

## Mutual evaluation of regulated professions

### Overview of the regulatory framework in the retail sector by using the example of opticians

*Report based on information transmitted by Member States  
and on the meeting of 24 November 2014<sup>1</sup>*

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

Already 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>2</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 improve where necessary 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>3</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 Member States and compare their systems, this report presents an overview of the information communicated to the Commission by EU Member States, Iceland, Liechtenstein, Norway and Switzerland<sup>4</sup> 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 24 November 2014 on mutual evaluation dedicated to this sector<sup>5</sup>. This presentation 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

<sup>1</sup> This report is mainly based on information submitted by the MS to the regulated professions database ([http://ec.europa.eu/internal\\_market/qualifications/regprof/index.cfm?lang=en](http://ec.europa.eu/internal_market/qualifications/regprof/index.cfm?lang=en)), on the national reports sent to the Commission in autumn 2014 and on the discussions at the meeting of 24 November 2014; it is supplemented by some other clearly indicated sources. The following countries have not provided national reports: Greece, Hungary, Norway and Romania.

<sup>2</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>3</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>4</sup> Collectively referred to as “Member States” in this document.

<sup>5</sup> For the purpose of this meeting, EU Member States were organised in 4 different groups of 7 Member States (+ Iceland, Liechtenstein, Norway and Switzerland). Groups were organised as follows: *Group 1*: Belgium, Croatia, Denmark, Luxembourg, Poland, Portugal, Spain, Switzerland; *Group 2*: Estonia, Hungary, Ireland, Italy, Liechtenstein, Malta, Romania, Slovenia; *Group 3*: Bulgaria, Cyprus, Czech Republic, France, Iceland, Latvia, Slovakia, Sweden; *Group 4*: Austria, Finland, Germany, Greece, Lithuania, Netherlands, Norway, United Kingdom.

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.

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

Any remarks made in this report should therefore be understood as holding potential wide-ranging relevance for all professions and Member States are invited to draw upon these insights when preparing their National Action Plans.

## 2. ECONOMIC AND STATISTICAL INFORMATION

### 2.1. Introduction

In the Statistical Classification of Economic Activities in the European Community (NACE), activities of opticians are reported under the following category: 47.78 Other retail sale of new goods in specialised stores, which regroups also many other activities unrelated to opticians. There is no further breakdown of the category available.

In the International Standard Classification of Occupations (ISCO), the profession of *dispensing optician* is classified under section 3 “Technicians and associate professionals”, subsection 32 “Health associate professionals”. The profession of *optometrist and ophthalmic optician* is classified under section 2 “Professionals”, subsection 22 “Health professionals”.

ISCO provides for the following descriptions of activities for these professions:

Dispensing opticians design, fit and dispense optical lenses based on a prescription from an ophthalmologist or optometrist for the correction of reduced visual acuity. They service corrective eyeglasses, contact lenses, low-vision aids and other optical devices. Tasks include, *inter alia*: examining and taking facial and eye measurements; providing advice to clients; interpreting optical prescriptions and preparing work order for optical laboratory for grinding and mounting of lenses in frames, preparation of contact lenses; Examples of the occupations classified here: Contact lens optician, Dispensing optician

Optometrists and ophthalmic opticians<sup>6</sup> provide diagnosis, management and treatment services for disorders of the eyes and visual system. They counsel on eye care and prescribe optical aids or other therapies for visual disturbance. Tasks include, *inter alia*: examining patients’ eyes and assessing ocular health and the nature and extent of vision problems and abnormalities; testing visual function using specialized instruments; detecting, diagnosing and managing eye disease, including prescribing medications for the treatment of eye disease; consulting with and referring patients to ophthalmologists or other health professionals if additional medical treatment is necessary; detecting and diagnosing eye movement disorders and defects of binocular function; planning and managing treatment programs; prescribing corrective eyeglasses, contact lenses and other

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<sup>6</sup> The professions of optometrist and ophthalmic optician should not be confused with the profession of ophthalmologist - specialist medical practitioner.

vision aids; Examples of the occupations classified here: Ophthalmic Optician, Optometrist, Orthoptist.

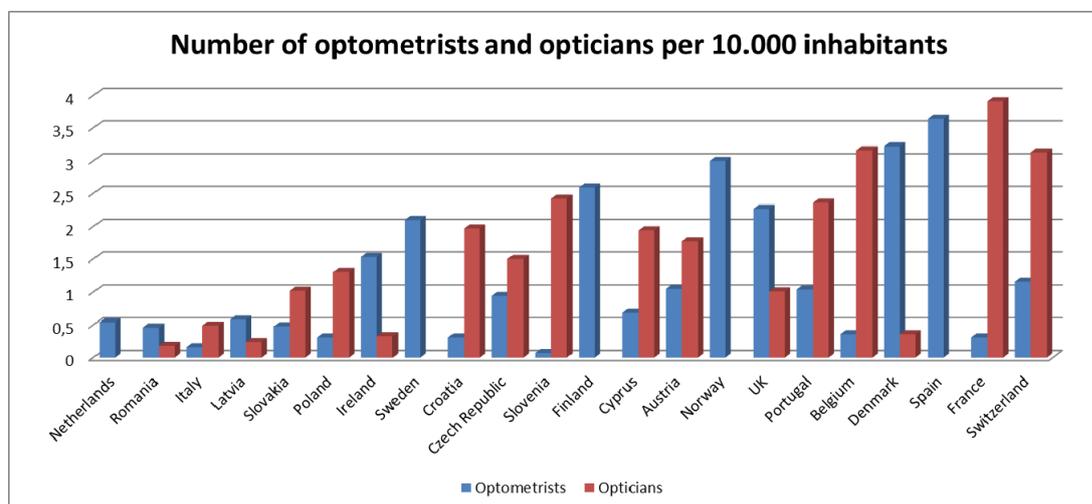
**Cyprus, Denmark, France, Slovakia, Spain and United Kingdom** as well as **Iceland, Liechtenstein and Switzerland** consider the profession of ‘optician (dispensing optician)’ a healthcare profession, **Austria, Croatia, Germany, Luxembourg, Netherlands** - a craft profession and **Czech Republic and Lithuania** - a trade profession.

Those countries that regulate the optometrist profession seem to consider it a health profession.

