

# Establishment of professionals and short-term provision of services in Germany

## Practical examples

For several years, an intensive debate has been continuing on a European level regarding stronger integration of the single market in terms of provisions of services. Regulated professions return to the centre of the debate again and again. In Germany, the term 'regulated professions' includes all skilled crafts professions under Appendix A of the Crafts and Trade Code (HWO). They are also often referred to as professions requiring a Master qualification. Simple possibilities for citizens of other EU member countries to access the market already exist at present.

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## Executive Summary



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- Regulated professions are not a European market barrier – two practical examples in the area of short-term provision of services and the permanent establishment make this clear.
- For the short-term provision of services, generally proof of lawful establishment in the skilled craft profession (or steady employment in the skilled craft profession) in an EU/EEA member country or Switzerland is sufficient.
- For the recognition of professional experience, the equivalency of the qualification is examined in individual proceedings – a German Master qualification is not necessary.
- The German Master qualification is not an absolute requirement for the provision of services in Germany and thus also not a barrier to the European single market.

## Background

Protracted European debate about regulated professions, the European Commission started several initiatives

For several years, an intensive debate has been continuing on a European level regarding stronger integration of the single market in terms of provisions of services. Regulated professions return to the centre of the debate again and again. In Germany, the term regulated professions includes all skilled crafts professions under Appendix A of the Crafts and Trade Code (HWO). They are also often referred to as professions requiring a Master qualification.

The European Commission issued a communication on October 2, 2013 on 'Evaluating national regulations on access to professions'. In it, member states were called on to set down in writing and evaluate all national regulations and provide national action plans for regulated professions. The measure was justified with Article 59 (5) of the [new recognition of professional qualification directive 2013/55/EU](#). In this directive, the member countries were obligated to portray why regulations are justified, necessary and commensurate, by January 18, 2016 (known as the Transparency Initiative).

In the meantime, the European Commission presented a [new European single market strategy](#) in October of 2015. In addition to the reference to the ongoing transparency initiative, the Commission announced that the access to regulated professions was to continue to be improved. The Commission wants to develop and present an assessment for the member countries on this issue, on the basis of which their existing or also newly regulated occupational profiles are to be evaluated. The Commission simultaneously demands a stronger linking of the debate on regulated professions with the European Semester. This idea was taken up particularly in two roadmaps of the Commission on the further proceedings in the segment of regulated professions in June of 2016.

## Market access in Germany

Regulated professions are not a European market barrier – two practical examples make this clear.



Information: „Practise and entry possibilities in the German skilled crafts sector“

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Regulations are portrayed again and again as a European market barrier and often found to restrict access to the market. According to this, regulated professions prevent the completion of the European market for services and serve to insulate domestic markets. This is not understandable from the viewpoint of the skilled crafts professions and is just plain incorrect. Already at present there are a multitude of exceptions which enable both German citizens and citizens of other European member states to provide services or commercially establish themselves in Germany – also without the title of 'Master'.

Two case studies are meant to illustrate the possibilities for providing services that already exist at present for citizens of other European member states. The procedures for the short-term provision of services and for the permanent establishment in Germany are explained and showcased in the examples.

## Case study 1: Short-term provision of services by Erik Holgersson (Swedish roofer) in Germany

### Personal situation of Erik Holgersson

#### Initial situation of Erik Holgersson

Erik Holgersson lives in Gävle (Sweden), is a roofer (Takmontörer) and has been running a successful small company for more than ten years. He has eight employees and is known in Gävle and the surrounding area for his sophisticated roof constructions. A friend of Erik Holgersson's emigrated to Frankfurt am Main (Germany) a few months ago and is building a traditional Swedish house there. He asked Erik Holgersson to carry out the roofing work. Erik Holgersson would very much like to accept the job. First, however, he checked whether he is allowed to carry out the work in Germany. In Germany, the job of roofer is amongst the regulated skilled crafts professions under [Appendix A of the Crafts and Trade Code \(HWO\)](#).

