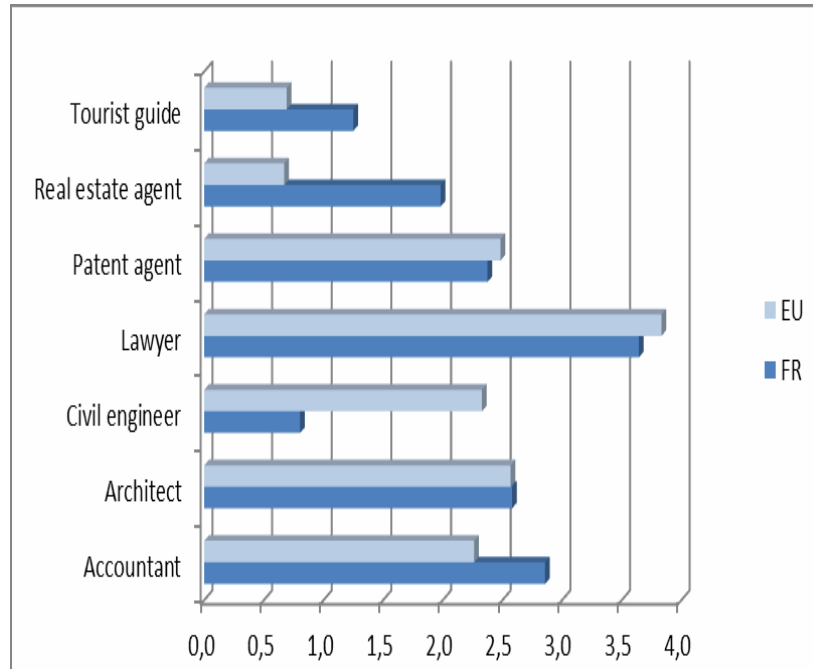
- 6 illustrations: for **BE**, PRO-SERV is 'less, more, more, less-but-close' ; for **Czech Rep** PRO-SERV is 'more, much more, more, less' ; for **DK** PRO-SERV is 'much more, much more, similar, less' ; for **DE** PRO-SERV is 'still more, much more, more, bit more' ; for **NL**, PRO-SERV is 'little more, same, more, less' ; for **POL**, PRO-SERV is 'little more, little more, little more, same'
- Two more [FR, IT] illustrated in next two slides
- In the later Briefing, all EU MS will be included in an annex with comparative graphs and summary table
- Upshot: **often higher than PMR, yet no clear trend**



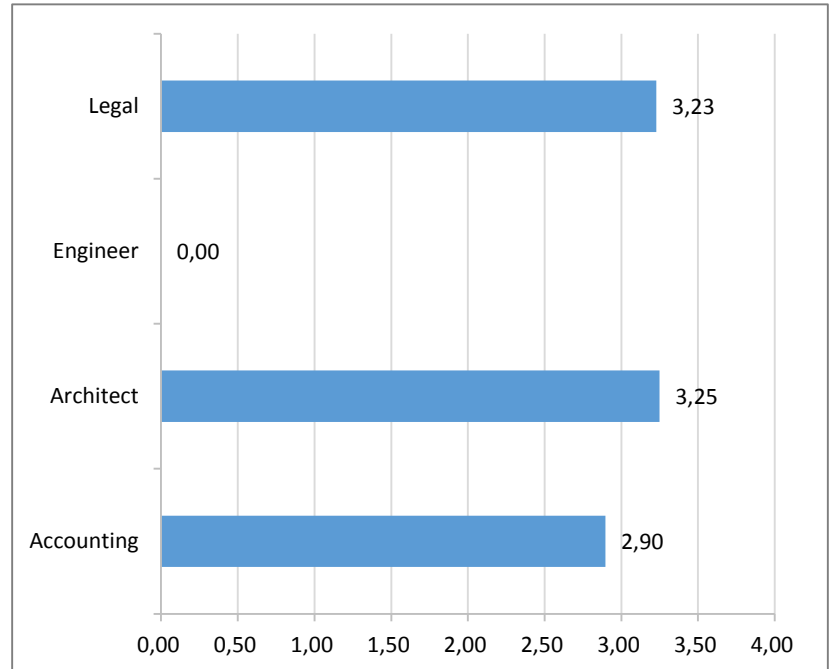
FRANCE

[similar, more, less, similar]

COM (2016)



PMR (2013)

