



SCREENING CHAPTER 03
RIGHT OF ESTABLISHMENT AND FREEDOM TO PROVIDE SERVICES

**AGENDA ITEM I: MUTUAL RECOGNITION OF
PROFESSIONAL QUALIFICATIONS**

Country Session: The Republic of TURKEY
19 December 2005



**AGENDA ITEM I/1: MUTUAL RECOGNITION OF
PROFESSIONAL QUALIFICATIONS
GENERAL SYSTEM AND SPECIFIC PROFESSIONS**



LEGISLATION

- **Law No. 2547 on Higher Education**

AUTHORISED BODIES

- **The Council of Higher Education (CoHE) for**
 - ✓ **Short Cycle and the First and Second Cycles (Higher Education Law No. 2547, Article 7)**
- **The Interuniversity Council (IUC) for**
 - ✓ **Third Cycle – Doctorate Degree (Higher Education Law No. 2547, Article 11)**

where the terminology of BOLOGNA PROCESS is used



GENERAL HIGHER EDUCATION DEGREE STRUCTURE IN TURKEY

All post-secondary education leading to an academic diploma with levels

- **SHORT CYCLE:** 2-year vocational programmes leading to Associate's Degree with a course load equivalent to 120 ECTS credits
- **FIRST CYCLE:** 4-year faculty and vocational programmes leading to Bachelor's Diploma with a course load equivalent to 240 ECTS credits
- **SECOND CYCLE:** three-semester (without thesis) to two-year (with thesis) graduate programmes leading to Master's diploma
- **THIRD CYCLE:** graduate programmes leading to Ph.D. degree

Ph.D. programmes are taught programmes with a thesis based on original research



THE RECOGNITION PROCESS

LEGISLATION

- **Regulation for the Recognition of Diplomas Awarded by a Higher Education Institution Abroad (adopted by the CoHE and issued in the Official Gazette of 14 July 1996 and No. 22696)**



REQUIRED DOCUMENTS

- **personal identification**
- **diploma, transcript/ their official copies**
- **diploma/ official copy of the prior study**
- **passport (for Turkish nationals only)**



RECOGNITION OF HIGHER EDUCATION DIPLOMAS IN MEDICINE, DENTISTRY AND PHARMACY AWARDED ABROAD

In addition to comparability of the curriculum of the programme with the corresponding one in Turkey, the applicants are required to take a 2-stage test

- Stage 1- Basic knowledge in the relevant discipline**
- Stage 2- Clinical/practical/advanced knowledge in the relevant discipline**



ACADEMIC RECOGNITION PROCEDURE

- for the short cycle, the 1st and the 2nd cycle-diplomas (except for Basic Medical Degree)
- the documents of the applicant are assessed by The Recognition Committee of 3 members
 - ✓ 1 appointed from among the members of the CoHE, 2 elected by the CoHE
- the CoHE, upon the recommendation of the committee
 - ✓ decides to recognize the diploma/ deny the recognition of the diploma
 - ✓ asks the applicant to take the examination(s) for further assessment
 - ✓ asks the applicant to take a compensating programme



AGENDA ITEM I/1: MUTUAL RECOGNITION OF PROFESSIONAL QUALIFICATIONS

GENERAL SYSTEM AND SPECIFIC PROFESSIONS

TRAINING OF SECTOR SPECIFIC PROFESSIONS



Harmonisation of the Minimum Training Requirements for the Regulated Professions

- **The Council of Higher Education (CoHE) is the competent administrative body**
- **The works were started by CoHE in 2001 for the seven specific sectors covered in the Directive 2005/36/EC**



ARCHITECTS

TRAINING

- **4-year full-time study at the department of architecture of a university**

MAIN COURSES

- **Basic science courses and basic architectural courses followed by mixture of advanced theoretical and design courses**
- **There is compulsory internship in the field of architecture education as a part of education. The length of the internship varies between 60–120 days. Internship must be done both in the office and in the construction site**
- **Minimum training requirements are satisfied**



DENTISTS

TRAINING (1)

- **5-year full-time university programme**
 - ✓ **3-year theoretical + 2-year practical**

MAIN COURSES

- **The first 2 years:** basic science, basic medical and basic professional courses
- **The last 3 years:** practical courses



DENTISTS

TRAINING (2)

At the level of specialist dental training, there is currently a legal vacuum regarding training requirement of dental specialist

- Turkey is in a transition period in terms of legal requirements regarding training of dental specialist. A new regulation has been submitted to the Council of State for opinion
- According to prospective regulation, specialist dental training programmes will be offered in 2 branches
 - ✓ Prosthodontics (duration: 4 years)
 - ✓ Orthodontics (duration: 4 years)



DENTISTS

TRAINING (3)

- **Ph.D. programmes in Dentistry are offered in 8 branches**
 - ✓ **Oral and Maxillofacial Surgery and Diseases**
 - ✓ **Endodontics**
 - ✓ **Conservative Dental Treatment**
 - ✓ **Oral Diagnosis and Radiology**
 - ✓ **Orthodontics**
 - ✓ **Pedodontics**
 - ✓ **Periodontology**
 - ✓ **Prosthodontics**



MIDWIVES

TRAINING

2 CATEGORIES

- **4-year secondary school level programmes in Midwifery after 8-year basic general education (2 years theoretical + 2 years theoretical + practical)**
- **4-year full-time university programmes in Midwifery (theoretical + practical)**



MIDWIVES

MAIN COURSES

- **Theoretical courses in basic sciences, medical and social sciences and professional courses**
- **All practical courses are offered in hospitals, maternity hospitals and mother-child health centers**
 - ✓ **36% Theoretical and**
 - ✓ **64% Practical courses**
 - **35% Clinical applications and traineeship courses in hospitals, maternity hospitals and mother-child health centres**
 - **29% individual study and projects**
- **Minimum training requirements are satisfied**



NURSES

TRAINING

2 CATEGORIES

- **4-year secondary school level programmes in nursing after 8-year basic general education**
 - ✓ **1/3 theoretical**
 - ✓ **2/3 theoretical + practical**
- **Full-time 4-year post secondary university programmes in nursing**



NURSES

MAIN COURSES

- **Basic medical sciences, natural and social sciences, professional sciences, management in nursing, training in nursing and their applications**
- **Clinical applications and traineeship of the courses**
- **1/2 theoretical and 1/2 practical courses**
- **Minimum training requirements are satisfied**



DOCTORS

TRAINING

In the faculties of medicine and affiliated hospitals of universities

- **6 years, over 6,000 hours**
 - ✓ **First three years:** basic sciences and pathophysiology (mechanisms of diseases)
 - ✓ **Fourth and fifth years:** clinical clerkships
 - ✓ **Final year:** undergraduate internship of 12 months



DOCTORS

MAIN COURSES

Offered in two levels: “Programme for Doctors of Medicine” and “Programme in Basic Medical Sciences”

- **First two years:** basic science courses (physics, biology and chemistry) as well as basic medical science courses such as anatomy, microbiology and physiology
- **3rd, 4th and 5th years:** more basic medical science courses and clinical and laboratory courses
- **6th year:** clinical and laboratory works and practice in family medicine
- **At the level of basic medical training**
 - ✓ **Minimum training requirements are satisfied**



DOCTORS

SPECIALIST MEDICAL TRAINING

- Theoretical and practical training of different durations for different specialties at a university or medical teaching hospital
- At the level of specific training of the general medical practitioners
 - ✓ Legislative change is required (Art. 28(2) of the Directive 2005/36/EC not satisfied)
- At the level of specialist medical training
 - ✓ Minimum training requirements are satisfied



PHARMACISTS

TRAINING

- **5-year full-time theoretical and practical training in the faculty of pharmacy of a university (CoHE Decision dated 14 January 2005)**

MAIN COURSES

- **Theoretical courses:** basic science basic medical and basic professional courses
- **Practical courses:** Lab courses and internship in pharmacies, hospitals or industry
- **6 months practical training in five years education (at least 5 months to be in a pharmacy) (CoHE Decision dated 14 January 2005)**
- **Minimum training requirements are satisfied**