### Registry procedure with the Chamber of Skilled Crafts Frankfurt-Rhein-Main under §7 EU/EEA Trade and Crafts Regulation (HwV)

For the short-term provision of services, generally proof of lawful establishment in the skilled craft profession (or steady employment in the skilled craft profession) in an EU/EEA member country or Switzerland is sufficient.



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Already at present, the temporary, cross-border provision of services is possible for persons from other European member states. The intended provision of services in a regulated skilled crafts profession solely has to be registered once with the responsible chamber of skilled crafts in writing before the first provision of services. The registration is valid for 12 months and can be repeated informally, if the continued provision of services is intended.

From his single contact person Erik Holgersson finds out that in his case the Chamber of Skilled Crafts Frankfurt-Rhein-Main is responsible. If he wants to carry out the job in Germany, he solely has to provide proof to the Chamber of Skilled Crafts Frankfurt-Rhein-Main that he fulfils the requirements of the EU/EEA Trade and Crafts Regulation (HwV) using appropriate documentation. Generally, proof of lawful establishment in the skilled craft profession (or steady employment in the skilled craft profession) in an EU/EEA member state or Switzerland is sufficient. Only if the profession is not regulated in the country of origin and the person submitting the application also did not complete a state-regulated training programme in the profession must two years' professional experience in self-employment or as an operations manager additionally be proven. In Sweden the profession of roofer (Takmontörer) is not regulated. Erik Holgersson must prove accordingly that he has at least two years' full-time professional experience in self-employment or as an operations manager at his disposal. The two years of professional experience cannot date back to more than ten years ago. This is not a major hurdle in the case of Erik Holgersson, since he has been running his own company for more than ten years. Erik Holgersson obtains the corresponding verification from the responsible authority in Sweden, the trade office for example. Moreover, he must prove that his qualifications meet the German professional qualification level of a master roofer – meaning he has the necessary specialist knowledge.

On the basis of the documents provided, the Chamber of Skilled Crafts Frankfurt-Rhein-Main decides whether Erik Holgersson's qualifications correspond to the regulated profession of roofer in Germany. The chamber of skilled crafts can order a so-called qualifying test for proof of qualification. The professional knowledge of the applicant is examined during the test. In Erik Holgersson's case, however, there is no doubt as to his qualifications. The Chamber of Skilled Crafts Frankfurt-Rhein-Main issues him an EU certification. With the EU certification he is permitted to temporarily provide services as a roofer Germany-wide. Erik Holgersson solely has to ensure that he works fewer than 183 days in Germany, because otherwise he would be subject to income tax in Germany.

As a rule, registering a cross-border service costs Erik Holgersson a one-time fee of €25 (in accordance with the presently valid [fee schedule of the Chamber of Skilled Crafts Frankfurt-Rhein-Main](#)).

In addition to the one-time registry of the provision of services, Erik Holgersson must heed the obligation to register with the customs office (combating illegal employment) and tax-related issues. If Erik Holgersson has attended to all of the issues of the procedure, he can accept the job from his friend without a problem.

## Case study 2: Permanent establishment of William Jones (British electrician) in Germany

### Personal situation of William Jones

#### Initial situation of William Jones

William Jones discovered his passion for electronic devices early on. So for his parents it was not surprising that the Brit by birth wanted to become an electrician after finishing his schooling. After his successful apprenticeship as an electrician with a focus on electrical installation (installation electrician; Level 2 & 3 NVQs in Electrotechnical Services (2356)), William Jones became self-employed near London. He successfully ran his company with three employees for over fifteen years. For personal reasons, William Jones is planning to be permanently established in Germany (his German wife would like to return to Frankfurt am Main). Accordingly, William Jones is checking whether he is able to be permanently established in Germany with his qualifications. The profession of electrician is amongst the regulated skilled crafts professions in Germany under [Appendix A of the Crafts and Trade Code](#).