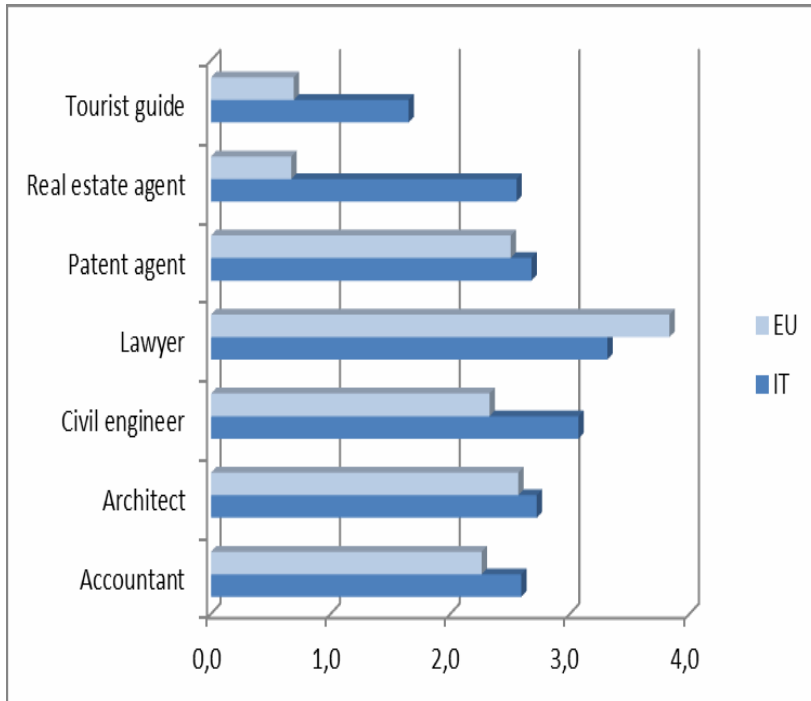


ITALY

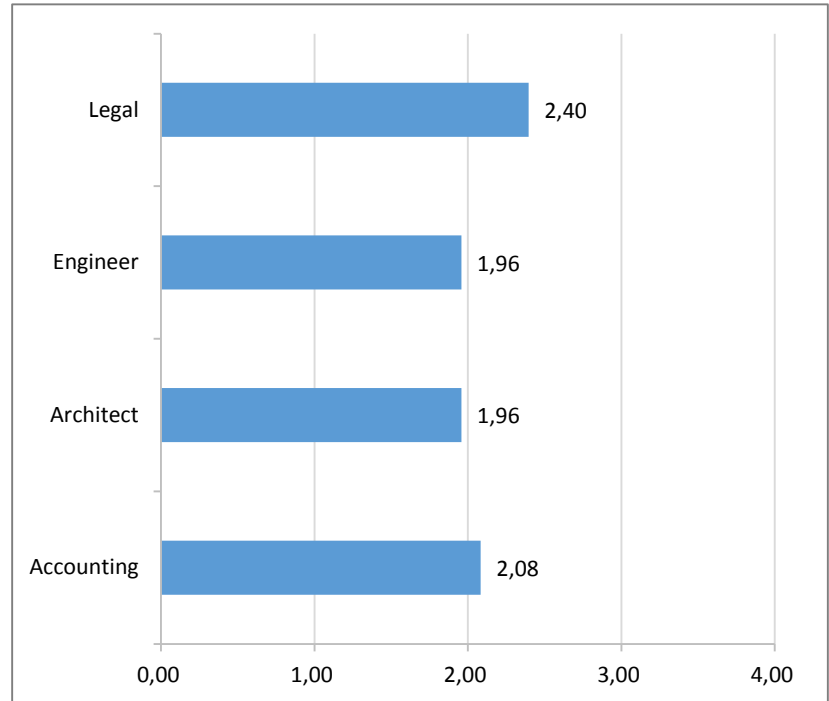
[more, much more, more, more]

13

COM (2016)



PMR (2013)



Risk versus Economic Regulation

- Long ago, OECD PMR began as a pure exercise in reducing the restrictiveness of ‘economic regulation’;
- broadly, restrictions existed (in MS) to protect incumbents or control entry (etc.) or support industrial policy or SOEs (etc.)
- Not ‘market failures’ [SHEIC] but competition and ‘market functioning’ considerations matter here
- And rightly so ! Hence, the success of classic PMRs

Risk versus Economic Regulation (2)

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- But **PRO-SERV** is about ‘risk regulation’, ‘trust & integrity’, safety & health, consumer & investor protection
- In ‘risk regulation’, competition aspects are not irrelevant but secondary, **overcoming ‘market failures’ comes first**
- hence restrictiveness **MUST** be combined with assessments of ‘justification’ and ‘proportionality’ in [overcoming] MS ‘market failures’ [NOT the case at present, at best parallel]
- Restrictiveness AND regulatory heterogeneity between MS hinder free movement & establishment as well, i.e. single market is an overriding reason to address these in common
- BUT high restrictiveness can be harmonised (between MS) or subject to M.R., and, IF (but only if) market failures justify that restrictiveness, **it is a solution, not a policy issue**



PRO-SERV, some technical aspects

- There is no such thing as a perfect indicator
- The ‘deepening’ (slides 7 and 8) and ‘widening’ (slide 9) render PRO-SERV “better” for professional services than the current OECD PMRs
- But one can always argue about the weights (middle column in slides 7 & 8) and the sub-weights (see comments in righthand column)
- alternative choices are also less-than-perfect
- risk-vs-economic regulation issue shines through b/c all elements are ‘restrictive’, even though they may serve SHEIC ! ‘Less’ might cause welfare losses

PRO-SERV, harmonisation & MR

- Medical and para-medical professions are not included in PRO-SERV; still, 40 % of the 600 professions in the EU
- Due to harmonisation and ('automatic') MR ?
- This solves the single market issue, presumably, but what about (anti-) competitive effects ?
- In auditing (roughly 30 % of overall turnover of accounting firms in the EU), there is far-reaching harmonisation [although still a range of national options e.g. on mandatory rotation periods, causing single market hiccups] but it is not in PRO-SERV (only accounting + tax adv.)
- Even in architecture, there is far-reaching de facto 'equivalence' and easy acceptance of cross-border registration [94 %] ; yet, the PRO-SERV tends not to be low, as a rule, in MS – is it ignored? Shouldn't it be incorporated?