## 2.2. Economic and statistical data

Very little national statistical and economic information was provided by the EU Member States as regards the professions of optician and optometrist and the sector to which these professions belong. Statistics on those professions and activities were also difficult to find at the European level because of the relatively small size of the professions which means that sample size and confidentiality issues prevent from using and presenting any data.

On the basis of data collected by the European professional association ECOO<sup>7</sup>, an indication is given concerning the relative number of optometrists and opticians in some but not all countries covered by this exercise. Given the differences in the definition and scope of optician and optometrist, data is presented for both professions. Altogether, according to these figures, the combined density of optometrists and opticians in the population is highest in Switzerland, followed by France, Spain and Denmark. It is on the other hand lowest in the Netherlands, Romania, Italy and Latvia.

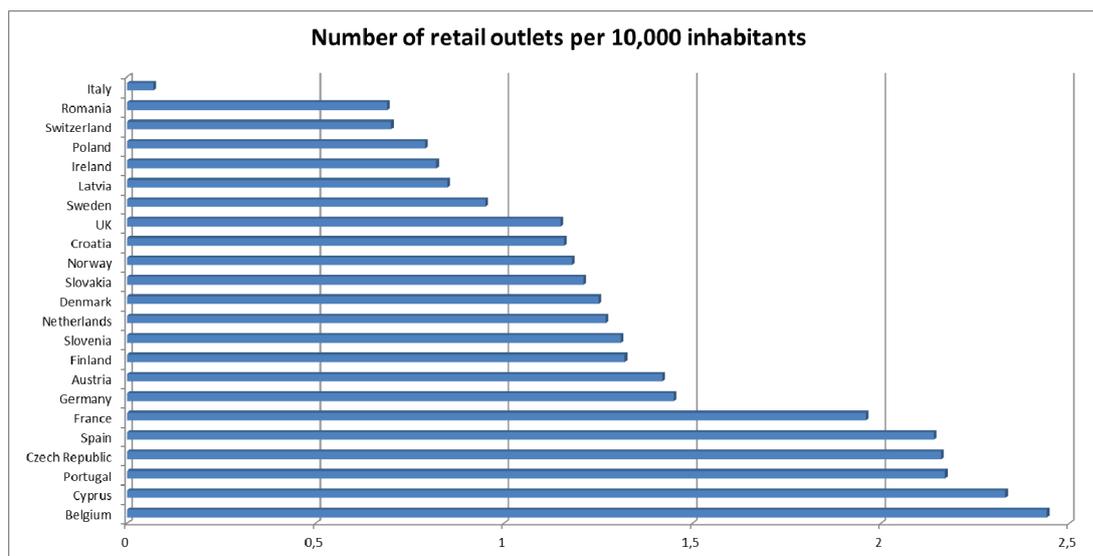


Source: European Council of Optometry and Optics, 18 November 2014

The density of retail outlets could indicate how easy it is for consumers to access services of opticians. No systematic correlation can however be detected with the figures

<sup>7</sup> Given that no relevant statistical and economic information is available from publicly accessible sources, data provided by the European Council of Optometry and Optics (ECOO) have been included in the report. ECOO is the European organisation which represents the interests of optometrists and opticians from 26 countries (including 23 EU Member States). It aims to promote eye health to the public across borders and to harmonise clinical and educational standards of optometric and optical practice throughout Europe. For more information on ECOO see: [www.ecoo.info](http://www.ecoo.info)

on density of opticians. The results show however that there are some significant variations between the extremes.



Source: European Council of Optometry and Optics, 18 November 2014

### 3. OVERVIEW OF REGULATION IN MEMBER STATES

16 Member States have notified in the Regulated professions database that they regulate the profession of ‘optician (dispensing optician)’: **Austria, Belgium, Croatia, Cyprus, Czech Republic, Denmark, France, Germany, Greece, Hungary, Ireland, Italy, Luxembourg, Slovakia, Slovenia, United Kingdom**, as well as **Iceland, Liechtenstein, Norway** and **Switzerland**. 13 Member States notified that they regulate the profession of ‘optometrist (ophthalmic optician)’: **Austria, Cyprus, Czech Republic, Finland, Hungary, Ireland, Latvia, Malta, Netherlands, Slovakia, Spain, Sweden, United Kingdom** as well as **Switzerland**.

**Estonia, Lithuania, Poland, Portugal** and **Romania** informed that they regulate neither of the professions.

**Bulgaria** has not notified any regulated profession in this field in the Regulated professions database; however, in its report Bulgaria clarifies that the education in the country is regulated and that it requires by law specific qualifications for access and exercise of the profession of ophthalmic optical technician, optician-optometrist, optician and optometrist.

It seems that in **Poland** opticians can participate in the national healthcare system if they fulfil certain requirements regarding the scope of the activities and the qualification of the provider. This de facto allows opticians access to more customers (customers can obtain a 10-15% reimbursement and furthermore it works like a quality mark).

In the case of countries where the activities of optician and optometrist are merged into one profession, the possibilities offered by the database to notify the profession according to ISCO classification appear to be insufficient. Some countries have therefore chosen to notify the profession under ‘optician (dispensing optician)’ (**Denmark**), others under ‘optometrist (ophthalmic optician)’ (**Cyprus, Spain, Sweden**), and **Austria**, under both generic titles. More detailed explanation follows below:

**Austria** explained in its report that it regulates two professions in this field: Contact lens optician and optician. Furthermore, it clarified that dispensing optics and optometry are merged into one profession in Austria so that the craft profession ‘optician’ comprises both. It has notified the profession of optician twice in the database, under the titles ‘optician (dispensing optician)’ and ‘optometrist (ophthalmic optician)’ and the profession of contact lens optician under the title ‘optician (dispensing optician)’.

**Cyprus** communicated two regulated professions, technical optician under the title ‘optician (dispensing optician)’ and optician under the title ‘optometrist (ophthalmic optician)’: optician. In the Cypriot national report it is explained that optician covers the tasks of a technical optician and also deals with optometrics. Thus, it would seem that also in Cyprus dispensing optics and optometry are merged into one profession of ‘optician’.

