



Regulated or Unregulated Trade of Tourist Guides?

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Abstract

The classification of tourist guiding as an unregulated trade fully complies with European Directive on services in the Internal Market and with the principle of freedom to provide services. There are some states that may have no regulations at all, other states, on the other hand prescribe needed qualifications for guiding. The most significant argument for maintaining this business is the quality of services that can be delivered only by a certified tourist guide. The aim of this study was to determine if trained certified tourist guides have a statistically significant impact on a number of visitors and play a role in generating income from tourism. The graphical analysis method and the subsequent statistical analysis of variables used in this study have demonstrated that there is no significant dependence among issued permits, the number of tourists and turnover in tourism. If the European market is to be truly liberalized, efficient and competitive, it is important to start with the burdensome elimination of "artificial barriers" in service provision wherever possible.

Keywords: services in the internal market, tourist guide, regulated trade, licenses

Introduction

In the European Union (EU), there currently exist two legal types of the tourist guide trade: Firstly, there is an unregulated trade which is sufficient to meet the general conditions (18 years of age, legal capacity, no criminal record), proof of professional or other qualifications is not necessary (for example: Czech Republic, Germany, Denmark) and then secondly, there are regulated trades: where apart from the general conditions, one is required need to prove professional qualifications, in most cases by means of a certificate proving you have undertaken specific education or training in the field you would like to focus on (for example Slovakia, Hungary, Austria). This existence of the two forms of execution of the trade has inevitably split interested entities into two categories: those who defend regulated trade, which is a standpoint of almost all unions and tourism alliances (Austrian Professional Association of Sports and Leisure



Enterprises, European Federation of Tourist Guide Associations, 2011; Online petice na podporu kvalifikovaných českých průvodců v ČR, 2009) and those who are the defenders of the deregulated free trade that is preferred by tour operators (Bohutínská, 2008) and the European Union. According to Art. 21 of the Treaty on the Functioning of the European Union and Directive 2004/38/EC, one of the paramount principles is that a citizen of one member State must be free to live in and work in another member state. However, in execution of this trade, as Fosman (2005) states, "A very interesting problem appears in the European Union Countries, when a licensed Tours Guide in a specific country member wants to guide in another member State" and continues in the profession of Tour Guide, his or her trade is regulated in a different manner in different states of the European Union. There are states that may have no regulations at all, while other states prescribe qualifications for one to serve as a guide, but they may well tolerate other guides of other Member States if they are not using the title "guide". But then, there are other states in which the activity may only be exercised by those guides having professional qualifications, having passed required examinations of the specific Country.

Following fears of inflows of non-certified tourist guides to a country with a regulated form of the trade, the concerns of consumer protection had been the main argument for retaining this regulated form of trade. In this respect the decision of the Commission in France (1991) meant a shift in solving the business de-regulation issue in conditions of establishing a common market. "In the service sector, the Tourist Guide cases provide an equally powerful glimpse of the assumption that consumers are in general better served by deregulation and cross-border competition than by exclusionary local regulatory practices. The court observed that competition between tour operators would ensure the hiring of competent guides and that accordingly a State licensing regime governing access to the profession could not be justified." Consumers could take care of themselves adequately without the need for such public intervention (Barnard, 2002), and the regulation has indicated quite clearly the direction Europe should seek to take.

In legal terms, regulation of this business is contrary to the adopted Directive 2006/123/EC of the European Parliament and of the Council of 12 December 2006 on services in the Internal Market, since the regulated nature of a tourist guide trade is subject to the fulfilment of several conditions that are contrary to articles of the Directive allowing for imposing conditions only in case of "overriding reasons relating to the public interest" (Art. 40), if they are non-discriminatory, adequate and imperative, where the justified imperative reason means the overriding reasons of public interest that are exhaustively enumerated: public policy, public security, public health and environmental protection. From this point of view the requirement for this trade being regulated creates artificial barriers on



better and more efficient worker mobility in terms of delays and financial costs for fulfilment of this requirement.

In economic terms, the requirement of this trade being regulated has become an obstacle both to liberalisation and competitiveness in the field of services as well as in reducing the unemployment of young people, for whom this work could mean a way to overcome financial stresses and creates a temporal vacuum in their search for a more stable employment. Quality of services that can be delivered only by a certified tourist guide is the most significant argument for maintaining this business as one that is carefully regulated.

Literature review

There is an absence of works in literature that would measure quality of services delivered by tourist guides based on the regulated trade versus the non-regulated trade. Expert works mostly deal with the assessment of efficiency and guided performance (Holloway, 1981; Edensor, 2000, 2001; Bruner, 2005; Tucker, 2007; Haldrup and Larsen, 2009), but they do not look for the optimum legal forms for provision of the services. However, works that study massive information technology penetration like the internet and social networks in the tourist industry are very interesting and inspiring, (Buhalis, 2000, Pearce 2011). Technology-assisted interpretation *en route* and on-site are becoming more common, including highly interactive visitor centres, phone apps, podcasts in the language of the visitor's choice (Kang & Gretzel, 2012). All these technologies and media tend to shape the tourism industry significantly and that results in new requirements on being a tourist guide. According to Black and Weiler (2013) to meet the needs and expectations of twenty-first century tourists and the challenges of the global communication environment, tour guides need to become more highly skilled experience-brokers, including embracing technology which should be used to choreograph memorable experiences for tourists.