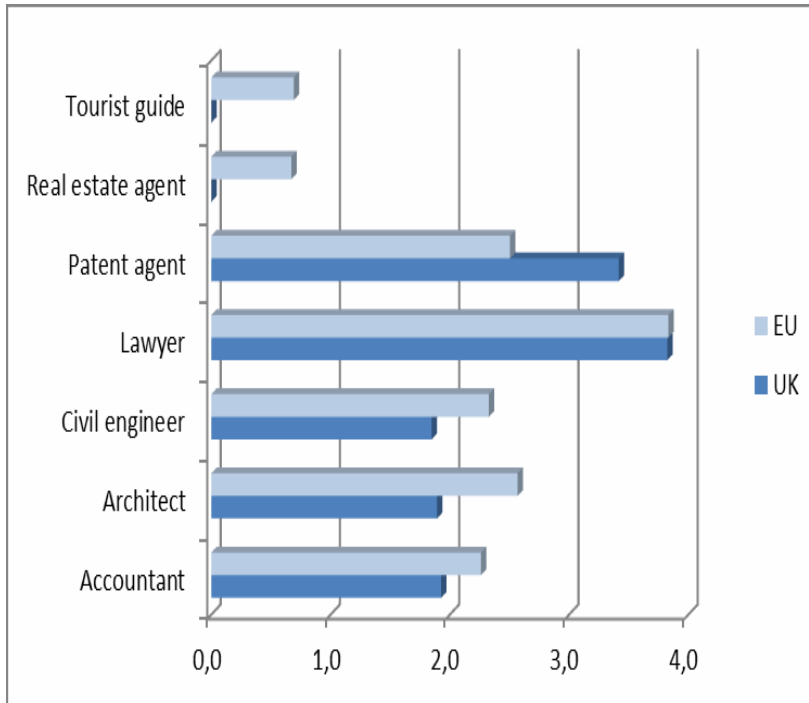


PRO-SERV: what not incorporated?

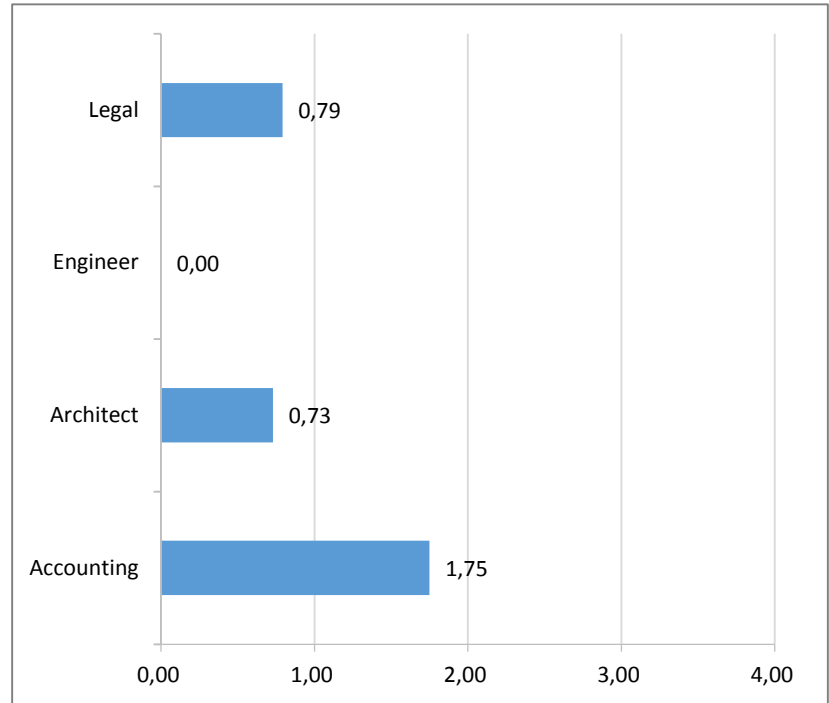
- PRO-SERV indicator may suffer from a PMR legacy : all regulatory elements included are **ex-ante**.
- **Ex-post** regulation or conformity assessment or quality control - that is, on the delivery of the service(s) – is not in
- Examples include the Nordic ‘model’ w.r.t. architects and the UK ‘model’ for accounting (driven by consumer protection [incl. good redress options] and quality assurance programmes stimulated by the associations) (slide 19)
- MS also differ considerably w.r.t. engineers - see France (slide 12): PMR = 0, PRO-SERV = 0.7, compared to Italy (slide 13): PMR = 1.96, PRO-SERV = 3, hinging on ex-ante vs. ex-post



COM (2016)



PMR (2013)



PRO-SERV: not incorporated? (2)

- There is also the paramount issue of 'quality'
- The economics of regulation are simple : once market failures have been addressed, 'quality' is to be left to the market
- But that is easier in goods than in (prof.) services
- In today's air transport services, market failures are addressed strictly ; service quality is market-driven
- In prof. services, two problems : (a) market failures are less clearly demarcated ; (b) service quality is not an 'experience good' but a 'credence good', that means, the consumer cannot easily judge !