**Denmark** communicated in the database that it regulates the profession of ‘optician (dispensing optician)’ and that recently optics and optometry were merged into the profession of optician. Optometrists in Denmark are now entitled to pursue the generally understood activities of both optician and contact lenses optician. Those who graduated as opticians have to follow a specific training in order to be able to also fit contact lenses.

In **Finland** the profession of optometrist is regulated and optometrists can practise the profession of optician.

**Iceland** notified in the database that it regulates the profession of dispensing optician; however, it is explained in their report that the practice of optician in Iceland is closer to the profession of optometrist.

In **Slovakia** both professions are regulated and optometrists can practice the profession of optician.

In **Spain** optics and optometry are merged in one profession: optician-optometrist.

**Sweden** has communicated in its report that it regulates the profession of optician through title protection and it seems that the profession of optician comprises both: dispensing optics and optometry. There is a separate certificate required for fitting and trying out contact lenses.

### **3.1. Reserved activities/protected title**

The following Member States that have notified regulated profession(s) in this field have not provided the required information on the type of regulation: **Greece, Latvia, Luxembourg and Malta.**

With regard to the profession of ‘optician (dispensing optician)’, **Denmark, France and United Kingdom** as well as **Iceland** report protecting the title as well as reserving activities; **Austria, Belgium, Cyprus, Croatia, Czech Republic, Germany, Hungary, Ireland, Italy, Slovakia, Slovenia**, as well as **Liechtenstein** and **Switzerland** regulate this profession through reserves of activity, while **Norway** through title protection (without reserves of activity).

With regard to the profession of ‘optometrist (ophthalmic optician)’, **Finland, Spain and United Kingdom** report protecting the title as well as reserving activities, **Austria, Cyprus, Czech Republic, Hungary, Ireland, Slovakia**, as well as **Switzerland** regulate

this profession through reserves of activity, while **Netherlands** and **Sweden** through title protection (without reserves of activity).

In all the countries that implement a reserve on activities, the scope of activities reserved to the profession of ‘optician (dispensing optician)’ include the manufacturing and repair of eye correction tools.

Many countries reserve also the sale of corrective contact lenses and optical glasses to the profession of optician (**Austria, Belgium** (only optical glasses), **Cyprus, Czech Republic, France, Hungary, Slovakia, Slovenia and United Kingdom**). **Germany's** report states that it does not reserve this activity to opticians. In the **Czech Republic, Ireland and Slovenia**, the activities subject to regulation do not cover the sale of ready-made optical aids. In **France**, the activities subject to regulation do not cover care products for lenses, sunglasses, eye patches and magnifying glasses. In the **United Kingdom**, only the dispensing of zero contact lenses<sup>8</sup>, dispensing optical appliances to children under 16 and to those registered as visually impaired is reserved to opticians (shared with optometrists). In **Spain**, only an optician-optometrist is allowed to dispense, fit and design corrective eyeglasses/contact lenses and low-vision aids. In addition, they may provide diagnosis and prescribe optical aids for eye disorders.

In **Cyprus** only registered opticians may set up and manage optician shops; the operation licence of optical shops is personal and non-transferable<sup>9</sup>. In the **Czech Republic** the relevant qualifications are required to set up an optician shop as well as to be employed there. In **Iceland**, both the manager as well as all the employees of an optical store need to be licenced. In **Spain**, only the technical director (one required per optician shop) and the employees carrying out reserved activities must to be qualified. **Austria** stated that specific qualifications are required by law only for the pursuit of the reserved activities as a self-employed or as a manager. In **Slovakia** only the managers need to be qualified (in addition to qualifications they need 5 years professional experience). In **Germany**, only the technical branch manager has to have the relevant qualifications. In **Croatia** only in the case of conducting craft the craft owner or works manager (employed by the craft owner) has to meet these requirements, while they are not obligatory for other employees or employees of companies and for companies themselves (for example limited companies etc.). In **Denmark, Luxembourg, Slovenia and Switzerland**, one person with relevant qualifications must always be present in a shop. In **France**, all employees who exercise reserved activities have to be qualified as opticians. In **Estonia, Poland and Portugal** anyone can open an optician shop and there are no legal requirements regarding the personnel but in practice normally either an optician or an optometrist is present.

Numerous Member States consider it sufficient to have one qualified person present in or managing the optics shop. Member States who have adopted another regulatory approach or impose stricter requirements are invited to assess them taking into account experience gained in other Member States with different approaches and to reflect on alternative solutions.

<sup>8</sup> Cosmetic contact lenses: coloured, patterned or novelty contact lenses

<sup>9</sup> With one exception: in case of the death of the licensee, the heirs of the deceased are allowed to continue the operation of the shop by entrusting its management to a licenced optician or registered optical technician.

**Bulgaria** has not notified any regulated profession in this field in the Regulated professions database; however, according to its report Bulgaria reserves certain activities such as the production and sale of eyeglasses and materials for ophthalmic optics, as well as the management of pharmacies to qualified persons. For management roles, the professional must have undergone at least 1 year of professional experience.

In some countries opticians may carry out eye examinations and prescribe eye correction tools and/or certain medicinal products required in their work (**Austria, Cyprus, Denmark, Finland, Norway** as well as **Iceland**). It is not clear if opticians in **Ireland** can prescribe eye correction tools – in its report Ireland underlines that this activity is reserved to optometrists and medical doctors, however in the database it mentions this activity as one reserved to opticians. In **France**, opticians may adapt prescriptions issued by ophthalmologists which are not older than 3 years. In **Iceland**, there are certain limitations on the right to carry out eye examinations and prescribe eye correction tools. Opticians in Iceland may not, unless instructed by an ophthalmologist, *inter alia*: provide optical aids to children under 12 years, people who have never consulted an ophthalmologist, people with eye diseases or diseases that could be detrimental to vision such as diabetes. **Austria** distinguishes the profession of contact lens optician separately and reserves the activities linked to this type of correction tool to this profession, while **Iceland** requires additional training (10 weeks) from opticians that wish to fit contact lenses. In those countries imposing reserves, the scope of activities reserved to the profession of ‘optometrist (ophthalmic optician)’ includes the testing of eyesight and issuing prescriptions (**Hungary, Ireland, Spain, United Kingdom** and **Switzerland**). In the **United Kingdom**, only optometrists may fit contact lenses, while **Sweden** requires additional certification for optometrists that wish to fit and try out contact lenses<sup>10</sup>.