New trends in development, however, still raise a question, whether the regulated trade can meet future requirements for a tourist guide, since a tour guide has been constituted, who has been defined as a person, usually a professional, who guides groups (and sometimes individuals) around venues or places of interest such as natural areas, historic buildings and sites, and landscapes, interpreting the cultural and natural heritage in an inspiring and entertaining manner (adapted from European Federation of Tour Guides Associations, 1998). It should be noted in terms of the abovementioned that the current idea of what the tourist guide should know, differs from one town to another, from one state to another, and thus, it quite reminds us of the Middle Ages and its guild system, when each guild applied their own regulations in a respective town. If the regulated trade is to guarantee quality of services, then there must be dependence between a qualified tourist guide, who has been trained by a certified body, and a number of



tourists. Since tourist guide services are mainly used by inbound tourists, there should exist a major correlation, particularly in this group. With regard to the facts indicated it has been the researcher's aim to find out whether a dependence does indeed exist between the two variables, that is, whether trained certified tourist guides have a statistically significant impact on a number of visitors and generating the income from tourism. The researcher has thus created the hypothesis:

H1 Issued permits for tourist guide trade have an impact on the number of inbound tourists.

Given that tourist guides are mainly used by inbound tourists, this group should have the strongest dependency between the chosen variables (number of the issued permissions, number of the inbound tourists and inbound sales). If the number of the inbound tourists and inbound sales is dependent on the number of tourists, there has to exist a function which would describe this relationship.

Results and Discussion

The source data have been obtained from the Ministry of the Interior of the Slovak Republic which registers the number of issued certificates. The number of inbound tourists and sales has been obtained from the Statistical Office of the Slovak Republic.

Table 1. Number of issued certificates

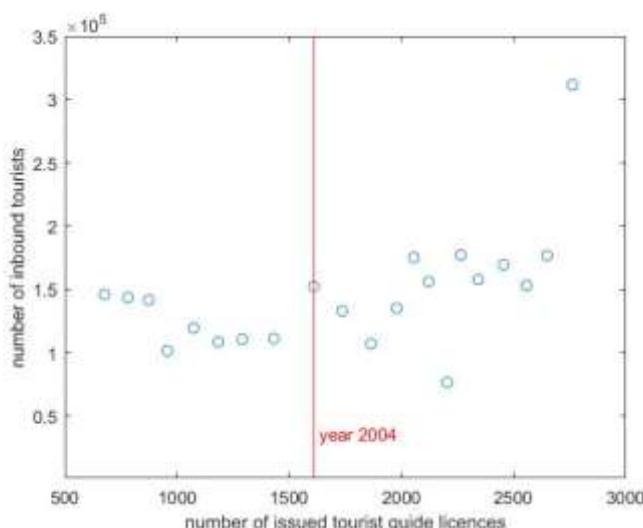
Year	Cumulative quantity of issued licens	N° of inbound tourists
1996	676	146 019
1997	781	143 558
1998	873	141 696
1999	957	101 501
2000	1 074	119 517
2001	1 183	108 469
2002	1 290	110 776
2003	1 431	111 286
2004	1 609	152 271
2005	1 736	133 095
2006	1 864	107 038

Year	Cumulative quantity of issued license	N° of inbound tourists
2007	1 979	135 294
2008	2 055	175 203
2009	2 121	156 139
2010	2 204	76 620
2011	2 264	177 090
2012	2 342	157 872
2013	2 455	168 484
2014	2 558	153 091
2015	2 649	176 650
2016	2 762	311 561

Source: Ministry of the Interior of the Slovak Republic

In the resolution of this problem the researcher has referred to a database containing paired data for statistical signs of a number of permits issued and a number of inbound tourists. The analysed statistical features were of a quantitative nature. A number of inbound tourists was a dependant variable and cumulative number of issued permissions was the independent variable. Spearman's test which analyses existence of monotone function between the variables is the most suitable method for analysis of the dependencies of chosen variables (the number of permissions and the number of tourists). An advantage of Spearman's test is that it is not restricted to searching for certain particular function like in case of some other methods (Chi quadrat test), where relationship of variables is tested, that is only the linear one. Spearman's rho (Spearman's correlation) can also be applied to non-normally distributed data and it can also cover other than a linear relationship among variables. Additionally, the Spearman's coefficient is not as sensitive to extreme values or outliers as other correlation coefficients (e.g. Pearson's correlation coefficient).