PRO-SERV: more on service 'quality'

- one risk is that 'quality' gets mixed up with REGn on 'market failures' (happened in air transport before '93)
- This renders REG for prof. services too restrictive !
- Seems to be the case in crafts in some MS [here, high quality REG can work against entry and free movement/establishment]
- To incorporate 'quality of service' in PRO-SERV >> fraught with difficulties [more in the later Briefing]
- Some measures of quality (like consumer complaints ; higher liability premia; malpractice suits; rates of defective or collapsed buildings/bridges) might only refer to the extremes
- In effect, this is about 'charlatans', not about quality of regular professional services



Economic studies with PRO-SERV

- COM: studies on mark-ups and e.g. 'churn rates' (entry/exit) in prof. services using PMR & PRO-SERV
- Fine addition to evidence on (competitive) market functioning; no single market, only growth motive
- Mark-ups varying from some 6 % to 19 % in different professional services, whilst churn rates tend to be lower, the higher PMRs or PRO-SERV
- Both signs of lesser competition, benefiting suppliers (more), jobs hardly grow and innovation (w'out entry !) may not occur ; low dynamism

Economic studies with PRO-SERV (2)

- Are these solid grounds to recommend less restrictiveness ? Wouldn't one need a much finer 'zooming-in' on specific REG/MS elements inside the indicator? And show that their relaxation or removal is critical for e.g. [new] entry, whilst not undermining the overcoming of market failures?
- But... mark-ups in KIBS [knowledge-intensive business services] are hardly surprising ; such services cannot be compared with markets for toys or shoes
- And for churn rates, a similar point is valid – perhaps a (justified !) reform can shift the supply curve but that is one-off; entry is difficult due to high and specific skills, irrespective of REG



Conclusions on PRO-SERV

- 1. PRO-SERV blends two rationales [growth, single market] but it is mainly used for 'growth'; it does not measure 'barriers to cross-border market access' directly
- 2. PRO-SERV is a significant improvement (for prof. services) on the OECD PMRs [deepening & widening]
- 3. of the six aspects of assessment, (a) PRO-SERV shows (often) greater restrictiveness (as it catches more restrictions) but not always; (b) based on PMRs, it ignores 'risk regulation' [overcoming market failures] which is problematic; (c) it has no ex-post REG/controls measures; (d) quality of delivered services is not in; (e) de facto/de jure M.R. plays no role
- 4. economic studies based on a refined PRO-SERV (see 3.) are a necessary but insufficient condition for Eur. Semester

Thank you!

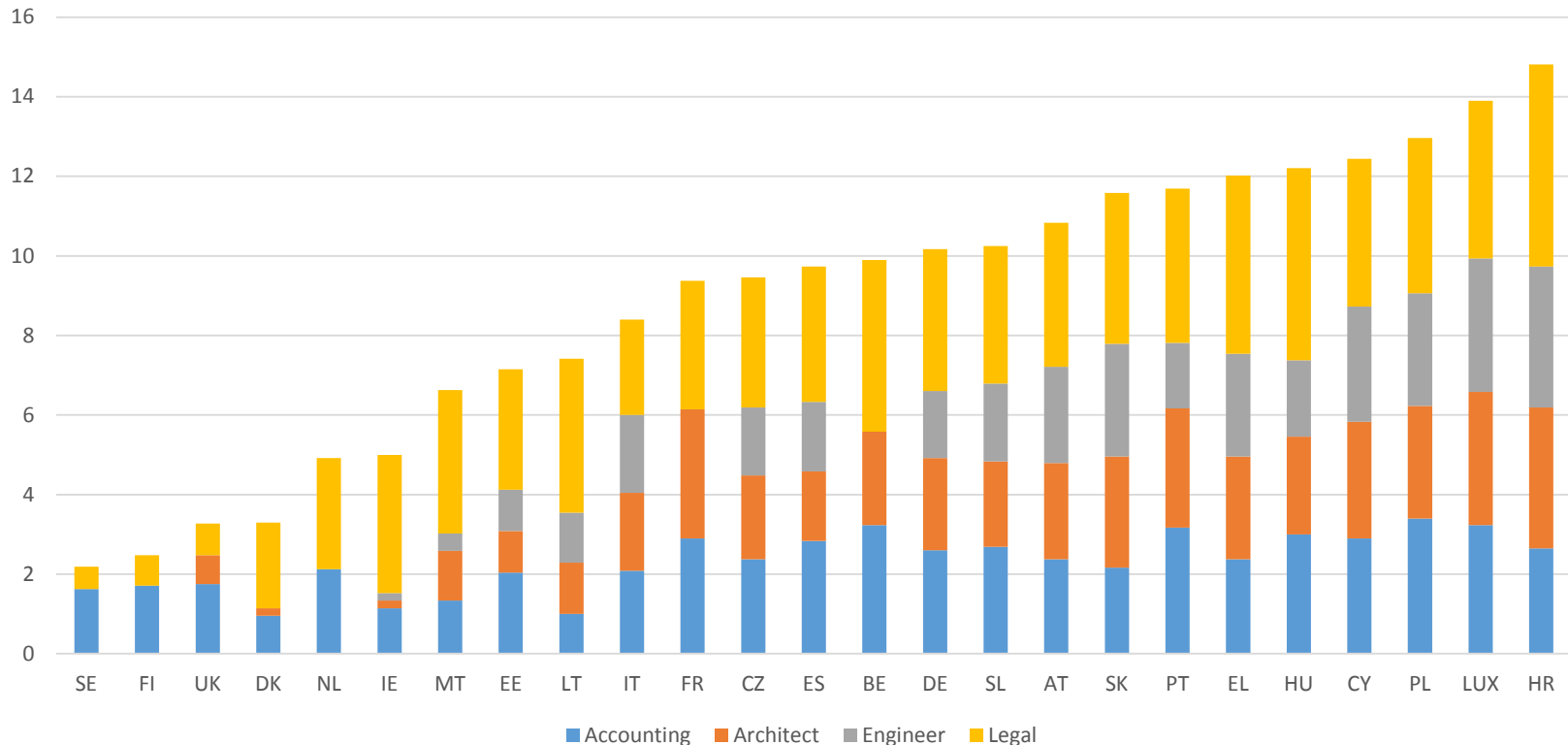
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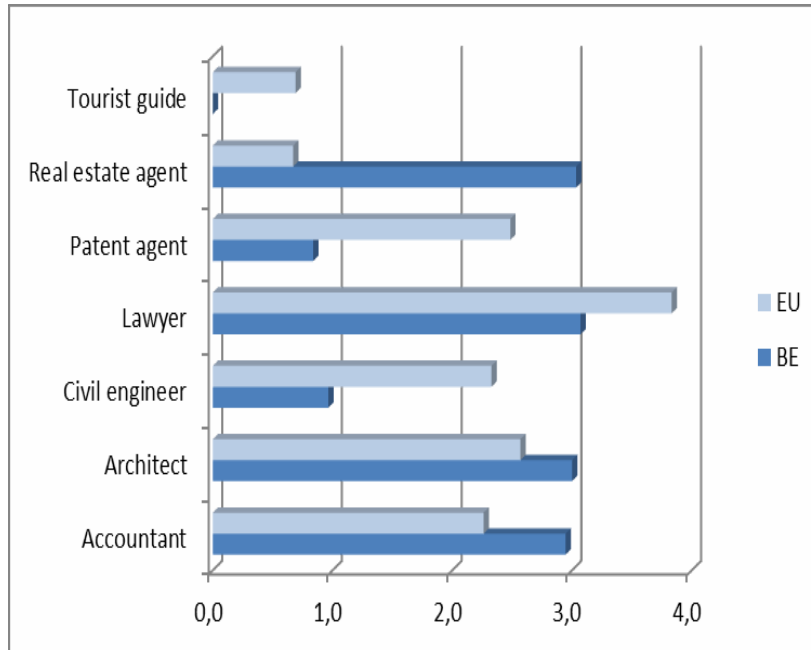