In **Slovakia**, all activities reserved to opticians are shared with optometrists.

It appears from the discussions that in some Member States the activities falling under a reservation might not have been accurately recorded into the database (including those shared with other professions). Member States are invited to (re-)assess the accuracy of the information provided.

### 3.2. Professional qualification required<sup>11</sup>

The following Member States that have notified regulated profession(s) in this field in the database but have not provided the required information on the professional qualifications: **Greece, Hungary, Latvia, Luxembourg, Slovenia** as well as **Norway**.

The minimum qualification required for the profession of optician (dispensing optician) varies between vocational and general secondary to post-secondary education. The following countries require general or vocational post-secondary education the length of which varies between 2 and 4 years: **Austria, Cyprus** (technical optician), **Denmark, Germany, France, Ireland, Malta, UK** as well as **Iceland**, and the following countries require general or vocational secondary education the length of which varies between 3 and 5 years: **Belgium, Bulgaria, Czech Republic, Italy, Slovakia, Slovenia** as well as **Liechtenstein** and **Switzerland**.

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<sup>10</sup> Sweden stated that since the current national degree includes training on fitting and trying out contact lenses, in the long run all opticians trained in Sweden will be able to exercise this activity without additional certification

<sup>11</sup> See Annex 1 for a table with country specific information

**Austria, Cyprus, Denmark, France, Germany, Ireland, Malta, United Kingdom** as well as **Liechtenstein** prescribe mandatory traineeships. **Bulgaria, Croatia, Denmark, Germany, Ireland, Italy, and United Kingdom** prescribe state exams. In **Cyprus, Malta, Slovakia, Slovenia, Spain** and **United Kingdom** registration in professional chambers is mandatory.

All the countries that regulate the profession of optometrist (ophthalmic optician) require a general or vocational post-secondary education which varies between 3 and 4 years: **Cyprus, Czech Republic, Finland, Ireland, Malta, Netherlands, Slovakia, Spain Sweden** and **United Kingdom** as well as **Switzerland**.

**Cyprus, Czech Republic, Finland, Ireland, Malta, Spain** and **United Kingdom** prescribe mandatory traineeships. **Ireland** and **United Kingdom** prescribe state exams. In **Cyprus, Finland, Malta, Slovakia** and **United Kingdom** registration in professional chambers is mandatory.

### 3.3. Additional requirements<sup>12</sup>

The following Member States that have notified regulated profession(s) in this field in the database, have not provided there the required complete information on additional requirements: **Greece, Hungary, Latvia, Luxembourg, Slovenia** as well as **Norway**.

*a) Limits on numbers of licences, territorial restrictions and legal form restrictions*

None of the countries reported limits on numbers of licences granted.

**Switzerland** reported territorial restrictions and **Liechtenstein** legal form restrictions, without providing further details/justifications.

*b) Shareholding/voting rights restrictions, mandatory professional indemnity insurance and mandatory cross-border insurance*

**United Kingdom** and **Liechtenstein** reported shareholding/voting rights restrictions (51% and 100% accordingly).

**United Kingdom** explains that currently these restrictions are only applied to business using the protected title; however, after a recent assessment, it is considering an extension of these restrictions as a condition for the exercise of reserved activities, in order to prevent illegal practices.

Professional indemnity insurance is required in **France, United Kingdom**, as well as **Iceland** and **Liechtenstein** for opticians and in **Malta, Spain, Sweden, United Kingdom** and **Switzerland** for optometrists. **France, Malta, Spain** as well as **Liechtenstein** and **Switzerland** (the latter with regard to optometrists only) require insurance also in the case of activities provided cross-border.

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<sup>12</sup> Idem

Only a few Member States reported territorial limitations, legal form restrictions or/and shareholding/voting rights restrictions. They are invited to assess them in light of the proportionality principle, and in particular to consider whether they do not go beyond what is necessary to attain the pursued general interest objective(s) and genuinely reflect a concern to attain it in a consistent and systematic manner<sup>13</sup>. Member States that did not report above-mentioned restrictive measures did not refer to any negative consequences for lack of this kind of regulation in the professions of optician and/or optometrist.

*c) Continuous Professional Development*

In **Austria** there are voluntary continuous professional development schemes.

In **Denmark**, the training requirements are mainly included in the collective agreements (employees need to ensure certain training for their employees).

**Cyprus, Latvia, Slovakia and United Kingdom** prescribe mandatory continuous professional development.

In **Cyprus**, in order to renew the licence to practise (on a yearly basis) one has to follow a training organised by the Cypriot Optical Council at least once in every two years.

**Latvia** reported a certification scheme for optometrists organized on credit point accumulation based on a life-long learning algorithm. Certificates are issued by the Association of Optometrists and Opticians of Latvia. The relevant law defines that the professional activity of an optometrist is legal for five years after completion of the University professional optometry master study program and after this period an additional certification is required.

In **Spain**, the Law No. 44/2003 on the organisation of health professions establishes the obligation of continuous education and training for all health care professionals: it is the obligation of all practices, private or public, to review tri-annually that all their professionals continue to meet licensing requirements so as to be able to continue providing services.

In the **United Kingdom** the so-called CET scheme (Continuing education and training) is operated by the General Optical Council. UK considers it essential that eye care practitioners maintain up to date skills and knowledge needed to practise safely and effectively throughout their career. CET is a statutory requirement for all fully-qualified optometrists and dispensing opticians. The CET scheme is a points-based scheme that runs over a three-year cycle. All fully qualified registrants must earn at least 36 CET points by the end of each cycle to stay on the registers, related to all of the competencies for education and training.

*d) Voluntary certification schemes*

Voluntary certification schemes exist in **Croatia, Estonia, Luxembourg, Poland, Portugal, Slovenia, Spain** as well as in **Switzerland**.

**Slovenia** states that ECOO-DOOS certificate is a voluntary certification system carried out by the Association of ophthalmic opticians in Slovenia. This certification system is part of the European Council of Optometry and Optics program.

