



The **Council** of European Geodetic Surveyors
Comité de Liaison des Géomètres Européens

CLGE

Working for a Profession

Smart Regulation in the EU

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Bergen (NO)



Overview

- Guaranteed authoritative Data
- Outsourcing of official authority
- The legal background the EU (with influence all over Europe)
- The recent proportionality test (14 June 18)
- Professional requirements established by surveying associations
- Conclusions and way ahead



Authoritative Data

- Importance of authoritative data
 - Guaranteed by the state
 - Security is at stake
 - Many sectors, e.g. flight safety, ...
 - Also for legal security, property
 - Work performed by competent professionals
 - Civil servants
 - Or publicly appointed private surveyors



- **4 PILLARS**

Civil Servants	Publicly Appointed	Regulated Profession	Free Market
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- 4 PILLARS

Article 45 Prev. 39	Article 51 Prev. 45	Mutual Recognition	Services
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- “39”**
1. *Freedom of movement for workers shall be secured within the Community.*
 2. *Such freedom of movement shall entail the abolition of any discrimination based on nationality between workers*
 3. *It shall entail the right, subject to limitations justified on grounds of public policy, public security or public health:*
 - (a) *to accept offers of employment actually made;*
 - (b) *to move freely within the territory of Member States for this purpose;*
 - (c) *to stay in a Member State for the purpose of employment ...;*
 - (d) *to remain in the territory of a Member State after having been employed in that State, subject to conditions which shall be embodied in implementing regulations to be drawn up by the Commission.*
 4. *The provisions of this article shall not apply to employment in the public service.*

The Lisbon Treaty

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“39”



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Article 45

1. Freedom of movement for workers shall be secured within the Union.  
2. Such freedom of movement shall entail the abolition of any discrimination based on nationality between workers of the Member States as regards employment, remuneration and other conditions of work and employment.
3. It shall entail the right, subject to limitations justified on grounds of public policy, public security or public health:
 - (a) to accept offers of employment actually made;
 - (b) to move freely within the territory of Member States for this purpose;
 - (c) to stay in a Member State for the purpose of employment in accordance with the provisions governing the employment of nationals of that State laid down by law, regulation or administrative action;
 - (d) to remain in the territory of a Member State after having been employed in that State, subject to conditions which shall be embodied in regulations to be drawn up by the Commission.
4. The provisions of this article shall not apply to employment in the public service.

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The provisions of this chapter (on the right of establishment) shall not apply, so far as any given Member State is concerned, to activities which in that State are connected, even occasionally, with the exercise of official authority.

“45”

The Council may, acting by a qualified majority on a proposal from the Commission, rule that the provisions of this chapter shall not apply to certain activities.



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Article 51

The provisions of this Chapter shall not apply, so far as any given Member State is concerned, to activities which in that State are connected, even occasionally, with the exercise of official authority.  

The European Parliament and the Council, acting in accordance with the ordinary legislative procedure, may rule that the provisions of this Chapter shall not apply to certain activities.

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*Within the framework of the provisions set out below, restrictions on the **freedom of establishment** of nationals of a Member State in the territory of another Member State shall be prohibited. Such prohibition shall also apply to restrictions on the setting-up of **agencies, branches or subsidiaries** by nationals of any Member State established in the territory of any Member State.*

“43”

*Freedom of establishment shall include the right to take up and pursue activities as **self-employed persons** and to set up and manage **undertakings, in particular companies or firms** within the meaning of the second paragraph of Article 48, under the conditions laid down for its own nationals by the law of the country where such establishment is effected, subject to the provisions of the chapter relating to capital.*

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Article 49

Within the framework of the provisions set out below, restrictions on the freedom of establishment of nationals of a Member State in the territory of another Member State shall be prohibited. Such prohibition shall also apply to restrictions on the setting-up of agencies, branches or subsidiaries by nationals of any Member State established in the territory of any Member State.  

Freedom of establishment shall include the right to take up and pursue activities as self-employed persons and to set up and manage undertakings, in particular companies or firms within the meaning of the second paragraph of Article 54, under the conditions laid down for its own nationals by the law of the country where such establishment is effected, subject to the provisions of the Chapter relating to capital.

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“49”

*Within the framework of the provisions set out below, restrictions on **freedom to provide services within the Community** shall be prohibited in respect of nationals of Member States who are established in a State of the Community other than that of the person for whom the services are intended.*

The Council may, acting by a qualified majority on a proposal from the Commission, extend the provisions of the Chapter to nationals of a third country who provide services and who are established within the Community.

