

Tour Guide ID Card for Europe



Introduction

ETOA produces Tour Guide ID Cards for its members so they may issue them to tour guides they contract. Individual applicants must apply online at <http://www.etoa.org/tourguideid>. The main objective of the ID card scheme is to support the freedom of tour guides working in Europe to deliver cultural commentary to tourists in public places without interference. The card has proven to be of practical assistance in this respect. Tour guides provide a service that consumers want. Those engaged by the many tour operators and specialist service providers are carefully selected and well suited to the role. It is both anti-competitive and unreasonable that anyone should seek to prevent such individuals from doing their job. (See **Definitions** in the background section below.) Difficulties remain: national and regional legislation; the use of standards for political ends; local enforcement practice; hostility from a minority of local guides and related disruption. ETOA continues to work with its members, EU bodies, universities, accreditation bodies, tourist boards and others to develop ways of recognising tour guides and supporting their access to market, thereby promoting mobility, consumer choice and product innovation.

In 2011 the European Commission published a proposed revision of directive 2005/36/EC on the recognition of professional qualifications. This included specific proposals related to cross-border provision of services and temporary mobility, both of which are very relevant to tour guides. During 2012 we consulted with the European Parliament and others to discuss amendments to the Commission's proposal. The European Council and Parliament, assisted by the Commission, are now reviewing the amended proposals that received Parliamentary approval early in 2013. We are cautiously hopeful that useful progress has been made and the revised directive, by the time it comes into law, will address some of the more frustrating limitations arising from current arrangements.

Counterpart Documentation

This documentation should be kept with the ID card as it explains the card's purpose and significance in several languages. There are three versions:

- A. For individuals established in an EU country where guiding is **not** a regulated profession;
- B. For individuals established in an EU country which **does** regulate guiding;
- C. For individuals established in a country outside the EU

13 of 27 EU states currently regulate guiding: Austria, Cyprus, France, Greece, Hungary, Italy, Lithuania, Malta, Poland, Portugal, Romania, Slovenia and Spain. For an up-to-date list see the following:

http://ec.europa.eu/internal_market/qualifications/regprof/index.cfm?fuseaction=profession.regProfs&profId=4130

Practical use

The card will be of use to those individuals who are established in an EU country where tour guiding is **not** a regulated profession (such as Germany or the UK) who intend to provide professional services on a temporary and occasional basis in a country where the activity **is** regulated (such as Italy or Spain). The card also serves as a means of indentifying the holder as a tourism professional, which can be useful when carrying out research, obtaining entrance at attractions, and in dealings with the industry more generally. Formal identification can often help in countries where local enforcement practice is disruptive of tour delivery unless the individual can prove their *bona fides* as someone engaged to deliver a service within the

EU. Experience shows that individuals from or established in many EU countries, including those that regulate guiding, have benefitted in dealings with officials by being able to produce such identification.

Terms of Use

ETOA members may support applications only from individuals whose suitability they have determined. This suitability may have arisen through prior-qualifications (e.g. a relevant degree or licence), training, experience, or any combination of these three. ETOA does not endorse any individual tour guide; it only administers the ID card scheme. The card does not excuse individuals from complying with any applicable law or visa requirement. All applicants must agree to the Terms and Conditions provided on the website. The card cannot be used as proof that the bearer has met any statutory obligation. It can be used as proof that they have been deemed suitable to provide tour guiding services by an organisation with relevant competence, which is generally responsible for that service to the consumer.

Applicable EU Law

Two EU Directives affect an individual wishing to provide services in another country: directive 2005/36/EC on the recognition of professional qualifications (the 'professional qualifications directive'); directive 2006/123/EC on services in the internal market (the 'services directive').

Freedom to provide services in another EU country is provided by Art.5 of the professional qualifications directive. Before providing temporary services in another country individuals may be required to make a 'declaration' by sending appropriate documentation to the **Point of Single Contact** (sometimes also referred to as the **Single Point of Contact**) in that country; these were set up under the provisions of the services directive. Details are given here: http://ec.europa.eu/internal_market/eu-go.