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<sup>13</sup> See to that effect Case C-539/11, *Ottica New Line di Accardi Vincenzo*

**Estonia** has a certification system run by the Qualifications Authority. Professional councils run by the Authority develop professional standards, also for optometrists (the levels are according to the European Qualifications Framework), which are used for developing curricula in formal education and training, and also as the basis for issuing professional certificates in all sectors (based on education and/or experience). The aim of the system is for the market to see the professional certificate as a mark of quality.

**Austria** does not have voluntary certification schemes as it considers that this constitutes considerable extra costs for companies compared to the master craftsman's qualifying examination required in Austria.

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

The following Member States that have notified regulated profession(s) in the database have not provided the required complete information on proportionality: **Greece, Hungary, Latvia, Luxembourg, Malta, the Netherlands and Slovenia.**

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. **Cyprus** stated that only EU citizens and certain family members of Cypriot citizens (under certain conditions) can register in the professional chamber which is a pre-condition for the exercise of the profession of optician.

##### **4.2. Justifications and proportionality**

Under EU law, in order to be maintained, measures restricting the access to a profession must not only be non-discriminatory; they must also be justified by overriding reasons of general interest<sup>14</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, Member States should also assess whether there are other less restrictive means than the measure in question to attain the same objective.

First of all, Member States were asked to identify the specific overriding reasons of general interest, which justify their regulatory framework.

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<sup>14</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 (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).

- *Health protection* has been invoked by **Austria, Belgium, Cyprus, Czech Republic, Denmark, Finland, France, Germany, Ireland, Italy, Malta, Slovakia, Spain and Sweden** as well as by **Iceland, Liechtenstein, Norway and Switzerland**.
- *Protection of consumers and recipients of services* has been invoked by **Austria, Cyprus, Croatia, Czech Republic, Finland, Germany, Italy, Malta, Spain and Sweden**, as well as by **Liechtenstein, Norway and Switzerland**.

The following overriding reasons were invoked by single countries:

- *Road safety*: **Austria**
- *Securing skilled labour, training, innovation and performance capacity; Performance and training capacity of the craft sector*: **Germany**
- *Public security*: **Iceland**
- *Prevention of fraud*: **Norway**
- *Patient safety*: **Sweden**

With regard to *health protection* **Austria** explains that the detection of refractive anomalies and abnormal ocular conditions and furthermore the provision of optical appliances for correcting the vision improves the quality of life in general and enhances the safety, especially in the field of traffic.

For the **Czech Republic** the regulation is needed in order to limit the exercise of the profession by unqualified persons and thus to prevent the violation of consumer interests and damage to people's eyesight. **Czech Republic** also underlines that opticians carry out highly professional work, in particular they manufacture corrective optical aids and determine parameters necessary for manufacturing optical aids (e.g. the position of an eye pupil), which explains why specific professional qualifications are needed.

**Germany** lists risks linked to the different activities of opticians: measuring refraction (incorrect refraction will lead to wearing improper visual aids and this can cause headaches, nausea and interfere with stereoscopic vision, which can be particularly dangerous when driving); centring (incorrectly centred lenses can cause headaches, nausea, double vision); optical and anatomical fitting of glasses (incorrect fitting can result in pressure points forming on the skull and the bridge of the nose, slipping out of position for the glasses, which will have the same effect as incorrectly centred glasses); fitting contact lenses (requires examination of the anterior segment of the eye to establish certain conditions such as conjunctivitis, corneal damage or insufficient lacrimal fluid, which allows to determine if the patient can wear the contact lenses at all. Failure to do so can lead to serious eye diseases); advice on contact lens care products (failure to give advice could cause severe allergic reactions); fitting magnifying visual aids (lenses must be centred precisely in front of the eye; incompatibility may result in severe headaches and nausea).

**France** states that the absence of an appropriate qualification would lead to serious risks: that glasses or lenses not adapted to the eye problem or morphology of the patient, or to his potential allergies, could cause the aggravation of symptoms or lead to accidents (at home, on the road, etc.), learning difficulties for children or social exclusion.

**Sweden** observes that a significant proportion of its population is in need of visual aids in daily life and many people choose to regularly visit their optician to check their eyes. The optician plays an important role in detecting and preventing eye diseases. In Sweden, they treat non lesional changes in the eyes, perform eye examinations and fit glasses and contact lenses. They are also obliged to refer the patient to an ophthalmologist or other physician if the examination shows raises the suspicion of abnormal eye condition.

According to the **United Kingdom** research has shown the importance of ensuring that only appropriately trained registrants are carrying out restricted activities, to minimise the risk to public health and safety. It refers to research conducted into the risks associated with optical adverse events commissioned in 2010 by the General Optical Council. Europe Economics produced a report reviewing the risks involved where restricted activities are carried out by someone inappropriately qualified to be fitting contact lenses, selling zero-powered contact lenses and/or dispensing to children under 16 or the visually impaired. The report identified the incorrect advising on contact lens wear and the management of child patients as medium risks. A separate report also suggested the indirect risks of title misuse by unregistered practitioners – the risks included carrying out restricted functions without appropriate education and training. Dispensing to children to ensure proper fit of spectacles was also identified as an area of risk. In the UK dispensing to children is restricted to a dispensing optician (and an optometrist or medical practitioner) to mitigate against this risk and ensure the health and safety of the child. Regulation ensures that dispensing opticians have an appropriate level of education and training, on an ongoing basis through the GOC's CET scheme, to minimise the risks outlined above. Also, dispensing opticians must hold an additional contact lens qualification to gain entry to the contact lens specialty register before being able to fit contact lenses. The requirement for a contact lens qualification is enforced through the GOC's fitness to practise mechanisms rather than the criminal justice system, on grounds of proportionality.

With regard to *road safety*, **Austria** explains that the risks of undetected refractive error, restricted field of view, glow or unbalanced binocular vision result in a reduced level of road safety.

With regard to *public security* and *public health*, **Iceland** observes that it is important for the wellbeing and health of patients that they receive the appropriate treatment and corrective measures when seeking the services of an optician. Patients need to feel secure that the person treating them has the appropriate education and training in order administer the right measures.