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Article 56

Within the framework of the provisions set out below, restrictions on freedom to provide services within the Union shall be prohibited in respect of nationals of Member States who are established in a Member State other than that of the person for whom the services are intended.



The European Parliament and the Council, acting in the accordance with the ordinary legislative procedure, may extend the provisions of the Chapter to nationals of a third country who provide services and who are established within the Union.

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Outsourcing of official authority

- Confidence, dialogue, concessions
- Equal high level initial education
- Technical innovation, healthy competition
- High productivity, flexibility and proximity
- Competition on quality
- Quality assurance and control in place



Legal background in the EU

- A few available papers for Europe
 - [Allan report](#) (1995)
 - [Enhancing Professional Competence of Surveyors in Europe](#) (2000)
 - [European Requirements for Cadastral Surveyor Activities](#) (2008)*
 - [Impact of European Legislation on Cadastral Surveying](#) (2010)
 - [Dynamic Professional Knowledge Base](#)



Reviewing Process



Knowledge Exchange Network "Cadastral and Land Registry"
Working Group "Impact of EU Legislation on Cadastral Surveying"

European requirements for cadastral surveyor activities



Impact of EU Legislation on Cadastral Surveying



7 April 2010



Legal background in the EU

- Directive Mutual Recognition of Professional Qualifications ([2005/36/EC](#))
- Services Directive ([2006/123/EC](#))
- Evaluating regulation of professions
 - Non discrimination
 - Justified by general interest
 - Without going beyond what is necessary
- Introduction of a proportionality test



Proportionality test

- Evaluation not successful enough
(2014 – 2015)
... some of you might remember

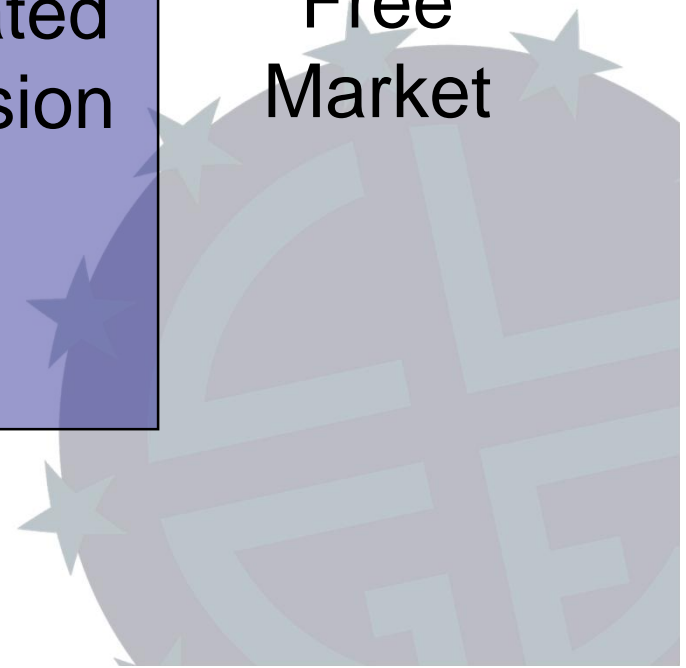




- 4 PILLARS

Civil Servants	Publicly Appointed	Regulated Profession
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Free
Market





- 4 PILLARS

Civil Servants	Publicly Appointed
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Regu?ed
Pro?ession

Free
Market





- 4 PILLARS





Proportionality test

- Evaluation not successful enough
- Harmonized proportionality test
 - 2016 Consultation (CLGE took part)





The Proportionality Test

- Better application of EU rules
- The EU “does not regulate” professions since it’s MS prerogative (new + reforms)
- Streamlining the proportionality test
- All this leads to yet another regulation





IMCO's report, 23 June 17

- Internal Market and Consumer Protection
 - Excluding healthcare services
 - Concentrate on other sectors against gold-plating practices
 - No mandatory consultation independent scrutiny body
 - Clarification of the reasons of public interest
 - Equal information stakeholders
 - Possibility for wider consultation



No risks in Surveying?