VETERINARIANS

TRAINING

- **5-year full-time university programme**

MAIN COURSES

- **1st year:** Basic science courses including zoology and botany
- **2nd year:** Theoretical and practical knowledge in the fields of anatomy, histology, embryology, physiology, biochemistry and animal welfare
- **3rd and 4th years:** Internal diseases, surgery, pharmacology, parasitology, bacteriology, animal breeding, animal raising, animal races and their care methods, diseases, of the production of animal products like angora and leather, of pathology and applications in laboratories and clinics
- **5th year:** Testing of animal products such as meat and milk products, reproduction of animals by natural and artificial methods, diseases, surgery and birth and applications on sick animals in the clinics



VETERINARIANS

TRAINING

- **CoHE decision is required for the nation-wide implementation of the core programme in all veterinary medicine faculties. Presently, four faculties of veterinary medicine have adopted this core programme and accredited by the European Association of Establishments for Veterinary Education Association (EAEVE)**



**AGENDA ITEM I/1: MUTUAL RECOGNITION OF
PROFESSIONAL QUALIFICATIONS
GENERAL SYSTEM AND SPECIFIC PROFESSIONS
PURSUIT OF SECTOR SPECIFIC PROFESSIONS
ARCHITECTS**



ARCHITECTS

LEGISLATION ON PRACTICE – REGISTRATION – LICENSING

- **Law No. 3458 on Engineering and Architecture**
- **Law No. 6235 on the Union of Turkish Chambers of Engineers and Architects**
- **The professional practice of architects is regulated by Law No. 6235**
- **Chamber of Architects of Turkey is the institution in charge of registering the architects**
- **In order to practice, registration in the chamber of architects is compulsory**
- **Architects have to pay the registration fee (approx. €18) and regular membership fees (annual approx. €53)**



ARCHITECTS

Architects pursue their profession in 2 forms

EMPLOYED

- **in Public Sector as civil servant:** No obligation to register with the Chamber
 - ✓ No right to practice their profession in private
- **in Private Sector:** Obligation to register with the Chamber
 - ✓ Practice as a registered architect without technical implementation responsibility
- **Academician:** no obligation to register with the Chamber
 - ✓ Practice as a registered architect without technical implementation responsibility

SELF-EMPLOYED

- **Having an architectural office:** Obligation to register with the Chamber and to get licence from the chamber
- **Partner of an architectural company:** Obligation to register with the Chamber and to get licence from the chamber



ARCHITECTS

LEGISLATION (FOREIGN ARCHITECTS)

- **Law No. 4817 on the Work Permits for Foreigners**
- **Law No. 6235 on the Union of Turkish Chambers of Engineers and Architects**
- **By-law on the Union of Turkish Chambers of Engineers and Architects**



ARCHITECTS

Foreign Architects pursue their profession in 2 forms

EMPLOYED

➤ In Public Sector Under Contract

- ✓ Limited with the duration of the project
- ✓ Obligation to register with the Chamber

➤ In Private Sector

- ✓ Obligation to register with the Chamber
- ✓ Temporary membership is obligatory
- ✓ Practice as a registered architect without technical implementation responsibility



ARCHITECTS

SELF – EMPLOYED

The conditions for a foreign architect willing to get permission for practice in Turkey are defined in the Articles 34 and 35 of the Law

- A foreign architect must obtain a work permit from the Ministry of Labour and Social Security,
- Before issuing the permit the Ministry receives opinions of the Ministry of Public Works and the Union of Chambers
- If work permits are given on the basis of a specific contract they are confined with the activities defined in the contract



ARCHITECTS

Conditions for registration and temporary membership to the Chamber

- Foreign architects willing to pursue their profession in Turkey for more than a month must apply to the relevant professional body (Chamber of Architects) for temporary membership. Those architects coming to Turkey as a jury member or competitor should also fulfil this condition regardless of the duration of their work
- They have to pay the registration fee (approx. €188) and temporary membership fees (approx. €220)
- If the architect exceeds the job definition submitted during this application, the temporary membership will be cancelled
- Temporary membership to the chamber and resident permission from the Ministry of Interior are required prior to get work permit



ARCHITECTS

PROFESSIONAL BODY

- The Chambers of Architects of Turkey (CAT) regulates the practice of architectural profession in Turkey
- The CAT is a professional organisation defined in the Turkish Constitution (Article 135) as a “professional institution working for public interest”
- Although the Chamber has the status of public legal entity, it has a significant degree of autonomy concerning regulation
- The CAT is affiliated to the Union of Turkish Chambers of Engineers and Architects which was established in 1954
- The CAT is a member of the International Union of Architects (UIA) and an observer in the Architects’ Council of Europe (ACE)



**AGENDA ITEM I/1: MUTUAL RECOGNITION OF
PROFESSIONAL QUALIFICATIONS
GENERAL SYSTEM AND SPECIFIC PROFESSIONS
PURSUIT OF SECTOR SPECIFIC PROFESSIONS
DENTISTS**



DENTISTS

LEGISLATION

- **Law No. 1219 on the Principles for the Performance of the Art of Medicine and Dentistry**



DENTISTS

PURSUIT OF THE PROFESSION

CONDITIONS

- **to be a Turkish citizen**
- **to have a diploma from the faculties of dentistry in Turkey**
- **Registration of the diploma by Ministry of Health**



DENTISTS

- **If dentists produce prosthesis for patients other than their own, they should employ dental prosthesis technicians and establish prosthesis laboratories**
- **To establish a clinic the dentist should get permission from the Provincial Health Authority**
- **The registration fee of the membership for the Turkish Dentists Association is approx. €60, membership fee is approx. €1,100**



DENTISTS

Dentists pursue their profession in 3 forms

EMPLOYMENT IN PUBLIC SECTOR

- ✓ No right to practice the profession in private
- ✓ No obligation to register with the Turkish Dentists Association

EMPLOYMENT IN PRIVATE SECTOR

- Self-Employed
 - ✓ Obligation to register with and get licence from the Association
- Partner of a Health Establishment
 - ✓ Obligation to register with and get licence from the Association
- Employed in a Health Establishment
 - ✓ Practice as registered and get licence from the Association
- Employed in a Private University
 - ✓ Practice as a registered Dentist

EMPLOYMENT IN PUBLIC + PRIVATE SECTOR

- ✓ Employment in Private Sector rules applied (Part-time in Public Sector)



**AGENDA ITEM I/1: MUTUAL RECOGNITION OF
PROFESSIONAL QUALIFICATIONS
GENERAL SYSTEM AND SPECIFIC PROFESSIONS
PURSUIT OF SECTOR SPECIFIC PROFESSIONS
MIDWIVES**



MIDWIVES

LEGISLATION

- **Law No.1219 on the Principles for the Performance of the Art of Medicine and Dentistry**



MIDWIVES

PURSUIT OF THE PROFESSION

- **To be a Turkish citizen**
- **To have midwifery diploma**
- **Registration of the diploma by the Ministry of Health**
- **To get permission from the Provincial Health Authority for private practice**



MIDWIVES

Midwives pursue their profession in 3 forms

EMPLOYMENT IN PUBLIC SECTOR

- ✓ **No right to practice the profession in private**

EMPLOYMENT IN PRIVATE SECTOR

- **Self – Employed**
- **Partner of a Health Establishment**
- **Employed in a Health Establishment**
- **Employed in a Private University**

EMPLOYMENT IN PUBLIC + PRIVATE SECTOR



**AGENDA ITEM I/1: MUTUAL RECOGNITION OF
PROFESSIONAL QUALIFICATIONS
GENERAL SYSTEM AND SPECIFIC PROFESSIONS
PURSUIT OF SECTOR SPECIFIC PROFESSIONS
NURSES**



NURSES

LEGISLATION

- **Law No. 6283 on Nursing**



NURSES

PURSUIT OF THE PROFESSION

- **To be a female Turkish citizen**
- **To have nursing diploma**
- **Registration of the diploma by the Ministry of Health**
- **To get permission from the Provincial Health Authority for private practice**



NURSES

PURSUIT OF THE PROFESSION

Nurses pursue their profession in 3 forms

EMPLOYMENT IN PUBLIC SECTOR

- ✓ **No right to practice the profession in private**

EMPLOYMENT IN PRIVATE SECTOR

- **Self – Employed**
- **Partner of a Health Establishment**
- **Employed in a Health Establishment**
- **Employed in a Private University**