Coming to the *concrete effects of the measure*, few countries have provided any information. **Cyprus** stated that no problems have been reported so far due to malpractice or service-provision from non-qualified professionals. **Norway** has not studied the concrete effects of the regulation however it considers that regulation by the supervision authorities helps ensure that services are provided in accordance with sound professional standards, deficiencies in the provision of services are prevented and resources are used in an appropriate and effective way. **Spain** considers that the current regulation leads to the minimization of malpractice cases, it does not however mention any statistical information to underpin this. **Sweden** states that no information has been found on the concrete effects of the measures. However, all indications show that the system functions well. In 2013, there were 8 complaints from patients and one self-initiated notification by a health care provider with regard to opticians. **United Kingdom** explains that there is a low level of complaints in comparison to other sectors; a consumer survey indicated that general level of satisfaction is high with 91% of

consumers rating their experience as good or very good when last visiting an optician. Furthermore, since 2010, the percentage of registrants subject to complaints has been very low in the UK: between 0.7 – 0.9%.

With regard to the consistency of the measure, **Czech Republic** states that it has enforced the protection of the individual aspects of public interest in a consistent and systematic manner. The responsible representative of an optician shop and its employees need to hold the relevant qualifications as they carry out activities similar to selected activities in which there is danger of health damage due to an unprofessional conduct.

**France** underlines that its measures are consistent as all the health professions are covered by similar regulation with regard to reserved activities, registration in national register and indemnity insurance.

Little feedback was given from Member States on the *cumulative effect of different measures*. Some countries stated that they have not reviewed the cumulative effects of the measures (**Austria, Iceland and Norway**). However, **Austria** notes that years of practice show that the system of competition between qualified professionals results in high service quality, ensures safety at work (hardly any accidents at work), and puts emphasis on the qualification of employees. **Cyprus** notes that the cumulative effects of measures have been positive. **Spain** considers that the effect of the regulations and measures on the professional activities has been positive. The cumulative effect of the legislation has led to the evolution of the profession, both in training and competences, which has caused benefit for consumers/users/patients. **Sweden** has reviewed the cumulative effect of the measures and considers that they do not go beyond what is necessary to achieve the relevant objectives. The fact that there is no exclusive right to practise the profession is consistent with the constitutional freedom of trade and freedom to practise a profession. At the same time the license and protected title reassure the health care provider and the patients/consumers that the professional is qualified and suitable to practise the profession. **United Kingdom** has also reviewed the cumulative effect of the measures (mandatory registration and indemnity insurance) on professional activities. In particular, the recent review of the UK Law Commissions into statutory healthcare regulatory legislation is relevant here. The two year review involved extensive public consultation. The UK Law Commissions produced their report in April 2014 which recommended a single statute for healthcare professions to promote consistency and achieve the primary aim of ensuring public safety. The regulatory model in operation and protected titles were considered to be a proportionate method of regulation for each of the healthcare regulators.

**Estonia, Lithuania, Poland, Portugal and Romania** informed that they neither regulate the profession of optician nor that of optometrist. With regard to the *use of alternative mechanisms to achieve the general objectives*, **Estonia** states that the general interest objective here is the consumer protection. It is being achieved through the control by the Consumer Protection Board which deals with any consumer complaints in the wholesale and retail sector and by certification system run by the Qualifications Authority described under point 3.3 of this report. **Portugal** has no certification system. It considers it sufficient that each private association representing opticians or/and optometrists has its own access controls for an individual to become a member. Each one has their own prescription template, professional identification and publicity rules. This has allowed each association to gain different levels of reputation with the public and governmental institutions that accept prescriptions for reimbursement of health care acts. For example, the association of optometrist APLO offers mandatory professional liability insurance to its members and has a comprehensive Code of Ethics and Deontology. The National

Association for Opticians concluded a collective contract with the trade union for this sector, which establishes general conditions for admission and the career progression. The National Association for Opticians has a supervisory and regulatory role with its membership. In **Lithuania**, the general interest objective of consumer protection is ensured through the Consumer Right Protection Authority; in addition, clients who are dissatisfied with the service of an optician can turn to the State Health Care Accreditation Agency. In 2012, a National Optician Association was created, 6 major Lithuanian companies with branch offices in all municipalities are members. The Association has developed a Code of Conduct for its members; currently, the Association along with its partners is implementing the project “Improvement of staff professional qualification in optics”, co-financed by EU Structural Funds. In **Poland**, the profession of optician is not regulated by any provisions of general law (act or ordinance). Individuals who perform the profession of eyeglasses optician may participate in the system of public health care services granted by the ordinance of the President of the National Health Care Fund. It specifies the conditions of providing such services as dispensing medical products and includes the scope of tasks performed and qualifications required from the persons providing these services. In **Romania** access to the profession is not regulated by law, but the education for optometrists and optician is regulated.

Little information was given from Member States on the *concrete effects* and *cumulative effects of different measures*. It seems that considerations that regulations in place are adequate often are not based on a thorough assessment of the concrete and real impact of the measures. It seems furthermore that very rarely the cumulative effect of all the restrictive measures is being assessed while it can significantly affect the conclusion about the necessity test - applying all the measures together might not be necessary to attain the pursued objectives.

With regard to the scope of the reserves of activities, the choice of a Member State to reserve to some professionals certain activities, such as for example the right to carry out objective eyesight examinations, may be regarded as an appropriate means by which to ensure attainment of a high level of health protection. However, the resulting restriction must be necessary and proportionate to secure that objective. The assessment of risk to public health is likely to change over time, in the light of technical and scientific progress<sup>15</sup>.

#### 4. RECENT REFORMS

**Austria, Croatia, Cyprus, Czech Republic, Denmark, Finland, France, Germany, Italy, the Netherlands, Slovakia, Spain and United Kingdom as well as Iceland, Liechtenstein, Norway and Switzerland** have communicated their intention to maintain their current system either because it has been considered satisfactory or because it has been recently changed.

**Cyprus** has amended its law in 2013 to include the obligation of lifelong training for opticians and technical opticians.

**Czech Republic** stated that it has reassessed and subsequently amended the regulation in this field several times. The last change was made in 2014, which laid down the professional competence requirements for persons with the help of which an entrepreneur

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<sup>15</sup> See for example Case C-108/96, *Dennis Mac Quen*

provides for activities within a notifiable trade. The level of qualification requirements was adjusted to the possibilities for obtaining the relevant qualification within the education system (school education, re-qualification, and examinations proving that the competence has been acquired through further education). Persons, who carry out professional activities as employees, have been allowed to prove their professional qualification with an exam certificate demonstrating that the competence has been achieved through further education, or with a three-year work experience. The regulation on the manufacturing and sale of mass-produced correction optical aids has been waived.