PMR (2013) FOR MS WITH AVAILABLE DATA FOR EACH OF THE FOUR PROFESSIONAL CATEGORIES

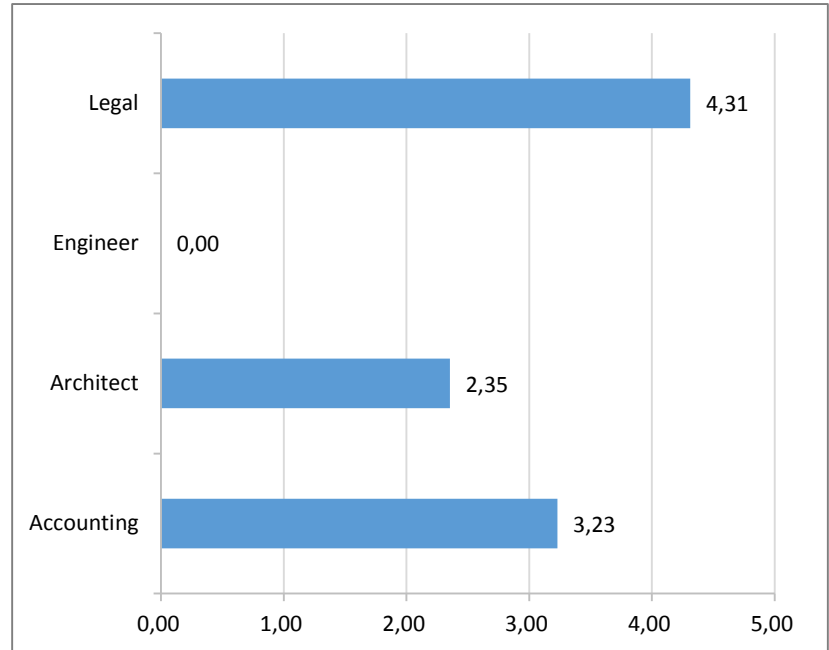


BELGIUM

COM (2016)