(Note: These are different from the 'national contact points' detailed below, and these will change under the proposed legislation. This may seem confusing! The European Commission recognises there is ample scope to simplify and assist the operation of the open market and current proposals reflect this.)

Member states have discretion whether or not to impose a declaration requirement under the terms of Art.7 of the professional qualifications directive. Information currently required before providing services, renewable annually, includes: proof of nationality; proof of legal establishment; evidence of professional qualifications; evidence of experience. This last requirement is evidently unreasonable for those who wish to become a tour guide and do not have a formal qualification in the field. It is still useful to make a declaration because if an EU-based tour guide is stopped in a regulated country and an attempt is made to prosecute, then proof of declaration can be provided to assist in any defence to this action.

For more information about having a qualification recognised in another EU state, you can consult one of the **National Contact Points**. Individual service providers might want to use this to talk to a 'competent authority' in their own country about the recognition procedures before they make their declaration to another country's point of single contact.

http://ec.europa.eu/internal_market/qualifications/contact/national_contact_points_en.htm

For more general information about how this part of the 'knowledge economy' is supposed to work, please see http://ec.europa.eu/internal_market/qualifications/index_en.htm

Current systems and processes remain problematic so we recommend that individuals keep some sort of proof of declaration, such as a copy of an email or fax transmission confirmation. The Tour Guide ID card is not a 'professional qualification', but it is a form of professional recognition that has direct relevance to the applicant's claim to exercise their right to provide services in another country (and comes with explanatory notes in various languages). If and when a formal accreditation process is in place, there could be a 'Certificate in Basic Competence in Tour Guiding' (or similar) which would constitute a professional qualification; see 'ETOA policy' below.

In principle, officials are not permitted to call into question the validity of a foreign qualification, or a claim of competence that arises through experience rather than formal qualification. If there is a conflict

between the services directive and the professional qualifications directive, the professional qualifications directive takes precedence (under art. 3.d. services directive). If official bodies try to impose additional requirements on the applicant or exercise subjective discretion when reviewing applications they may be acting illegally. Applicants can approach the competent bodies in their own country for assistance in case of difficulty; these bodies can also report infringements to the European Commission.

The services directive came fully into force on 28/12/2009 (i.e. it must have been transposed by national legislatures by that date); some compliance issues remain. The professional qualifications directive should have been transposed no later than 20/10/2007. ETOA has brought to the attention of the European Commission various practices that appear to be contrary to EU law, many of which arise through the persistence of regional administrative competence in tourism regulation. Where regional and national law is not in compliance with prevailing EU law it is not, legally speaking, enforceable. In practice, local enforcement officials are often more familiar with perhaps outdated local or national requirements.

ETOA welcomes any feedback as to the practicality of the current system, and would also like to receive any reports from individuals as to unfair practices, intimidation or anything else which, taken together, would provide compelling evidence for the European Commission that some authorities are not following EU law. The European Commission is the body that can require countries to come into compliance and can initiate proceedings if they do not. **Send reports and feedback to: tourguiding@etoa.org**

Background for European regulatory change

The services directive is intended to support the right of EU citizens to provide services cross-border: to promote mobility. There are formalities to observe, as above, some of which, like the declaration, are found in the professional qualifications directive.

For more on the aims of the services directive, see:

http://ec.europa.eu/internal_market/services/services-dir/guides_en.htm

For full text of services directive, see:

<http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=CELEX:32006L0123:EN:HTML>

For full text of professional qualifications directive, see:

<http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=OJ:L:2005:255:0022:01:EN:HTML>

For news on current legislative proposal and the consultation that preceded it, see:

http://ec.europa.eu/internal_market/qualifications/policy_developments/index_en.htm

Regulation, thus practice, is subject to change. For example, the Czech Republic stopped regulating guiding services in 2009 and very soon afterwards Prague saw a growth in the diversity of guiding services being offered and the overall volume of services enjoyed by consumers. The services directive, together with the implementation of the professional qualifications directive, has changed the regulatory environment for those who wish to provide services in countries other than the one in which they are established. EU citizens who are qualified whether by formal qualification or experience to provide a service in their country of establishment must be permitted to provide the same service on a temporary basis in another country, if necessary formalities are observed. This does not undermine the validity or significance of area-specific qualifications. It simply supports the contention that they do not form a legitimate basis to prevent other people from providing services.