In 2010, **Finland** granted to opticians a limited right to prescribe and use certain diagnostic pharmaceutical agents required in their work. In the same context, a limited right to prescribe medications was also granted to certain other professional groups in health care. The Ministry of Social Affairs and Health has appointed a working group to assess the impact of the reform and, if necessary, to issue proposals regarding the development of the system. The working group must submit its report by the end of 2015.

In 2014, **France** waived the qualification requirement for the management of optics shops and for the sale of lens care products. In 2007, it extended the competences of opticians, who currently can adapt the prescriptions for correcting glasses not older than 3 years. A bill dealing with the modernisation of the French health system is currently examined by Parliament. A provision further extends the competences of opticians. They would be authorised to adapt the prescriptions not only for correcting glasses but also for contact lenses. The limits of 3 years would be deleted and a regulation would establish a framework and rules for adapting prescriptions.

**Germany** has reformed its crafts code in 2003. As a result, no certification is required to carry out simple activities (described in detail under point 3.1 of this paper) and the qualification requirements for the owner of the optics shop have been abolished.

Since the purchasing of contact lenses via the Internet has become common, **Sweden** changed its regulations (in 2011) and lifted the requirements of possessing the qualifications of optician and a special certificate for the supply of contact lenses (fitting and trying out contact lenses is still subject to certification).

In 2013, **United Kingdom** made changes to the General Optical Council's legislation to enhance the Continuing education and training scheme (CET). These changes were a response to the Government's request that all healthcare professionals should undergo 'revalidation' to ensure that they continue to be fit to practise. For details see point 3.3.

**Belgium, Ireland, Portugal and Sweden** have announced that the current system needs to be improved. Sweden has indicated that improvement of the current system might be considered, but there are no concrete plans. In **Belgium**, due to recent state reform, the competence regarding the regulation of the profession has been transferred to the regions and there is currently no concrete information with regard to the possible reforms of the profession. **Ireland** intends to improve the current system by simplifying guidance, removing burdensome aspects and introducing title protection so as to align the professions of optician and optometrist with other regulated health care professions (currently there are reserves of activities). The Opticians Board which at present regulates opticians in Ireland is being absorbed into the Health and Social Care Professionals Council which is in the course of establishment. It will be a multi-professional regulator covering 12 professions, all of which will have the title protection. **Portugal** intends to regulate the profession of optometrist in the near future. The

Parliament has recommended the regulation of this profession in 2012 and 2013, and the Ministry of Health stated that it is fully committed to regulate the profession. There seems to be no intention however to regulate the profession of optician in Portugal.

A number of Member States have made reforms in recent years to adapt their regulation to developments in society and technology. Other Member States are encouraged to follow these examples and to regularly assess the requirements in place and in particular the appropriateness of the scope of reserved activities with regard to the complexity of the tasks.

## Annex I

### Professional qualifications required

MS	Generic title <sup>16</sup>	Name	Method to obtain qualification	Duration of education/training programme	Existence of mandatory traineeship	Existence of State exam to access the profession	Mandatory registration in professional bodies
Austria	Optician (dispensing optician)	Contact lense optician					
		Optician	Vocational post-secondary education level	3.5 years	Y	N	N
	Optometrist (ophthalmic optician)	Optometrist					
Belgium	Optician (dispensing optician)	Optician	Vocational education secondary education level or Vocational post-secondary education level or practice of five years (full time) or eight years (partime) as an independent or employee or central jury assessment	3.0 years 3.0 years 5.0 years 8.0 years 1.0 day	N	N	N
Bulgaria	reported no regulated profession in the database under this title <sup>17</sup>						
Croatia	Optician (dispensing optician)	Ophthalmic optician	Vocational post-secondary education level	Education/training isn't obligatory and isn't prescribed in terms of form and duration, so entities which provide this service on the market freely create their own programmes regarding education/training for conducting of Master Craftsman Exam and offer them on the market.	N	Y	N

<sup>16</sup> Under which the profession(s) have been notified in the Regulated professions database:  
[http://ec.europa.eu/internal\\_market/qualifications/regprof/index.cfm?lang=en](http://ec.europa.eu/internal_market/qualifications/regprof/index.cfm?lang=en)

<sup>17</sup> See however information on Bulgaria under point 3

Cyprus	Optician (dispensing optician)	Dispensing Optician (Technical Optician)	General or vocational Post-secondary education	3.0 years	Y	N	Y
	Optometrist (ophthalmic optician)	Optician	General or vocational Post-secondary education	3.0 years	Y	N	Y
Czech Republic	Optician (dispensing optician)	Optician	a vocational secondary education with a school-leaving examination (4 years), or a retraining for the relevant work activities and 4 years' professional experience.	4.0 years	N	N	N
	Optometrist (ophthalmic optician)	Optometrist	Vocational post-secondary education level	3.0 years	Y	N	N
Denmark	Optician (dispensing optician)	Contact lense optician/ optometrist	Vocational post-secondary education level	3.5 years	Y	Y	N
Estonia	not regulated						
Finland	Optometrist (ophthalmic optician)	Optician	Vocational post-secondary education level	210.0 ECTS	Y	N	Y
France	Optician (dispensing optician)	Dispensing optician	Vocational post-secondary education level	2.0 years	Y	N	N
Germany	Optician (dispensing optician)	Optician	Vocational post-secondary education level	3.0 years	Y	Y	N
Greece	Optician (dispensing optician)	Optician					
Hungary	Optician (dispensing optician)	Optician					
	Optometrist (ophthalmic optician)	Optometrist					
Ireland	Optician (dispensing optician)	Dispensing optician	General or vocational Post-secondary education	4.0 years	Y	y	N
	Optometrist (ophthalmic optician)	Optometrist	General or vocational Post-secondary education	4.0 years	Y	Y	N
Italy	Optician (dispensing optician)	Optician	Vocational secondary education	5.0 years	N	Y	N
Latvia	Optometrist (ophthalmic optician)	Optometrist					
Lithuania	not regulated						
Luxembourg	Optician (dispensing optician)	Optician					Y
Malta	Optometrist (ophthalmic optician)	Optometrist	General Post-secondary education	3. years	Y		Y
Netherlands	Optometrist (ophthalmic optician)	Optometrist	Vocational post-secondary education level	4.0 years	N	N	N
Poland	not regulated						
Portugal	not regulated						