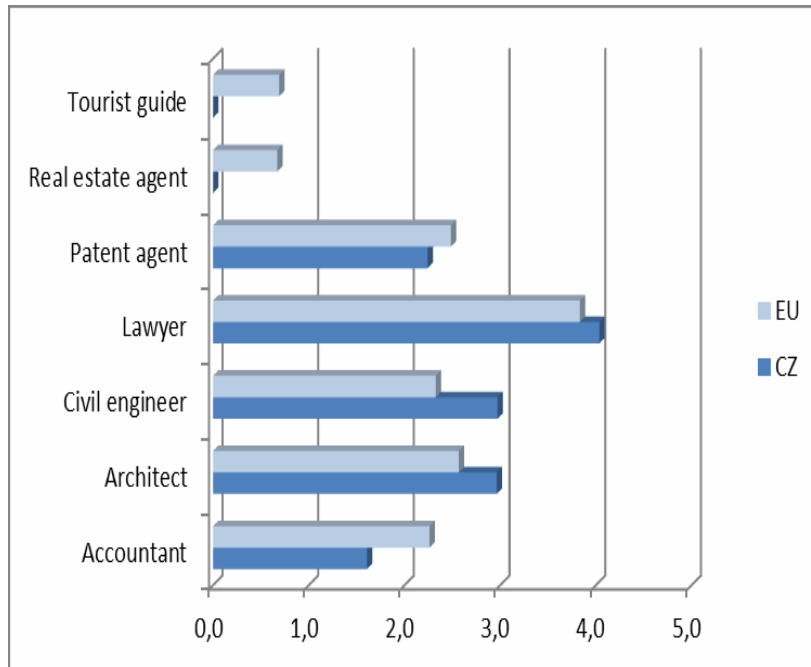


PMR (2013)

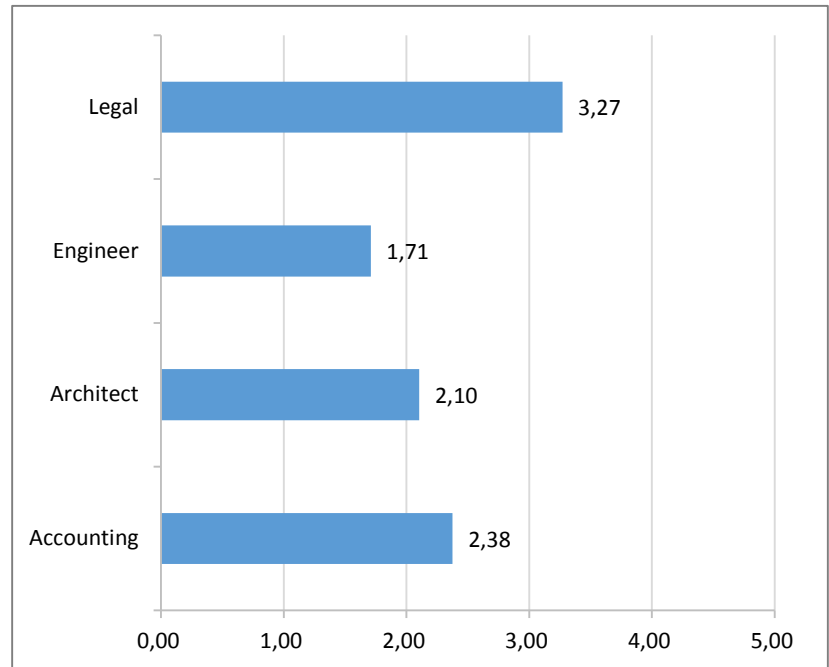


Czech Republic

COM (2016)

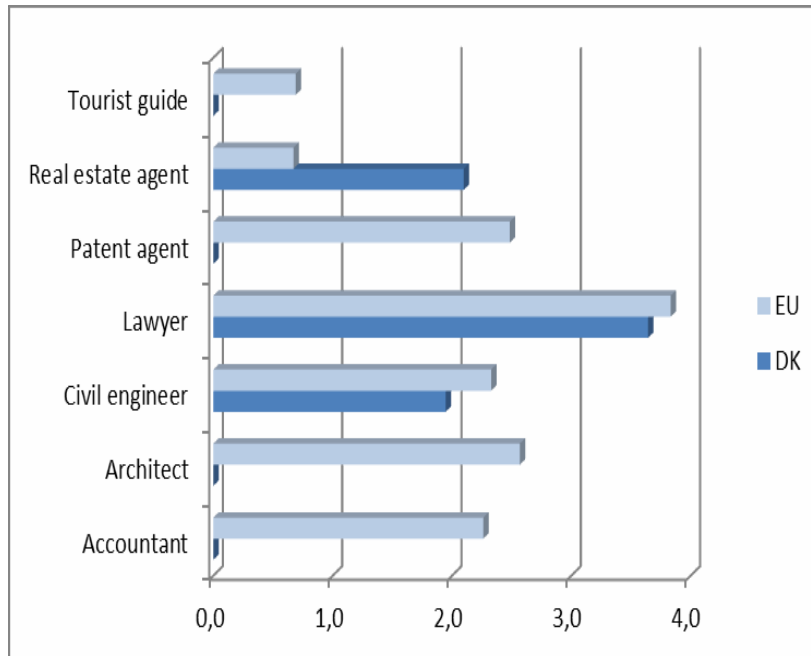


PMR (2013)