EMPLOYMENT IN PUBLIC + PRIVATE SECTOR



**AGENDA ITEM I/1: MUTUAL RECOGNITION OF
PROFESSIONAL QUALIFICATIONS
GENERAL SYSTEM AND SPECIFIC PROFESSIONS
PURSUIT OF SECTOR SPECIFIC PROFESSIONS
DOCTORS**



DOCTORS

LEGISLATION

- **The Law No. 1219 on the Principles for the Performance of the Art of Medicine and Dentistry**
- **Regulation on Specialist Medical Doctors**
- **The Law No. 6283 on Turkish Medical Association**



DOCTORS

PURSUIT OF THE PROFESSION (1)

CONDITIONS

- to be a Turkish citizen
- to have a diploma from Turkish medical faculties
- to be a member of the Turkish Medical Association (for private practice)
- to pay membership fee, approx. €1,100 annual (No registration fee)



DOCTORS

PURSUIT OF THE PROFESSION (2)

CONDITIONS

- **The medical doctors shall complete their compulsory services in public sector**
- **Registration of the diploma by Ministry of Health**
- **Medical doctors registered to perform the art of medicine may not pursue any kind of commercial activity**
- **To establish a clinic the doctor of medicine should get permission from the Provincial Health Authority**



DOCTORS

LAW No. 6023 ON TURKISH MEDICAL ASSOCIATION

Turkish Medical Association is an professional institution that

- **consists self-employed (private) or public sector Doctors of Medicine**
- **protects the rights and the interests of members of the occupation**
- **maintains occupational deontology and cooperation**
- **promotes improvement of art of medicine for the benefit of public and individual**



DOCTORS

Doctors of Medicine pursue their profession in 3 forms:

EMPLOYMENT IN PUBLIC SECTOR

- ✓ No right to practice the profession in private
- ✓ No obligation to register with the Turkish Medical Association

EMPLOYMENT IN PRIVATE SECTOR

- Self – Employed
 - ✓ Obligation to register with and get licence from the Chamber
- Partner of a Health Establishment
 - ✓ Obligation to register with and get licence from the Chamber
- Employed in a Health Establishment
 - ✓ Practice as registered and get licence from the Chamber
- Employed in a Private University
 - ✓ Practice as a registered Doctors in Medicine

EMPLOYMENT IN PUBLIC + PRIVATE SECTOR



**AGENDA ITEM I/1: MUTUAL RECOGNITION OF
PROFESSIONAL QUALIFICATIONS
GENERAL SYSTEM AND SPECIFIC PROFESSIONS
PURSUIT OF SECTOR SPECIFIC PROFESSIONS
PHARMACISTS**



PHARMACISTS

LEGISLATION

- **Law No. 6197 on Pharmacists and Pharmacy**



PHARMACISTS

PURSUIT OF THE PROFESSION

- **To be a Turkish citizen**
- **To have diploma from faculties of pharmacy in Turkey**
- **To have diploma registered by the Ministry of Health**



PHARMACISTS

The professional activities of a Pharmacist cover the following

- **To open and operate a pharmacy, pharmaceutical warehouse, first-aid box, laboratory of medical and pharmaceutical products**
- **To manufacture and prepare medical and pharmaceutical products**
- **To manage official and private enterprises carrying out the above mentioned activities**
- **To establish a pharmacy the pharmacist should get permission from the Provincial Health Authority**
- **Membership fee for the Turkish Pharmacists Association approx. €1,300 (No registration fee)**



PHARMACISTS

Pharmacists pursue their profession in 2 forms

EMPLOYMENT IN PUBLIC SECTOR

- ✓ No right to practice the profession in private
- ✓ No obligation to register with the Turkish Pharmacists Association

EMPLOYMENT IN PRIVATE SECTOR

- Self – Employed
 - ✓ Obligation to register with and get licence from the Association
- Partner of a Health Establishment
 - ✓ Obligation to register with and get licence from the Association
- Employed in a Health Establishment
 - ✓ Practice as registered and get licence from the Association
- Employed in a Private University
 - ✓ Practice as a registered Pharmacist



**AGENDA ITEM I/1: MUTUAL RECOGNITION OF
PROFESSIONAL QUALIFICATIONS
GENERAL SYSTEM AND SPECIFIC PROFESSIONS
PURSUIT OF SECTOR SPECIFIC PROFESSIONS
VETERINARIANS**



VETERINARIANS

LEGISLATION

- **Law No. 6343 on the Pursuit of Veterinary Medicine Profession, Establishment and Duties of Turkish Veterinary Medical Association and Veterinary Medical Chambers**
- **Law No. 3285 on the Animal Health and Surveillance**
- **Law No. 4631 on Animal Breeding**
- **By-Law on Implementing Regulation on the Surgery and Policlinics of Veterinary Medicine**



VETERINARIANS

PURSUIT OF THE PROFESSION

CONDITIONS

- **to be a Turkish citizen**
- **to have diploma from one of the faculties of veterinary medicine in Turkey**
- **to register the diploma with Ministry of Agriculture and Rural Affairs**



VETERINARIANS

PURSUIT OF THE PROFESSION

SELF – EMPLOYED

- Every veterinarian can run a surgery, policlinic and hospital for the consultation and treatment of animals by obtaining permission from the highest local official authority, and pursuant to the regulations enforced by the Ministry of Agriculture and Rural Affairs.

CONDITIONS

- Obtaining permission from the provincial agricultural authority
- Membership to the Union of Veterinary Medicine
- Registration to the local branches of Union of Veterinary Medicine
- The surgery is controlled and licensed by provincial agricultural authority



VETERINARIANS

UNION OF VETERINARY MEDICINE

- **Union of Veterinary Medicine has the status of public legal entity**
- **Veterinarians wishing to pursue the profession in Turkey are obliged to be members of the Union**
- **Established to protect the deontology and ensure cooperation among veterinarians and also to protect the rights of the members and the title of the profession**



**AGENDA ITEM I/1: MUTUAL RECOGNITION OF
PROFESSIONAL QUALIFICATIONS
GENERAL SYSTEM AND SPECIFIC PROFESSIONS
SOME OTHER REGULATED PROFESSIONS**



NON-EXHAUSTIVE LIST OF SOME OTHER REGULATED PROFESSIONS

- **Optician**
- **Circumcisers**
- **Dental Prosthesis Technicians**
- **Seafarers**
- **Civil Aviation**
 - ✓ **Pilots, Cabin Crew, Dispatchers, Maintenance Technicians, Air Traffic Controllers**
- **Road Transportation Professions**
- **Private Security Services**
 - ✓ **Security and Safeguarding Staff**
- **Independent accountant, Financial Advisor, and Certified Public Accountant**
- **Judge and Public Prosecutor**
- **Notary**
- **Customs Commissioner**
- **Survey and Cadastre Engineer**



**AGENDA ITEM I/1: MUTUAL RECOGNITION OF
PROFESSIONAL QUALIFICATIONS
GENERAL SYSTEM AND SPECIFIC PROFESSIONS
SOME OTHER REGULATED PROFESSIONS
OPTICIANS**



OPTICIANS

LEGISLATION

- **Law No. 5193 on OPTICIANS**

TRAINING

- **two-year vocational programme leading to associate's degree**
- **ophthalmologists may also work as opticians**

(However they cannot perform the art of medicine as long as they work as opticians.)