Romania	not regulated						
Slovakia	Optician (dispensing optician)	Optician (Očná optika)					
		Optician (Očný optik)	Vocational education secondary education level	4.0 years	N	N	Y
	Optometrist (ophthalmic optician)	Optometrist	Vocational post-secondary education level	3.0 years	N	N	Y
Slovenia	Optician (dispensing optician)	Retail sale of glasses in specialised shops selling glasses	Vocational education secondary education level	4.0 years			Y
Spain	Optometrist (ophthalmic optician)	Optician - Optometrist	General Post-Secondary Education	4.0 years	Y	N	Y
Sweden	Optometrist (ophthalmic optician)	Optician	Vocational post-secondary education level	3.0 years	Y	N	N
United Kingdom	Optician (dispensing optician)	Dispensing optician	Vocational post-secondary education level	3.0 years	Y	Y	Y
	Optometrist (ophthalmic optician)	Optometrist	Vocational post-secondary education level	4.0 years	Y	Y	Y
Switzerland	Optician (dispensing optician)	Optician with Federal Certificate of vocational education and training	Vocational education secondary education level	4.0 years	N	N	N
	Optometrist (ophthalmic optician)	Optometrist	Vocational post-secondary education level	180.0 ECTS	N	N	N
Iceland	Optician (dispensing optician)	Optician	General Post-Secondary Education	3.0 years	N	N	N
Norway	Optician (dispensing optician)	Optometrist	Post-Secondary Education	3.0 years			
Liechtenstein	Optician (dispensing optician)	Optician	General or vocational secondary education	3.0 years	Y	N	N

Source: Regulated professions database, 16 March 2015 and complementary information provided by Member States

## Additional requirements

	Generic title <sup>18</sup>	Name	Limits on number of licences granted	Territorial restrictions	Corporate form/type restrictions	Shareholding / voter restrictions	Prohibition on joint practices	Indemnity insurance	Cross-border insurance	CPD <sup>19</sup>
Austria	Optician (dispensing optician)	Contact lens optician								Y
		Optician	N	N	N	N	N	N	N	Y
	Optometrist (ophthalmic optician)	Optometrist								
Belgium	Optician (dispensing optician)	Optician	N	N	N	N	N	N	N	
Bulgaria	reported no regulated profession in the database under this title <sup>20</sup>									
Croatia	Optometrist (ophthalmic optician)	Ophthalmic optician	N	N	N	N				
Cyprus	Optician (dispensing optician)	Dispensing Optician (Technical Optician)	N	N	N	N	N	N	N	Y
	Optometrist (ophthalmic optician)	Optician	N	N	N	N	N	N	N	Y
Czech Republic	Optician (dispensing optician)	Optician	N	N	N	N	N	N	N	
	Optometrist (ophthalmic optician)	Optometrist	N	N	N	N	N	N	N	
Denmark	Optician (dispensing optician) – merged under contact lens optician/optometrist	Contact lens optician/optometrist	N	N	N	N				
Estonia	not regulated									
Finland	Optometrist (ophthalmic optician)	Optician	N	N	N	N				
France	Optician (dispensing optician)	Dispensing optician	N	N	N	N	N	Y	Y	Y
Germany	Optician (dispensing optician)	Optician	N	N	N	N	N	N	N	
Greece	Optician (dispensing optician)	Optician								
Hungary	Optician	Optician								

<sup>18</sup> Under which the profession(s) have been notified in the Regulated professions database: [http://ec.europa.eu/internal\\_market/qualifications/regprof/index.cfm?lang=en](http://ec.europa.eu/internal_market/qualifications/regprof/index.cfm?lang=en)

<sup>19</sup> Continuous Professional Development

<sup>20</sup> See however information on Bulgaria under point 3

	(dispensing optician)									
	Optometrist (ophthalmic optician)	Optometrist								
Ireland	Optician (dispensing optician)	Dispensing optician	N	N	N	N	N	N	N	
	Optometrist (ophthalmic optician)	Optometrist	N	N	N	N	N	N	N	
Italy	Optician (dispensing optician)	Optician	N	N	N	N	N	N	N	
Latvia	Optometrist (ophthalmic optician)	Optometrist								Y
Lithuania	not regulated									
Luxembourg	Optician (dispensing optician)	Optician								
Malta	Optometrist (ophthalmic optician)	Optometrist						Y	Y	
Netherlands	Optometrist (ophthalmic optician)	Optometrist	N	N	N	N	N	N	N	
Poland	not regulated									
Portugal	not regulated									
Romania	not regulated									
Slovakia	Optician (dispensing optician)	Optician ( <i>Očná optika</i> )								
		Optician ( <i>Očný optik</i> )	N	N	N	N	N	N		Y
	Optometrist (ophthalmic optician)	Optometrist	N	N	N	N	N	N		Y
Slovenia	Optician (dispensing optician)	Retail sale of glasses in specialised shops selling glasses								
Spain	Optometrist (ophthalmic optician)	Optician - Optometrist	N	N	N	N	N	Y	Y	
Sweden	Optometrist (ophthalmic optician)	Optician	N	N	N	N	N	Y	N	
United Kingdom	Optician (dispensing optician)	Dispensing optician	N	N	N	Y 51%	N	Y	N	
	Optometrist (ophthalmic optician)	Optometrist	N	N	N	Y 51%	N	Y	N	Y
Switzerland	Optician (dispensing optician)	Optician with Federal Certificate of vocational education and training	N	Y	N	N	N	N	N	
	Optometrist (ophthalmic optician)	Optometrist	N	N	N	N	N	Y	Y	
Iceland	Optician (dispensing optician)	Optician	N	N	N	N	N	Y	N	
Norway	Optician (dispensing optician)	Optometrist								
Liechtenstein	Optician	Optician	N	N	Y	Y	N	Y	Y	

	(dispensing optician)					100 %				
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*Source: Regulated professions database, 16 March 2015, complementary information provided by Member States and national reports (CPD)*