### Recognition of professional experience under §2 EU/ EEA Trade and Crafts Regulation (HwV)

For the recognition of professional experience, the equivalency of the qualification is examined in individual proceedings – a German Master qualification is not necessary.

From his [single contact person](#) William Jones finds out that he has to prove the equivalence of his British professional qualification with the regulated profession of *Elektriker* in Germany (Appendix A of the Crafts and Trade Code). The chambers of skilled crafts are generally responsible for checking the skilled crafts qualifications in Germany. In the case of William Jones, the Chamber of Skilled Crafts Frankfurt-Rhein-Main is



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responsible, since William Jones would like to create his permanent establishment within the area of responsibility of the Chamber of Skilled Crafts Frankfurt-Rhein-Main.

In an individual procedure, the Chamber of Skilled Crafts Frankfurt-Rhein-Main examines whether the training content and possibly the professional experience of William Jones meet the German qualification level. If the qualifications acquired abroad are comparable to German electrician training, the recognition of the qualifications follows directly. If the qualifications acquired abroad display considerable differences compared to the respective German training, the recognition can be combined with conditions. The conditions can, however, be omitted with proof of sufficiently long practical experience.

In the case of William Jones there are no problems at all. To prove his qualification, he only needs the documents stating that he successfully finished his training as an electrician with a focus on electrical installation (installation electrician; Level 2 & 3 NVQs in Electrotechnical Services (2356)). Moreover, he equally fulfils several requirements under §2 EU/ EEA Trade and Crafts Regulation (HwV). For example, William Jones worked continuously as a self-employed person for more than six years. The proof of several years of self-employment in the electrical sector would also be sufficient to prove the equivalency of his qualification. Should there be any doubt about the professional qualifications, the chamber of skilled crafts can carry out a qualifying examination.

After all documents and materials have been examined, the Chamber of Skilled Crafts Frankfurt-Rhein-Main would grant William Jones an exemption. This exemption certifies for William Jones that his professional qualifications are equivalent to the German *Elektriker* under Appendix A of the Crafts and Trade Code. With the exemption he can create a permanent establishment anywhere within the entire federal territory.

### Final comments

The German Master qualification is not an absolute requirement for the provision of services in Germany and thus also not a barrier to the European single market.



Information: „Keep the German Master Qualification in Europe“

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The examples of William Jones (recognition of professional experience) and Erik Holgersson (short-term provision of services) show that already at present a short-term or a permanent provision of services by citizens of other European member states is possible in Germany. It is solely required that foreign specialists have sufficient professional experience and professional qualifications.

The German regulations in the skilled crafts sector are in no way restrictions to market access or even a European market barrier. Corresponding regulations serve to ensure a high level of consumer protection and the provision of high-quality services.

## About the Chamber of Skilled Crafts Frankfurt-Rhein-Main

The Chamber of Skilled Crafts Frankfurt-Rhein-Main is one of the largest self-governing skilled crafts bodies of the economy and represents around 33,000 member enterprises.

As a self-governing body in the skilled crafts sector, the Chamber of Skilled Crafts Frankfurt-Rhein-Main represents the interests of SMEs in the Frankfurt-Rhine-Main region. With around 33,000 member companies in its region, the Chamber of Skilled Crafts Frankfurt-Rhein-Main is both one of the largest chambers of skilled crafts and one of the largest self-governing bodies of the German economy. With approximately 133,500 employees, our member companies have an annual turnover of around 12.2 billion Euro. The Chamber of Skilled Crafts Frankfurt-Rhein-Main offers its member companies a broad spectrum of support in running their enterprises. The portfolio of services includes, among other things, advising on the establishment of start-ups, advising and preparation of company successions and advising on investment decisions, financial matters and liquidity issues. Each year, approximately 9,000 young people are trained in around 5,000 companies providing training in the region covered by the Chamber of Skilled Crafts Frankfurt-Rhein-Main. The Chamber of Skilled Crafts Frankfurt-Rhein-Main is represented by its own office in Brussels.

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