OPTICIANS

SCOPE OF THE PROFESSION

- Opticians may sell only protective eye glasses, sunglasses and graded glasses prescribed by ophthalmologists, all kinds of contact lenses, optic devices and eye frames for glasses
- It is forbidden to sell, distribute or advice unprescribed graded glasses, perform eye and visual field examinations and tests including computerized devices like autorefractometer and ceratometer or keep all kinds of devices used in such procedures in opticianaries by opticians



OPTICIANS

SCOPE OF THE PROFESSION

- **Individuals, who establish an opticianary, should employ a responsible manager possessing the title of optician**
- **To obtain permission from the Provincial Health Authority**
- **An opticianary authorisation shall be valid for only one opticianary**
- **Individuals, who wish to have more than one opticianary, for each of the establishment should have separate authorisations and a responsible manager**



OPTICIANS

Opticians pursue their profession in 2 forms

EMPLOYMENT IN PUBLIC SECTOR

- ✓ No right to practice the profession in private
- ✓ To have a diploma + bachelors degree education

EMPLOYMENT IN PRIVATE SECTOR

- Self – Employed
 - ✓ To have a diploma
- Partner of an Opticianary
 - ✓ To have a diploma
- Employed in a Private University
 - ✓ To have a diploma + bachelors degree education



**AGENDA ITEM I/1: MUTUAL RECOGNITION OF
PROFESSIONAL QUALIFICATIONS
GENERAL SYSTEM AND SPECIFIC PROFESSIONS
SOME OTHER REGULATED PROFESSIONS
CIRCUMCISERS**



CIRCUMCISERS

LEGISLATION

The Law No. 1219 on the Principles for the Performance of the Profession of Medicine and Dentistry

PURSUIT OF THE PROFESSION

- **Doctors of medicine**
- **Health personnel graduated from vocational high schools on health**
- **For the private practice, they should get permission from the Provincial Health Authority**



CIRCUMCISERS

Circumcisers pursue their profession in 2 forms

EMPLOYMENT IN PUBLIC SECTOR

- ✓ **No right to practice the profession in private**

EMPLOYMENT IN PRIVATE SECTOR

- **Self – Employed**
 - ✓ **To have a certificate from the Ministry of Health**
- **Partner of a Health Establishment**
 - ✓ **To have a certificate from the Ministry of Health**
- **Employed in a Health Establishment**
 - ✓ **To have a certificate from the Ministry of Health**



**AGENDA ITEM I/1: MUTUAL RECOGNITION OF
PROFESSIONAL QUALIFICATIONS
GENERAL SYSTEM AND SPECIFIC PROFESSIONS
SOME OTHER REGULATED PROFESSIONS
DENTAL PROSTHESIS TECHNICIANS**



DENTAL PROSTHESIS TECHNICIANS

LEGISLATION

The Law No. 1219 on the Principles for the Performance of the Art of Medicine and Dentistry

TRAINING

- **4-year secondary school level programmes-dental prosthesis technicianary department of vocational high schools**
- **2-year vocational programme leading to associate's degree**



DENTAL PROSTHESIS TECHNICIANS

SCOPE OF PROFESSION

- **Dental Prosthesis Technicianary is limited with making dental prosthesis, maxillo-mandibular and face prosthesis, orthodontic devices on measures and modals taken from the patient by dentist and repairing prosthesis and devices when necessary, devoted to the rules required by the occupation and taking into account the data and requests from the dentist**



DENTAL PROSTHESIS TECHNICIANS

PURSUIT OF THE PROFESSION

- **to be a Turkish citizen**
- **to have dental prosthesis technicianary diploma**
- **For the private practice, they should get permission from the Provincial Health Authority**



DENTAL PROSTHESIS TECHNICIANS

Dental Prosthesis Technicians pursue their profession in 2 forms

EMPLOYMENT IN PUBLIC SECTOR

- ✓ **No right to practice the profession in private**

EMPLOYMENT IN PRIVATE SECTOR

- **Self – Employed**
 - ✓ **To have a diploma and to get permission from the Provincial Health Authority**
- **Partner of a Health Establishment**
 - ✓ **To have a diploma**
- **Employed in a Health Establishment**
 - ✓ **To have a diploma.**



**AGENDA ITEM I/1: MUTUAL RECOGNITION OF
PROFESSIONAL QUALIFICATIONS
GENERAL SYSTEM AND SPECIFIC PROFESSIONS
SOME OTHER REGULATED PROFESSIONS
SEAFARERS**



SEAFARERS

LEGISLATION

- **International Convention on Standards of Training, Certification and Watchkeeping for Seafarers, 1978, as amended in 1995 (STCW)**
- **Bilateral agreements on mutual recognition of seafarer certificates**
- **By-law on Competencies of Radio Operators and Their Assessment**
- **By-law on Seafarers**
- **Instruction on Training and Assessment**
- **Instruction on Safe Manning**
- **Instruction on Quality Standards**
- **Instruction on Health Requirements for Seafarers**



SEAFARERS

TRAINING (WATCHKEEPING OFFICERS)

- **Restricted watchkeeping officers (up to 500 gross tonnages)**
Maritime Vocational High Schools (secondary education-4 years)
- **Watchkeeping officers (up to 3000 gross tonnages)**
Vocational Higher Schools (higher education-2 years)
- **Unlimited watchkeeping officers (more than 3000 gross tonnage)**
Faculties (higher education-1+4 years)

TRAINING OF RATINGS

- *Training of ratings are executed by STCW courses*



SEAFARERS

VOCATIONAL CONDITIONS (WATCHKEEPING OFFICERS)

- **All persons who complete relevant training and pass the examination shall be certificated by the Administration**
- **The other conditions on becoming seafarers such as age, special training, experience shall be subject to the By-law on Seafarers. The rules of Turkish legislation are the same rules as STCW Convention**

VOCATIONAL CONDITIONS (RATINGS)

- **The legislation and implementation for ratings is parallel with those of watchkeeping officers**



**AGENDA ITEM I/1: MUTUAL RECOGNITION OF
PROFESSIONAL QUALIFICATIONS
GENERAL SYSTEM AND SPECIFIC PROFESSIONS
SOME OTHER REGULATED PROFESSIONS
CIVIL AVIATION**



CIVIL AVIATION

LEGISLATION

Conditions for pursuit of civil aviation professions in Turkey are laid down by Article 95 of Turkish Civil Aviation Law No. 2920

- **to have “certificate of competence” issued by the Ministry of Transport**
- **to update those certificates regularly within the prescribed time limits**



CIVIL AVIATION

- **Principles concerning issuance, validity, renewal and revocation of those certificates are determined by regulations enacted by Directorate General of Civil Aviation (DGCA) of the Ministry of Transport**
- **Licences and certificates issued by a foreign country are considered valid by Turkey in accordance with the international agreements to which Turkey is a party**
- **Turkey is a member of the Joint Aviation Authorities (JAA) and complies with the relevant JAA regulations and requirements**



CIVIL AVIATION

The main professions concerning civil aviation are

- **Pilots**
- **Cabin Crew**
- **Dispatchers**
- **Maintenance Technicians**
- **Air Traffic Controllers**

Regarding access to civil aviation professions, there is no discrimination based on nationality, except for air traffic controllers



CIVIL AVIATION

PILOTS

- **Aeroplane and helicopter pilots in Turkey should have the licence issued by the DGCA**
- **When a licence which includes approval, authorization, and certification, is given to a person, organisation or a service by the authority of a country being a full member of JAA, as to the JAR-FCL and the relevant procedural conditions; this licence is accepted without any further process by the DGCA**
- **A licence given by a country which is not a JAA member could be validated upon the initiative of the DGCA for an aeroplane registered in the Turkish civil aircraft records**



CIVIL AVIATION

PILOTS

- Requirements for access to the profession and competence preconditions of pilots are determined in line with the fundamental principles of the Aeroplane Pilot Licensing Instruction (SHT- 1) and the Helicopter Pilot Licensing Instruction (SHT- 2)
- SHT- 1 and SHT- 2 are fully compatible with the Council Directive 91/670/EEC on mutual acceptance of personnel licences for the exercise of functions in civil aviation



CIVIL AVIATION

CABIN CREW

- Under own call sign operations
- Maximum one foreigner for each cabin set. This is regulated with a circular announced by the DGCA on 13.10.2005

WET-LEASE OPERATIONS

- The maximum number of foreigners for cabin crew is 2. This is regulated under the Civil Aviation Instruction on Leasing (wet lease and dry lease) Procedures (SHT-120.95)



CIVIL AVIATION

DISPATCHERS

- Relevant legislation for dispatchers is By-law on Dispatcher Licence (SHD:T-44)

PURSUIT OF PROFESSION

- Having a dispatcher licence issued by the Ministry of Transport after having passed the examinations under the supervision of the DGCA