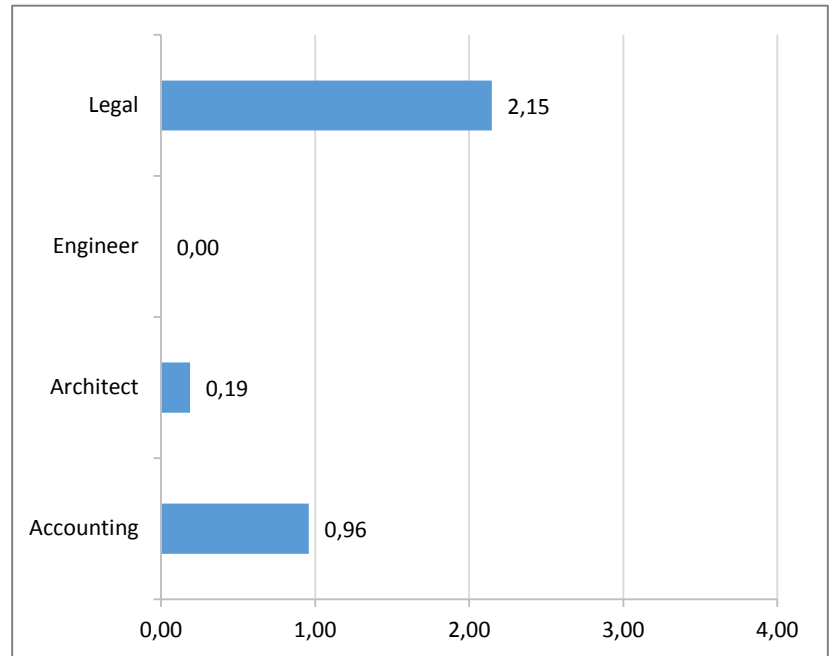


DENMARK

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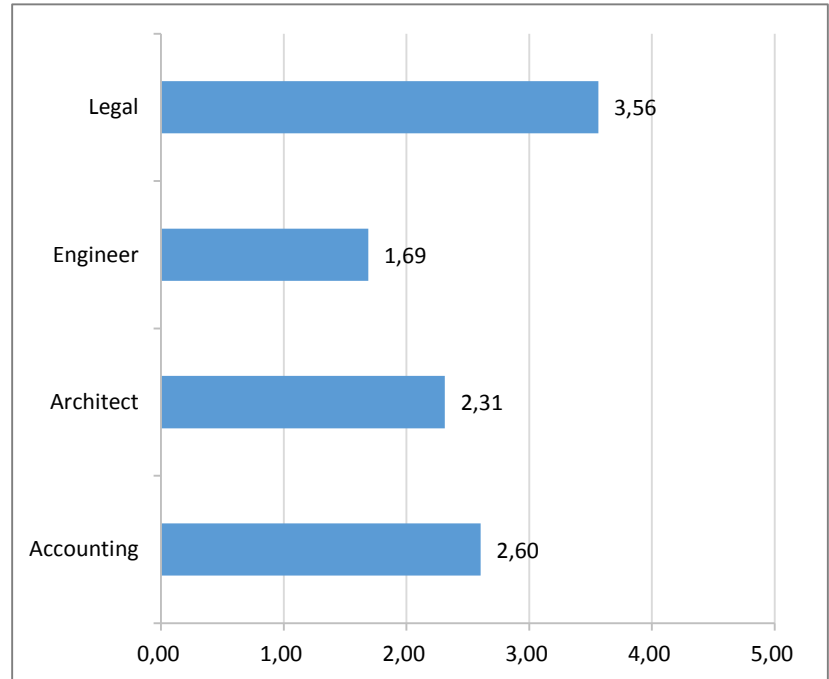
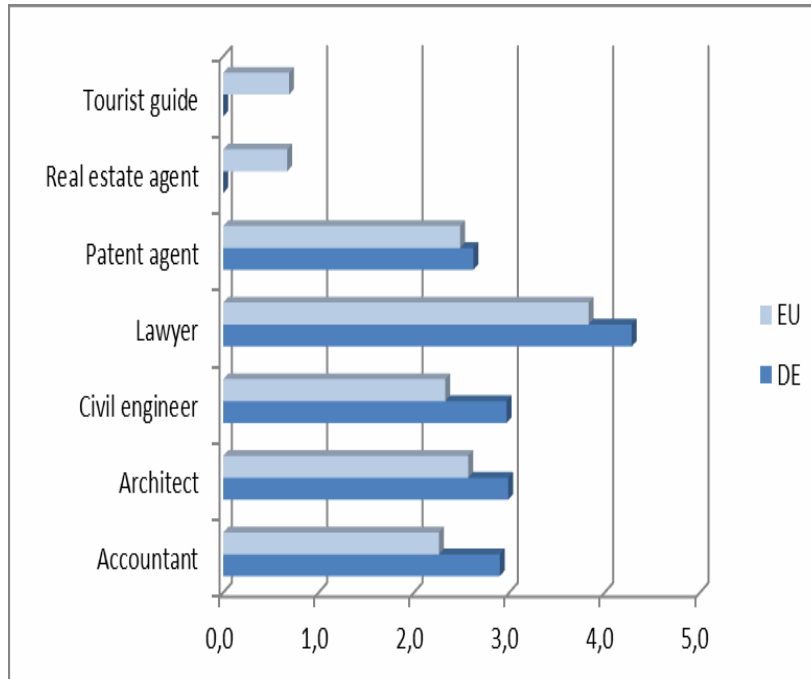