The Proportionality Test

- New regulation was discussed (EP)
 - Ex-ante check (quantitative / qualitative)
Risks, Scope, Qualification, Econ. impact
 - Information consultation of stakeholders
 - Exchange of information between MS
Competent Authorities





Reasoned opinions

- Reasoned opinions (DE, AT, FR)
 - ...
 - Term regulated profession to clarify
 - New or amended provisions well described
 - The exchange of best practices between MS to be encouraged
 - Economic impact on competition and free movement to be considered



ECOSOC (EESC) opinion

- The package would improve the national proportionality check
- However: **it requires the cooperation of Member States Authorities and professional organisations**
- The proportionality test should not be mandatory but offered as a service for national regulators



Overview

- Guaranteed authoritative Data
- Outsourcing of official authority
- The legal background the EU (with influence all over Europe)
- The recent proportionality test 14 June 18
- **Professional requirements established by surveying associations**
- **Conclusions and way ahead**



Code of Professional Qualifications

Cadastral Surveyors ≡
Property Surveyors ≡
BAC+5 + 2T + SE
BAC+5 + 2T + SE



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Property Surveyors =
Secondary School + Bachelor + Master
+ Traineeship + Exam



CPQPS

- About the code
 - Dynamic Report
 - The Code itself
 - A letter of Intent
- Brief history
 - Started in 2004 with the “Accord Multilatéral”
 - Historic IG-PARLS members and other CLGE members
 - Reviewing since 2012, questionnaire



Content of the Code

- Education
 - 5 years University or Technical High School
 - Bachelor in Geodetic Surveying
 - Master in Geodetic Surveying
 - Main Courses
 - Geodesy, Mapping, GIS, Cadastre, Real Estate Regulations, Land Use and Planning, Ownership and Property Law





Content of the Code

- Professional experience
 - 2 – 3 years of traineeship
 - Mentor
 - In the Administration
- Verification of knowledge
 - Harmonization
 - State examination





Content of the Code

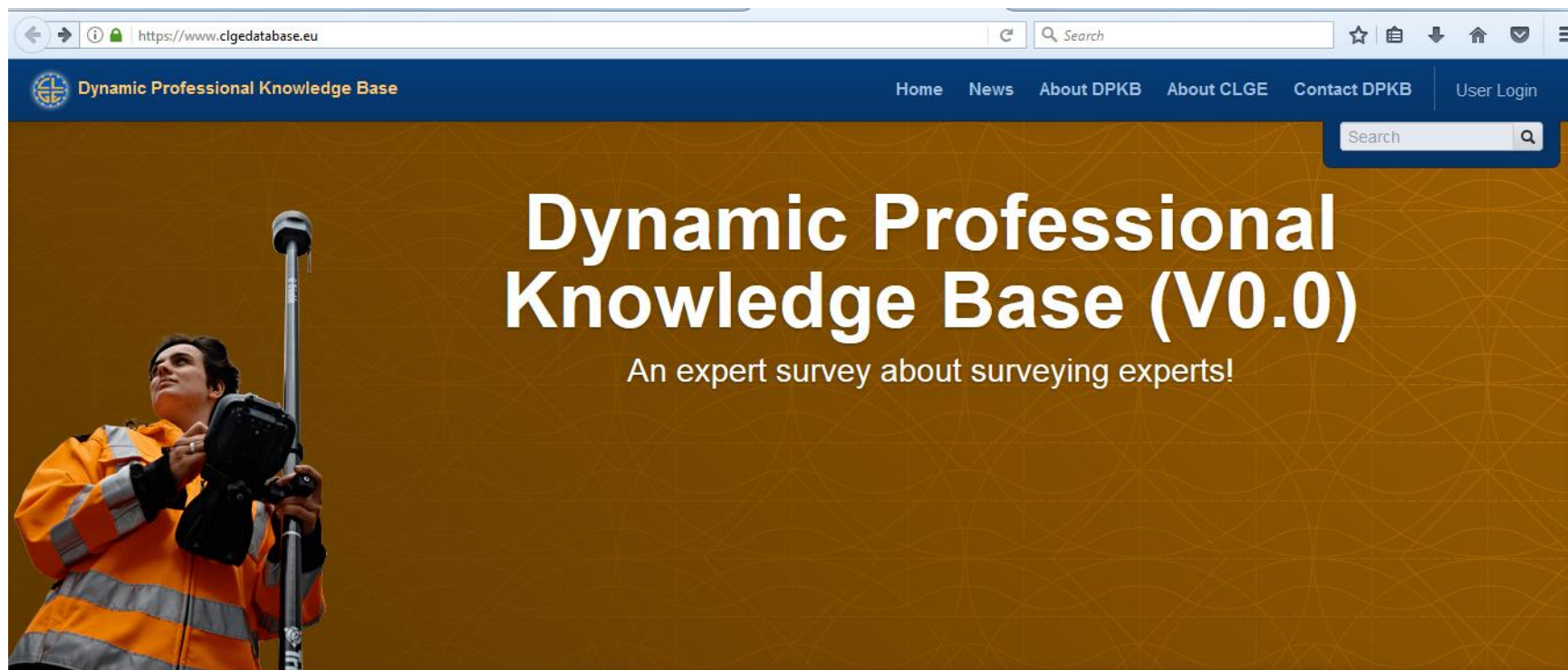
- Public appointment
 - Generally confirmed by an oath
- Code of Conduct
 - Cfr. CLGE, national codes
- Disciplinary body
 - Independence
- Quality control
 - Idem