CIVIL AVIATION

MAINTENANCE TECHNICIANS

- In order to be a maintenance technician the person has to fulfil the requirements of regulation SHY-66
- Certification which is a compulsory process for being a maintenance technician is regulated by SHY-66 which will enter into force on 1 July 2006



CIVIL AVIATION

AIR TRAFFIC CONTROLLERS

- **Requirements for being an Air Traffic Controller are specified in the By-law on Air Traffic Controller Licence (SHY 65-01)**
- **To be a Turkish citizen**
- **to have an Air Traffic Controller Licence which is obtained through examinations held by institutions authorised by the Ministry of Transport**



**AGENDA ITEM I/1: MUTUAL RECOGNITION OF
PROFESSIONAL QUALIFICATIONS
GENERAL SYSTEM AND SPECIFIC PROFESSIONS
SOME OTHER REGULATED PROFESSIONS
ROAD TRANSPORTATION PROFESSIONS**



ROAD TRANSPORTATION PROFESSIONS

LEGISLATION

- **Law No. 4925 on Road Transport is a framework law for the access to the market and to the profession**
- **By-law on Road Transport**
- **By-law on Professional Competence**

THE MINISTRY OF TRANSPORT IS RESPONSIBLE FOR

- **Regulating access to the market and to the profession**
- **Regulating and issuing operator licences**



ROAD TRANSPORTATION PROFESSIONS

PURSUIT OF PROFESSION

To obtain a licence from the Ministry of Transport. The conditions required differ with respect to the type of service or licences

CONDITIONS

- professional competence
- financial standing
- good repute

As regards to the professional competence, managers and drivers are obliged to get certificate of professional competence (CPC)



**AGENDA ITEM I/1: MUTUAL RECOGNITION OF
PROFESSIONAL QUALIFICATIONS
GENERAL SYSTEM AND SPECIFIC PROFESSIONS
SOME OTHER REGULATED PROFESSIONS
PRIVATE SECURITY SERVICES**



PRIVATE SECURITY SERVICES

LEGISLATION

- **Law No. 5188 on Private Security Services**
- **By-Law (7.10.2004) regarding the implementation of the Law**



PRIVATE SECURITY SERVICES

CONDITIONS

- **Private security employees have to be Turkish nationals**
- **Private security employees have to receive basic private security training provided by the private security institutions licensed by the Ministry of Interior**



**AGENDA ITEM I/1: MUTUAL RECOGNITION OF
PROFESSIONAL QUALIFICATIONS**

GENERAL SYSTEM AND SPECIFIC PROFESSIONS

SOCIAL SECURITY SYSTEMS OF PROFESSIONS



SOCIAL SECURITY SYSTEM		RETIREMENT FUND	SOCIAL INSURANCE INSTITUTION (SSK)	OCCUPATIONAL PENSION FUND (BAĞ-KUR)
DOCTORS	PUBLIC SECTOR	✓		
	EMPLOYEE		✓	
	SELF-EMPLOYED			✓
NURSES	PUBLIC SECTOR	✓		
	EMPLOYEE		✓	
	SELF-EMPLOYED			✓
DENTISTS	PUBLIC SECTOR	✓		
	EMPLOYEE		✓	
	SELF-EMPLOYED			✓
MIDWIVES	PUBLIC SECTOR	✓		
	EMPLOYEE		✓	
	SELF-EMPLOYED			✓



SOCIAL SECURITY SYSTEM		RETIREMENT FUND	SOCIAL INSURANCE INSTITUTION (SSK)	OCCUPATIONAL PENSION FUND (BAĞ-KUR)
PHARMACISTS	PUBLIC SECTOR	✓		
	EMPLOYEE		✓	
	SELF-EMPLOYED			✓
VETERINARIANS	PUBLIC SECTOR	✓		
	EMPLOYEE		✓	
	SELF-EMPLOYED			✓
ARCHITECTS	PUBLIC SECTOR	✓		
	EMPLOYEE		✓	
	SELF-EMPLOYED			✓
LAWYERS	PUBLIC SECTOR	✓		
	EMPLOYEE		✓	
	SELF-EMPLOYED		✓	

PS: A Draft Law, convening three social security schemes, is in the agenda of the TGNA



AGENDA ITEM I/2: MUTUAL RECOGNITION OF PROFESSIONAL QUALIFICATIONS

VOCATIONAL AND TECHNICAL EDUCATION AND TRAINING



- **A general system regarding national professional qualifications (NPQ) does not exist in Turkey**
- **However many professions are regulated by numerous laws and secondary legislation**
- **Currently, Turkish Employment Office (İŞ-KUR) and Turkish Standardization Institute (TSE) define professional standards (To date, around 250 professional standards defined by İŞ-KUR and around 250 professional standards defined by TSE)**
- **This situation causes a fragmented legal structure and implementation regarding professional qualifications**
- **A committee comprising Minister of National Education, Minister of Labour and Social Security, Minister of Industry and Trade under the chairmanship of a Minister of State has begun working on the establishment of a national system of professional qualifications**

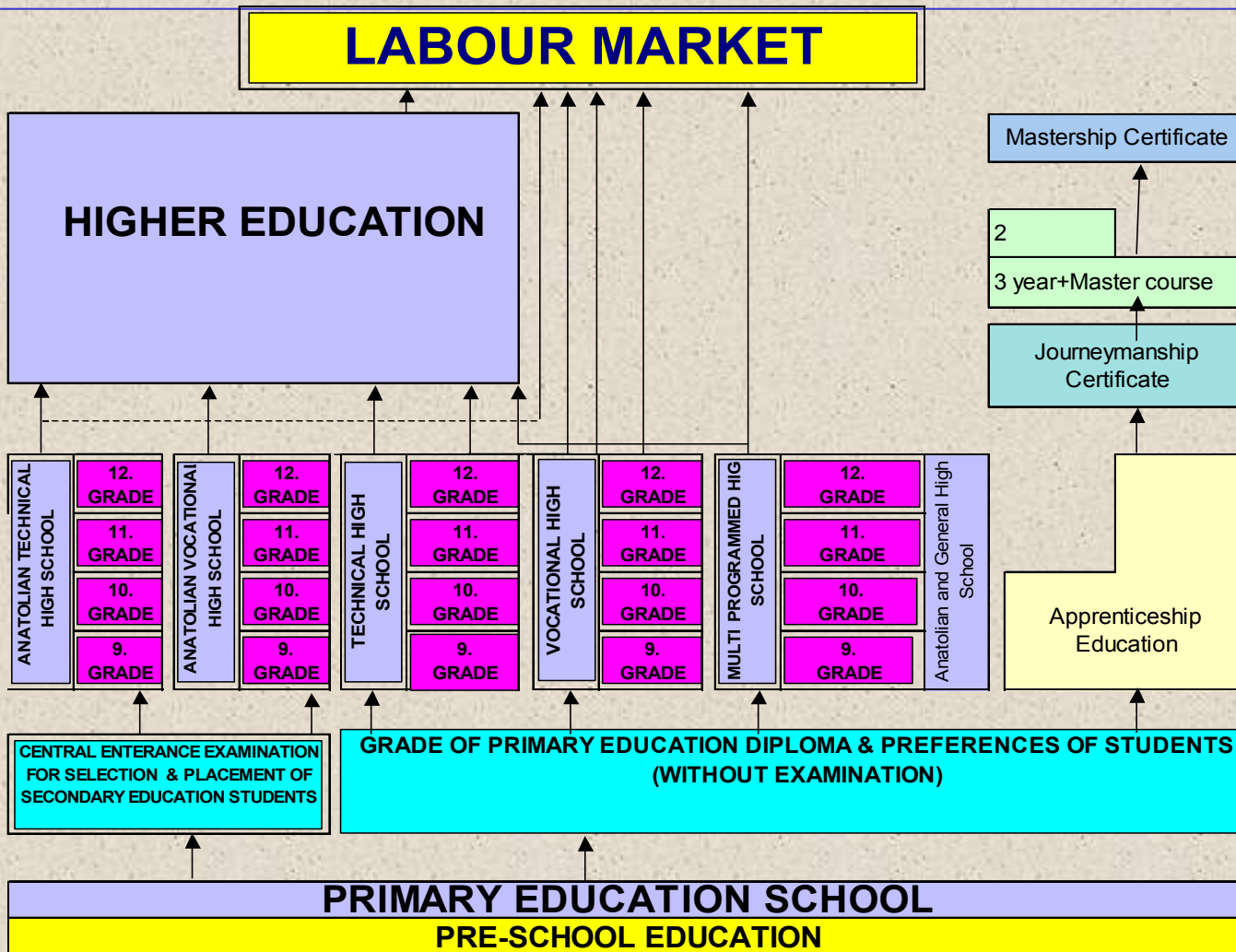


LEGAL BASIS

- **Turkish Constitution**
- **Basic Law of National Education**
 - ✓ **Law No. 1739**
 - **formal and non-formal education**
 - ✓ **Law No. 3308 (as amended by Law No. 4702)**
 - **vocational training**
- **Basic Law of Higher Education**
 - ✓ **Turkish Constitution (Article 130 and 131)**
 - ✓ **Law No. 2547**