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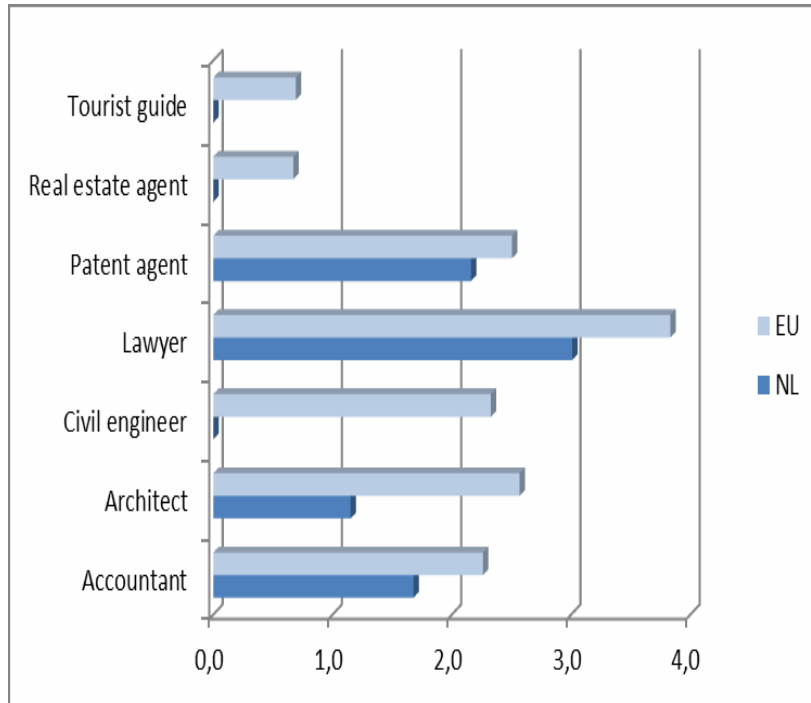
GERMANY

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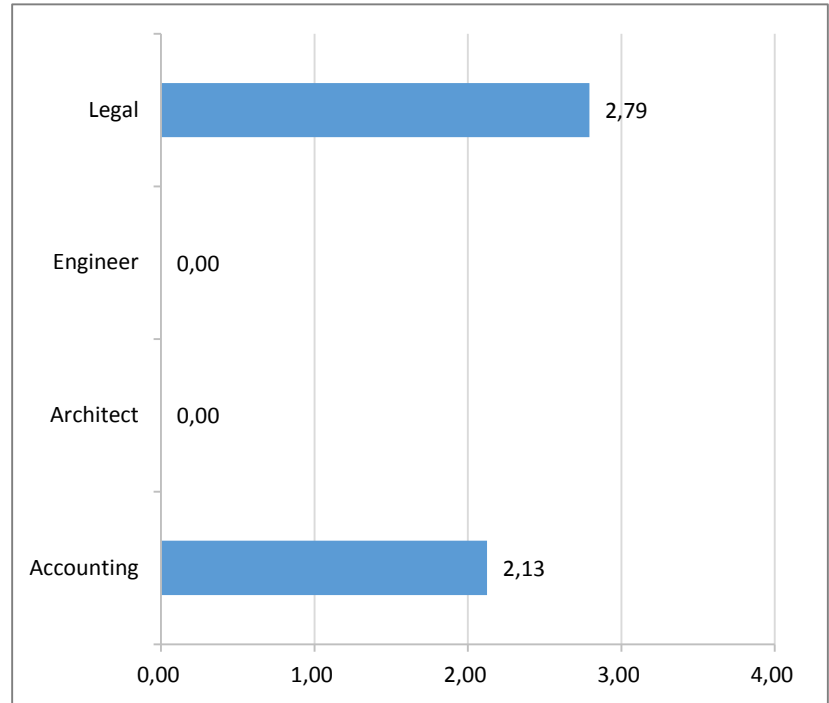


NETHERLANDS

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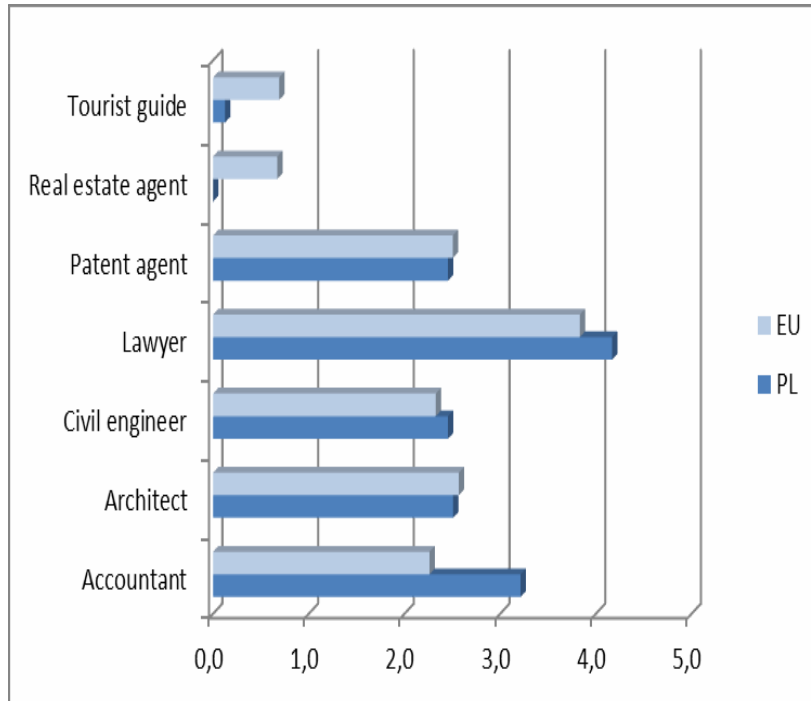


PMR (2013)



POLAND

COM (2016)



PMR (2013)