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Common CLGE Database



The screenshot shows a web browser window with the URL <https://www.clgedatabase.eu>. The page features a dark blue header with the CLGE logo and the text "Dynamic Professional Knowledge Base". Navigation links include "Home", "News", "About DPKB", "About CLGE", "Contact DPKB", and "User Login". A search bar is located in the top right corner. The main content area has a brown background with a subtle geometric pattern. On the left, there is a photograph of a surveyor in an orange high-visibility jacket using a total station. The central text reads "Dynamic Professional Knowledge Base (V0.0)" in large white font, with the tagline "An expert survey about surveying experts!" below it.





Reviewing Process



Knowledge Exchange Network "Cadastral and Land Registry"
Working Group "Impact of EU Legislation on Cadastral Surveying"

European requirements for cadastral surveyor activities



Impact of EU Legislation on Cadastral Surveying



7 April 2010



Conclusions

- Property Surveying doesn't fall in the scope of the EU directives as such
 - Performed by civil servants or publicly appointed professionals
 - We have a certain level of auto-regulation with the CPQ for Property Surveyors
 - However these are national matters and the mobility in that field is low to inexistent



Conclusions

- Nothing new under the sun
 - We totally agree with EESC's proposal to look at a better coordination
 - Let's remind an advice from 2009:
“... every national legislator and every national professional association should therefore be aware that one of the central tasks is to properly conceptualise and define the contents of the national laws governing the professions in the European context”.

Prof. Dr. Martin Henssler



Directive (EU) 2018/958

Text

9.7.2018 EN Official Journal of the European Union L 173/25

DIRECTIVE (EU) 2018/958 OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL

of 28 June 2018

on a **proportionality test before adoption of new regulation of professions**

THE EUROPEAN PARLIAMENT AND THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the Treaty on the Functioning of the European Union, and in particular Article 46, Article 53(1) and Article 62 thereof,

Having regard to the proposal from the European Commission,

After transmission of the draft legislative act to the national parliaments,

Having regard to the opinion of the European Economic and Social Committee ⁽¹⁾,

After consulting the Committee of the Regions,

Acting in accordance with the ordinary legislative procedure ⁽²⁾,

Whereas:

(1) The freedom to choose an occupation is a fundamental right. The Charter of Fundamental Rights of the European Union ('the Charter') guarantees the freedom to choose an occupation, as well as the freedom to conduct a business. The free movement of workers, the freedom of establishment and the freedom to provide services are fundamental principles of the internal market



Article 10

Exchange of information between Member States

1. For the purposes of the efficient application of this Directive, Member States shall take the necessary measures to encourage the exchange of information among Member States on matters covered by this Directive and on the particular way that they regulate a profession, or on the effects of such regulation. The Commission shall facilitate such exchange of information.
2. Member States shall inform the Commission of the public authorities responsible for transmitting and receiving information for the purposes of applying paragraph 1.

Article 11

Transparency

1. The reasons for considering that provisions, assessed in accordance with this Directive, are justified and proportionate, which, together with the provisions, are to be communicated to the Commission pursuant to Article 59(5) of Directive 2005/36/EC, shall be recorded by the Member States in the database of regulated professions, referred to in Article 59(1) of Directive 2005/36/EC and shall be made publicly available by the Commission.
2. Member States and other interested parties may submit comments to the Commission or to the Member State which has communicated the provisions and the reasons for considering that they are justified and proportionate. These comments shall be duly taken into account by the Commission in its summary report produced pursuant to Article 59(8) of Directive 2005/36/EC.

Article 12

Review

1. By 18 January 2024 and every five years thereafter, the Commission shall submit a report to the European Parliament and to the Council on the implementation and performance of this Directive, including, among other aspects, its scope and its effectiveness.
2. Where appropriate, the report referred to in paragraph 1 shall be accompanied by relevant proposals.



Conclusions

- We have to tackle the heterogeneity of our profession
- Therefore we need to define consistent core values and quality standards
- Break the EU - deregulation myth by proposing regulation of sectors that deserve it and by deregulating others
- Apply smart regulation