NON FORMAL EDUCATION





VOCATIONAL EDUCATION AND TRAINING

FORMAL EDUCATION

- Vocational and Technical High Schools
- Universities, institutes of technology, higher conservatory schools and higher vocational schools (post-secondary vocational schools)

NON-FORMAL EDUCATION

- Non-formal Education Institutions
 - ✓ Apprenticeship Training Centres
 - ✓ Public Training Centres
 - ✓ Practical Art Schools
 - ✓ Maturation Institutes
 - ✓ Technical Education Centres for Adults
 - ✓ Training Centres on Hotel Management and Tourism for Adults
 - ✓ Training Centres for Tourism
- e-learning(*)
 - ✓ Open Education
 - open vocational and technical training (**)

(* Those who complete the e-learning training receive a “certificate” or a “diploma” depending on the duration)

(**) Trainees receive theoretical courses through distance education and practical courses through face-to-face training at vocational high schools.



FORMAL VOCATIONAL SCHOOL TYPES (1)

Vocational and Technical High Schools

- **Anatolian Technical High Schools (*)**
- **Anatolian Vocational High Schools (*)**
- ***Technical High Schools***
- ***Vocational High Schools***
- ***Multi-Programme High Schools***
- ***Vocational and Technical Training Centres(**)***

257 vocational programmes in various professional fields are being taught at these schools

(*) extensive education on foreign languages

(**) certificate programmes are offered along with diploma programmes



FORMAL VOCATIONAL SCHOOL TYPES (2)

- **Vocational and Technical High Schools**
 - ✓ **Following the 8-year compulsory basic education, 4-year vocational and technical high schools train the students as qualified mid-level human resources for labour market (for agriculture and animal health, industry, health, court, cadastre, commerce and service sectors) and also prepare for higher education**



VOCATIONAL TRAINING AT SCHOOLS AND INDUSTRIAL PREMISES

- While 9th and 10th grade students of vocational high schools spend their entire time in school using classrooms, laboratories and workshops, 11th and 12th grade students attend theoretical courses at school for two days a week and have practical courses at the industrial premises for three days a week



EMPLOYMENT OF VOCATIONAL AND TECHNICAL TRAINING GRADUATES

- **According to the Law No. 3795, graduates of vocational and technical training are employed as “technicians” if they are working at public institutions**
- **Those who want to set up their own businesses should have “mastership certificate”**
- **Vocational high school graduates are required to enter and achieve the “mastership exam” to become masters**
- **Technical high school graduates can receive a certificate equal to mastership certificate to set up enterprises without examination**



NON-FORMAL VOCATIONAL TRAINING

Law No. 3308 on VOCATIONAL TRAINING (as amended by Law No. 4702)

- **The purpose of the Law is to establish the principles regarding the training of apprentices, journeymen and masters and the vocational training to be organised in schools and enterprises. It was enacted in 1986 to strengthen and develop school-enterprise relations and cooperation**

ACCORDING TO THE LAW

- **Vocational Training Councils in the Ministry**
- **Provincial Vocational Training Councils in provinces**
have been established where the government, employees, employers and other social partners are represented



With the amendments the followings are also introduced

- **establishment of “employment and monitoring unit after graduation of vocational and technical school”**
- **formation of vocational and technical education region (METEB)**
- **establishment of vocational and technical training centres**
- **entry to 2-year vocational higher schools for secondary vocational and technical school graduates**
- **transition to undergraduate (first cycle) programs of universities**
- **to set up “training unit” in enterprises with more than 200 employees**
- **it is envisaged that everybody working in labour market shall have vocational training**
- **general school graduates may have a diploma acquiring vocational training**



APPRENTICESHIP, JOURNEYMAN AND MASTERSHIP TRAINING

- **Apprenticeship training involves practical training provided in firms and enterprises, together with theoretical studies provided in Vocational Training Centres**
- **Apprenticeship period is 2-4 years, depending on professions. At the end of this period, apprentices take a journeyman examination. Those who are successful in this examination receive a Journeyman Certificate. People with the Journeyman Certificate who have worked at least 5 years or have completed a “Mastership Training Course” can take the mastership examination in order to receive Mastership Certificate**



LIFE-LONG LEARNING

- **In 2004, approximately 3,5 million people benefited from life-long learning opportunities at non-formal training institutions**
- **Continuous education is provided at almost all universities, vocational schools and institutions**
- **“Second University Project” at Anatolian University aims at enabling students to study in another field and improve their qualifications**



FOR THE GRADUATES OF VOCATIONAL AND TECHNICAL TRAINING AND EDUCATION TO SET UP BUSINESS

REQUIREMENTS

- **to have “mastership certificate”**
- **to register with the related chamber**
- **to get permission from municipalities and competent institutions to set up enterprises**
- **to register with tax administration**
- **to register with social security institution**



FOR FOREIGN NATIONALS TO SET UP BUSINESS AND TO BE EMPLOYED IN TURKEY

- **Equivalence of certificates of vocational and technical trainees for EU and third country nationals is evaluated by the Ministry of National Education except for higher education**
- **Provided that they have residential permission and work permit**



INTERNATIONAL PROJECTS

With the aim of harmonizing of Vocational and Technical Education System with the priorities of EU

WITHIN THE CONTEXT OF

- **Project on Strengthening Vocational Education and Training System (SVET)**
 - ✓ works on the establishment National Qualification Institution are going on in cooperation with ETF (European Training Foundation)
 - ✓ Some training programmes have been based on modular system while some are still being worked on (ISCED 97)
- **Project on Modernization of Vocational and Technical Education (MVET)**

In both SVET and MVET projects, the government, universities, non-governmental organizations (NGOs), and representatives of related ministries take part in planning, organization and implementation as “social partners”
- **Project on Active Labour Market Programmes**
 - ✓ aims at rising the employability of both the employees and the unemployed via vocational education and other active employment measures



COMMUNITY EDUCATION AND YOUTH PROGRAMMES

- **Turkey is participating in the Community education and youth programmes**
- **These programmes have been carried out successfully**
- **Detailed information has been provided under the screening of “Education and Culture” chapter**



**AGENDA ITEM I/3: MUTUAL RECOGNITION OF
PROFESSIONAL QUALIFICATIONS**

LAWYERS



LEGISLATION

- **Law No. 1136 on Lawyers**



NATURE AND PURPOSE OF THE PROFESSION

NATURE OF THE PROFESSION

- **Profession of lawyer is a public service and a liberal profession. The lawyer freely represents the independent defence which is one of the basic elements of the judiciary**

PURPOSE OF THE PROFESSION

- **The purpose of profession is to ensure the arrangement of legal relations, the just and fair settlement of all kinds of legal issues and disputes, and the full implementation of legal rules at every level of juridical bodies, arbitrators, public and private entities, boards and agencies. (All lawyers may represent their clients also before supreme courts.)**
- **There is no requirement for specialist lawyers at any level**



