

**Information about the regulations/requirements and procedures
for the provision of cross border services
and the establishment of foreign Chartered Engineers
in Greece**

a) Public Procurement

The provision of cross border services and the establishment of foreign Chartered Engineers are ruled by the same procedure. The provisions of Directive 2004/18/EC (which has amended Directive 92/50/EEC and was incorporated into National Law by the 3316/2005 decree) are in force.

Foreign Chartered Engineers from Member States of the European Union or the European Economic Area (EEC), can participate in public procurement, either individually or as consultancy companies. It is of no importance whether their countries keep Registers equivalent to Greek Registers of Designers or Consultancy Companies or not.

Moreover, the States which have ratified the Government Procurement Agreement (GPA) under the auspices of the World Trade Organization (WTO) can participate in public procurement. In this case, the parties interested should be registered in the Professional / Commercial Registers of Appendix IX C of the Directive 2004/18/EC or in the equivalent Registers of their countries.

More specifically, the interested parties can participate in calls for tender for the undertaking of public services and designs, provided they possess the equivalent qualifications of category and class required by the Registers of the decrees 716/77 and 3316/2005. The elements of experience and registration in those Registers - for each one of the 27 categories - are the degrees of 5 classes (A, B, C, D and E). The 3 first classes concern degrees of individual Designers or Designers who participate in companies. Classes D and E concern Consultancy Companies with more than one Designer who possesses a Designer's Degree. The requirements for granting a Designer's degree, of any category or class, are as follows:

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|---------|----------|
| Class A | 1 unit |
| Class B | 2 units |
| Class C | 3 units |
| Class D | 7 units |
| Class E | 12 units |

The foreign Consultancy Companies should possess, through their experience, equivalent qualifications. This provision is against Greek Designers and in favour of the foreign Designers and Consultancy Companies.

b) provision of cross border services in the private sector

Greece has not yet incorporated in the National Law the Directive 2005/36/EC "for the recognition of professional qualifications", which replaces the Directives 85/384/EEC on the mutual recognition of diplomas, certificates and other evidence of formal

qualifications in architecture and 89/48/EEC on a general system for the recognition of higher-education diplomas.

Moreover, Greece has not yet implemented the Directive 2006/100/EC, which concerns Bulgaria and Romania.

Consequently, the provision of cross border services in the field of architecture is governed by the Directive 85/384/EEC, as implemented in Greece with the Presidential Decree 53/11-02-2004.

For the rest of the specializations of Chartered Engineers, the Directive 89/48/EEC did not regulate the provision of cross border services.

c) establishment in the private sector

Concerning establishment of Architects, the provisions of Directive 85/384/EEC, as implemented in Greece by the Presidential Decree 53/11-02-2004, are in force.

For the rest of the specialities of Chartered Engineers, the provisions of Directive 89/48/EEC, as implemented in Greece by the Presidential Decree 165/28-06-2000.

It must be mentioned that the Member States of the EU should have incorporated the Directive 2005/36/EC into National Law by 20 October 2007.

d) Provision of cross border services or establishment, according to the Directive 2006/123/EC

The provision of cross border services or the establishment of an individual professional or company is provided for in the provisions of the Directive for "Services" 2006/123/EC, where in article 3 «Relationship with other provisions of Community Law» it is stated that in case of conflict of the Directive on Services in the Internal Market with the provisions of the Directive 2005/36/EC, the provisions of the latter Directive will prevail.

However, this does not solve the emerging problems. It is mentioned in a general and ambiguous way, which creates many questions and doubts as far as the implementation of this article is concerned.

Moreover, the Directive on Services in the Internal Market exempts Title II of the Directive 2005/36 from the free provision of services. Yet, in both Directive *"the temporary and occasional nature of the provision of services shall be assessed case by case, in particular in relation to its duration, its frequency, its regularity and its continuity"*.

We believe that new, unambiguous criteria of permanent effect should be set for the existence or non-existence of "temporary nature" in each case. Equally, the procedure that will be followed for the engineer - service provider, especially the way on the grounds of which, the distinction of the service provision to temporary or not (free provision of services or freedom of establishment) will be made, should be clarified.

There is also a question about what will be in effect when the profession is not regulated in the Member State of destination and we have temporary provision of services (the Directive 2005/36 concerns the access and pursuit of regulated professions).