Legal developments in some countries suggest that that administrations or courts will not continue to support the requirement of local qualification indefinitely; there are signs that market access will ease. However, 2012 saw some highly protectionist practices persist, notably in Rome. If cross-border guiding services become easier to provide the following situation will become increasingly likely, and very hard to defend by regulating countries: if it becomes the case that individuals established in a non-regulating country may provide services in a regulating country, but those established in that regulating country may not without a local qualification, this would be very unreasonable. Such regulation should swiftly cease.

Definitions

The reasons for using the term 'tour guide' are: **i)** tour guides are required to deliver cultural commentary; **ii)** the term 'tour guide' is generic and familiar to consumers. Tour guides are one category among various tourism professionals who may provide guiding services to tourists. While levels and areas of expertise may vary, all are required to deliver cultural information; this is demonstrated by ETOA's consumer survey of guiding services carried out in 2012. Ambiguities that can arise through translation are evident. 'Tour guide' and 'tourist guide' are used interchangeably, and are often simplified to 'guide'. Tour guides may work with the same group over a period of days on a closed circuit tour or on a specialist walking tour. Typically there is a prescribed itinerary to follow; equally, part of the role may be to enable customers to make the most of any free time. Other professionals working with tourists include local guides, museum guides, cathedral guides, palace guides and other site-specific guides.

Other terms in English to refer to someone performing a tour guide's function include, in alphabetical order: delegation manager; docent; programme manager; study leader; tour director; tour leader; tour manager. It quickly becomes apparent that over-prescriptive domestic legislation in the area is certain to fail through its inability to recognise the cross-border nature of both products and professionals, and potential conflict with EU law. In ETOA's opinion, current definitions at a European level related to tourist guiding such as European Standard on Tourism Services CEN15565 'on the requirements for the provision of professional training and qualification programmes of tourist guides' are inaccurate or too narrow; this view is widely shared. Definitions in CEN13809 that seek to define 'tour manager' etc. are also overly prescriptive and inaccurate; use of prescriptive standards and knowledge-based curricula for professional assessment related to tourism services seems to ETOA to be a barrier to innovation as well as market access. CEN definitions are voluntary thus non-binding but, where they do not correspond to reality or have adverse effects, they should be challenged otherwise their influence will grow.

ETOA Policy

It is ETOA's intention, together with its members and industry partners, to promote the acceptance and use of a practical EU-wide definition of tour guiding. Associations are expressly invited by the terms of recital 114 of the services directive to develop such schemes. There is a need for a widely accepted definition that includes the delivery of cultural commentary, the very activity that is subject to unreasonable and in some cases illegitimate disruption in various European cities. ETOA was a member of a steering group set up by the Directorate-General for Internal Market to explore the practicability of professional cards whose recognition would avoid the need for the declarations described above. This group reported late in 2011. Representatives of local guide associations were not able to agree with the proposal that a European professional card would be of use to the tourist guide profession (which we say includes local guides, tour guides etc. as above). Whether this need impede progress remains to be seen.

ETOA is taking steps to inform national tourist bodies, trade associations and other interested parties of its new scheme, and is inviting their support. Local enforcement authorities should be required by national bodies to operate in accordance with EU law. ETOA recognises the freedom of Member States to define professions as they see fit. It urges them to support this new initiative to promote competition and good practice in tourism services with all the economic and consumer benefit these can bring. It is in the interests of the consumer that they should be able to receive professional services from the individual they wish. It is also in the interest of the individual that they may freely provide those services. Europe needs a dynamic market in 'live' guiding services to compete with digital alternatives; a modern response is required to satisfy a discriminating and diverse market. As the regulatory and enforcement environment develops in Europe ETOA, together with its partners, will continue to press for intelligent reform.

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