TRAINING AND CONDITIONS

- **Being a Turkish national**
- **Being graduated from one of the Turkish faculties of law (4-year full-time university programme); or being a graduate of a faculty of law in a foreign country and having passed examinations in the extra courses in the curriculum of Turkish faculties of law**
- **Having received a traineeship certificate after having served as a trainee lawyer for 1 year**
- **Having passed the professional examination**
- **Having a legal domicile in the jurisdictional area of the bar association of which registration is sought**
- **Not being unfit for the profession of lawyer pursuant to Article 5 of the Law**



REQUEST FOR REGISTRATION WITH THE BAR ASSOCIATION

- Every lawyer is obliged to register with the bar association in whose jurisdictional area he/she will practice the profession on a permanent basis
- Those who have passed the professional examination or those satisfying the conditions in Article 4 (exceptional admissions, who have served as judge or public prosecutor or academician etc. for a while) may request in writing to be registered with the bar association to which they have applied



DECISION ON REGISTRATION REQUESTS

- **The board of directors of the bar association is under the obligation to make a reasoned decision within one month of the date of delivery of the written request for registration with the bar association**
- **Should a decision not be made during this period, the candidate's request for admission shall be considered as having been denied. In such a case, the candidate shall be free to file an objection with the Union of Bar Associations within fifteen days as of expiration of the one-month period**



OBJECTION TO REFUSAL OF REQUEST

- **The decisions of the board of directors of the bar association regarding the registration of candidates will be forwarded to the Union of Bar Associations of Turkey within fifteen days from the date of decision**
- **The Union will decide on the appropriateness of the bar association's decision and on the acceptance and refusal of the objections within one month of its receipt**
- **The Union will submit its own decision to the Ministry of Justice within one month following the adoption of the decision**
- **The decision will become conclusive if no decision is taken by the Ministry of Justice within two months as of the date of its receipt or if the decisions are approved**



REGISTRATION FEE AND DUES

- **The fee for registration to a bar association is €145 which is paid to the Ministry of Finance. Additionally, every lawyer is obliged to pay a due to the bar association which he/she is registered with. The dues are paid in 2 instalments within a year. The amounts of the dues may vary for every bar associations, currently the average of dues in Turkey is around €120. Amounts of the dues are determined by the General Assemblies of the Bar Associations**



LICENCE

- **A candidate who has been admitted to the profession of lawyer will be issued a licence by the bar association concerned**
- **Admission to the profession of lawyer will become effective as of the date the licence issued**
- **Once admitted to the profession of lawyer, the candidate becomes entitled to use the title “lawyer”, which is communicated to the Union of Bar Associations of Turkey**

PROTECTION OF THE TITLE

- **Persons not having licence and registration to the Bar can not use the title of lawyer**



ACTIVITIES EXCLUSIVE TO LAWYERS

- **Giving advice in legal matters; litigating and defending the rights of real persons and legal entities before courts, arbitrators and other bodies invested with jurisdictional powers; and managing all documentation associated there with are prerogative of lawyers enrolled with bar associations**
- **Lawyers enrolled with bar associations may also pursue all kind of activities in public offices other than those mentioned in the first paragraph**



REQUIREMENT TO ESTABLISH AN OFFICE

- **Every lawyer is obliged to establish an office in the jurisdictional area of the bar association that he/she is enrolled with. The qualifications of the office are defined by the bar association**
- **A lawyer may not have more than one office. Lawyers working jointly may not have separate offices. A lawyer partnership may not open another office in Turkey**
- **Lawyers changing their residence or office must inform the bar association of their new addresses within a week**



LAWYERS WORKING JOINTLY OR IN A PROFESSIONAL PARTNERSHIP

Lawyers may practice their profession jointly in the same office or in a partnership

➤ Grouping in the Same Office

- ✓ more than one lawyer enrolled with the same bar association practice their profession using the same office**
- ✓ such grouping does not form a legal entity**
- ✓ the activities are not deemed to be commercial**



PROFESSIONAL PARTNERSHIP

- **More than one lawyer enrolled with the same bar association to practice their profession in accordance with the Law**
- **The activities of these partnerships are professional and not considered commercial. They are subject to the same provisions as applied to privately owned companies as far as taxation is concerned**



- **Foreign lawyers' partnerships intending to operate in Turkey may only offer services of consultancy in foreign laws and international law provided that they have been formed in compliance with the Law and the arrangements stipulated for lawyers' partnerships**
- **This restriction also applies to lawyers who are nationals of the Republic of Turkey or of foreign countries working for the foreign lawyers' partnership. The condition that the partners be enrolled with a bar association is not required for this type of partnerships. Implementation of this provision is subject to reciprocity**



BAR ASSOCIATIONS

- **Bar associations are professional organizations having public legal personality operating on the basis of democratic principles by conducting the whole range of activities for the purpose of promoting the profession of lawyer; ensuring honesty and confidence between the members of the profession and their relations with clients; defending and safeguarding the order, ethics, and respectability of the profession, the supremacy of the law and human rights; and to meet the common needs of lawyers**



COMPETENCES OF BAR ASSOCIATIONS

Bar associations carry out various duties through its organs to ensure good conduct of profession of lawyer

- **Some of these duties are**
 - ✓ **ensuring and safeguarding the respectability of the profession and professional order, and the practice of the profession with dedication and pride in accordance with the principles of justice**
 - ✓ **deciding on matters regarding the admission, register or transfer of trainees and lawyers**



**AGENDA ITEM I/4: MUTUAL RECOGNITION OF
PROFESSIONAL QUALIFICATIONS**

COMMERCIAL AGENT



LEGISLATION

- **TURKISH COMMERCIAL CODE (TCC) No. 6762**
(A draft Turkish Commercial Code is on the agenda of the Turkish Grand National Assembly)



DEFINITION (Article 116)

- **A commercial agent is a natural person mediating the commercial contracts for or on behalf of an enterprise in the framework of a contract**
- **Commercial representative, commercial assignee, sales employee or service personnel are not considered as commercial agent**



SCOPE (Article 117)

Provisions on agencies also apply to

- **Permanently authorized persons to conclude contracts on behalf of a national or international enterprise and on his own name**
- **Persons mediating the act of an insurance contract**
- **Persons pursuing activities in the country on the name and account of international enterprises which do not have a center or branch in Turkey**



RESTRICTIONS (Article 118)

- **The agent cannot mediate on behalf of more than one competing enterprises in the same region**
- **The principal cannot authorize more than one agent at the same time in the same region for the same commercial activities**



AGENTS ARE AUTHORISED FOR THE FOLLOWINGS

(Article 119)

- **An agent has the right of making or accepting all warning, denunciation, notification, formal protest, declarations or claims on behalf of his/her principal**
- **An agent can go or be subject to the court for these activities**

(Article 120)

- **Without special or written authorization of the principal, an agent can not collect money of the goods which she/he did not deliver and also can not receive the goods for which he/she did not make any payment**



(Article 121)

- **Without special or written authorization of the principal, the agent cannot conclude contracts on behalf of the principal**
- **The documents authorizing the agent to conclude contracts on behalf of the principal should be registered and announced**



(Article 122)

- If an agent signs a contract on behalf of the principal, without an authorization or by exceeding the authorization limits, the contract is valid, unless the principal inform the third parties that he/she rejects the contract as soon as the contract comes to the knowledge of him/her
- If the principal rejects the contract, the agent shall be responsible in person against the third parties



OBLIGATIONS OF AN AGENT (Article 123)

- **The agent is obliged to execute transactions on behalf and protect the interests of the principal in accordance with the contract**
- **The agent is liable for any damage to the goods under his/her possession which belong to principal, unless he/she proves he/she is faultless**



(Article 124)

- **The agent is obliged to duely transmit any relevant information to the principal**

(Article 125)

- **The agent is obliged to take all necessary measures for eliminating the damages the goods belong to principal on his behalf**
- **Otherwise she/he will be responsible for any losses coming from his fault or negliance**



(Article 126)

- **The agent has to pay interest and if necessary compensation for any delay in delivering the principal's money to him/her or the third parties**



RIGTS OF AGENTS (Article 127-132)

(Article 127)

- **The agent has the right to request only extra costs while performing his/her duties for the principle**

(Article 128)

- **The agent has the right to ask fee for any transaction, covered by the contract, mediated either by the agent or directly by the principal in his/her region**
- **The agent should be informed of any direct transaction of the principal in the region of the agent**



(Article 129)

- **The agent deserves the commission when the principal, depending on the subject of the contract, receive the money, goods or any other benefits**
- **If the transaction is not executed because of the principal's initiative, the agent still has the right for commission**
- **If the concluded contract is not to be realized in lump sum, commission is deserved with the partial implementation of the contract**



REMUNERATION (Article 130)

- **Unless fixed in the contract, the commission is determined according to commercial practices in that region or by local court**



TIME TO PAY (Article131)

- **Principal must give a copy of records of the transactions in which the agent is included, and the statement of account to the agent**
- **Payment to agent should be done according to the contract**
- **If there is no provision in the contract, payment should be done quarterly or in all cases at the end of the calendar year**



RIGHTS OF RETENTION (Article 132)

- **The agent has the right of retention of all money, goods, commodity certificates, real estates of the principal on his/her possession, until his all due receivables within the contract are paid**



TERMINATION OF CONTRACT (Article 133)

- **Where an agency contract is concluded for an indefinite period either party may terminate it by three-month notice**
- **Contracts with definite period can also be terminated in any time due to legitimate reasons**



INDEMNITY (Article 134)

- **The party terminating the contract without complying with three-month notice and without any legitimate reason is obliged to compensate the damages of the other side due to the transactions commenced but not finalized**



REGISTRATION OF AGENCY

- **Registration and announcement of the agents are required by Article 11, 12, 14 and 42 of TCC**



DRAFT TURKISH COMMERCIAL CODE

- **New provisions for self-employed commercial agents are introduced by taking the Directive (86/653/EEC) into account**
- **This draft is now being studied by the sub committee in the parliament**
- **Among new provisions of the draft law**
 - ✓ **Insurance agencies excluded**
 - ✓ **Provisions in the contract detriment to the agent is prohibited**
 - ✓ **notification periods to terminate contracts is determined**
 - ✓ **More detailed provision for the period after the termination of contract**



**AGENDA ITEM I/5: MUTUAL RECOGNITION OF
PROFESSIONAL QUALIFICATIONS
TRANSPORT OF TOXIC PRODUCTS**



MAIN ACTORS

- **MINISTRY OF AGRICULTURE AND RURAL AFFAIRS (MARA)**
- **MINISTRY OF INTERIOR (MoI)**
- **MINISTRY OF TRANSPORTATION (MoT)**



LEGISLATION

- **Law No. 6968 on Plant Protection and Plant Quarantine**
- **Regulation on Plant Protection Products and Equipment**
- **By-law on Registration of the Plant Protection Products**
- **By-law on Storage and Retail and Wholesales of Plant Protection Products**
- **By-law on Labelling of the Plant Protection Products**
- **By-law on Controls of the Plant Protection Products**
- **By-law on Persons Wishing to Pursue Plant Protection Activities in Return for Payment**
- **By-law on Fumigation for Agricultural Quarantine**



AREAS REGULATED WITH SECONDARY LEGISLATION

- **Certification of Toxic Plant Protection Products**
- **Market supply and withdrawal**
- **Usage**
- **Controls**



LAW No. 6968 ON PLANT PROTECTION AND PLANT QUARANTINE

- **This Law deals with the plant protection products and equipment**
- **Importation**
- **Supply and sales in domestic market**
- **Domestic manufacture, production, and preparation**
- **Exportation**

These activities are controlled and authorized by MARA



REGULATION ON PLANT PROTECTION PRODUCTS AND EQUIPMENT

- **Persons involved in retail and wholesale of raw materials of pesticides, equipment, manufacture, export and import should get permission from governorship**
- **Requirements and conditions for persons involved in retail and wholesale of plant protection products and equipment are determined by MARA**



BY-LAW ON REGISTRATION OF PLANT PROTECTION PRODUCTS USED IN PLANT PROTECTION

- **This regulation is prepared to determine the procedure and the basis for registration of products that will be used against insects, acarina, nematodes, diseases, and weeds etc. which are present in the environment where plants are grown and plant origin products are stored**



BY-LAW ON REGISTRATION OF PLANT PROTECTION PRODUCTS USED IN PLANT PROTECTION

- **Real or legal persons employing at least one agricultural engineer or one chemical engineer or one chemist in charge of registration procedures may be entitled to register pesticides and similar products which are supposed to meet other requirements for registration**
- **For this purpose an application is submitted to the General Directorate for Protection and Control, and, if appropriate, a certificate of permit for operation is issued by MARA for the appropriate ones to involve in Plant Protection Medicine Business**



BY-LAW ON REGISTRATION OF PLANT PROTECTION PRODUCTS USED IN PLANT PROTECTION

Documents needed for the certification

- **A copy of Commercial Register Gazette that shows applicant's involvement in Plant Protection Business**
- **Diploma of responsible person and other technical staff**
- **Permit for production or manufacture**
- **To receive import licences, a letter of authorization from the company of origin, and an approved copy of production permit by competent authority**
- **Establishment of three Regional Directorates in three different geographical regions**



BY-LAW ON STORAGE AND RETAIL AND WHOLE SALES AND OF PLANT PROTECTION PRODUCTS

The By-law is prepared to establish basis for persons involved in storage, retail, and wholesale of plant protection products

- **To be a Turkish citizen (point a)**
- **To be graduated from Plant Production Department of Agricultural Engineering or to be an agricultural engineer that have attended plant protection courses (point b)**
- **To be Agricultural Engineer except for those mentioned at point (b), to be Agricultural Technician or Operator that have worked on plant protection for the Ministry at central or district levels or other governmental or non governmental institutions for at least 3 years (point c)**
- **For those agricultural engineers who are not mentioned at points (b) and (c), are expected to attend short term training programmes which are organised each year by the Provincial Directorates of Agriculture**



BY-LAW ON THE LABELLING OF THE PLANT PROTECTION PRODUCTS

This regulation covers

- **the obligations of the licence holders and applicants for a licence**
- **approval and modification or alteration of the labels of plant protection products**
- **procedures to be followed by officials**



BY-LAW ON THE CONTROL OF THE PLANT PROTECTION PRODUCTS

By-law entitles MARA to control

- **Producers and importers of pesticides**
- **Legal and real persons involved in retail and wholesale of registered pesticides**
- **Labels of pesticides**
- **Places where their production takes place**



BY-LAW ON PERSONS WISHING TO PURSUE PLANT PROTECTION ACTIVITIES IN RETURN FOR PAYMENT

The aim is to determine the procedure and basis on plant protection activities performed by independent agricultural counsellors against diseases, pests and factors that may cause loss of products.

CONDITIONS

- **Diploma for Agricultural Engineering, diploma equivalence or copies of these diplomas,**
- **A copy of the commercial register**
- **The number of plant protection machinery and the quantity of protection material**
- **The probable regions and subjects that the activities are involved**
- **The address of the establishment**



BY-LAW ON FUMIGATION FOR AGRICULTURAL QUARANTINE

- The aim is to determine the procedure and basis related to determining, training and authorization of the personnel who will perform the work of fumigation to disinfect the harmful organisms in the places where plant, plant products, plant industry and forestry products are grown, for reduction of quality and quantity losses

CONDITIONS

- To be a Turkish citizen
- To be older than 18
- To be in good health
- To be agricultural engineer, agricultural technician or agricultural operator



MINISTRY OF INTERIOR

Regulations on getting permissions for institutions where toxic products are sold

- **In accordance with the Metropolitan Municipality Law and Special Provincial Administration Law**
 - ✓ **Registration and inspection of the institutions are under the responsibility of municipalities in provinces, and under the Provincial Administration body in districts**

- **In accordance with the related regulations for starting businesses and obtaining work permits**
 - ✓ **Necessary measures and permissions must be taken to collect, transport, store, process and dispose of the wastes of the plants where industrial, medical, and radioactive wastes**



MINISTRY OF TRANSPORTATION

- **Turkey became a party to Agreement on Transportation of the Hazardous Materials by Motorway (ADR) as of 5 December 2005. Preparatory work concerning secondary legislation for the implementation of the Agreement is underway**