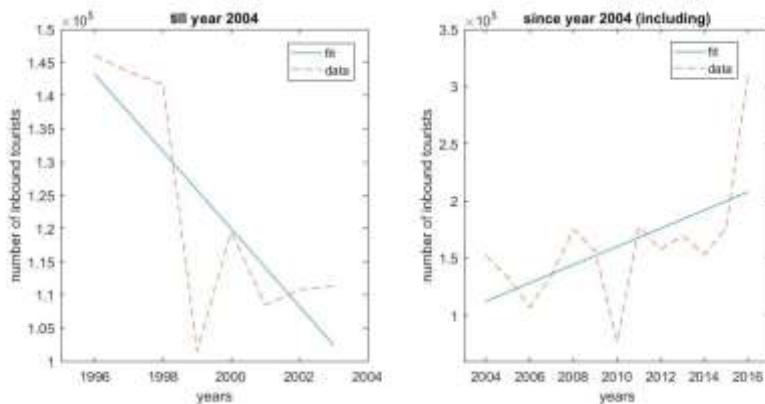
Figure 1 Representation of the relationship between the issued tourist guide licenses and number of inbound tourists.



Source: own representation

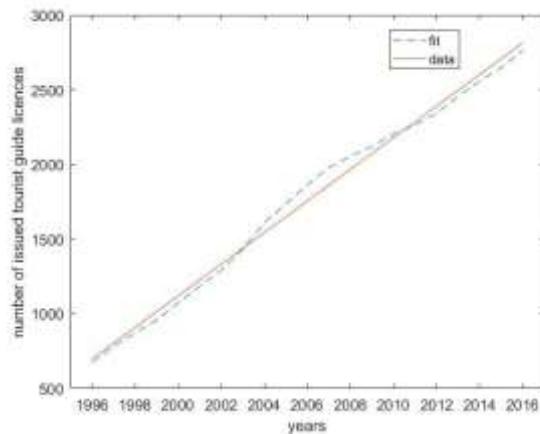
The scatter plot (Figure 1) depicts the number of issued tourist guide licenses in the Slovak Republic and the number of the inbound tourists from 1996 until 2014. In 2004, the Slovak Republic entered into the European Union and also came into the Schengen area. The freedom of movement of the European Union's citizens had a positive impact on the number of inbound tourists in the Slovak Republic, because the citizens of the EU Member States have been allowed to freely enter into the Slovak Republic.

Figure 2. Comparison of number of inbound tourists in two reference periods



Source: own representation

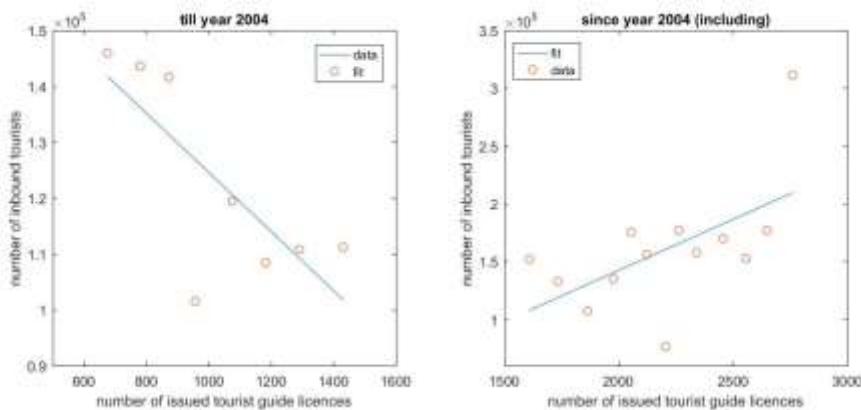
Figure 3. Number of the issued licenses.



Source: own representation

The number of the issued tourist guide licenses against time is plotted in Graph 3. It is obvious, that since the beginning of the examined period (since 1996), the number of issued tourist guide licenses linearly grew in the Slovak Republic (linear fits). Having compared Figure 2. and Figure 3. in the period of <1996 and 2004 the graphs have showed the opposite monotony, i.e. number of inbound tourists decreased, but the number of issued tourist guide licences increased.

Figure 4 Relationship between the number of issued tourist guide licenses and the number of inbound tourists in 2 studied periods



Source: own representation

Figure 4. illustrates the relationship between the number of the inbound tourists and the number of issued tourist guide licenses in 2 periods – from 1996 to 2004 and from 2004 to 2016. Application of the linear regression demonstrates, that while in the first period (from 1996 to 2004) the number of tourists had decreased in relationship to issued certificates, in the second studied period (from 2004 to 2017) the number of inbound tourists slightly increased.

To determine the statistical correlation of variables in Figure 4. A and 4. B we have applied the Spearman's test on a standard testing level of $\alpha = 0.05$.

Table 2.

Objects	Spearman p	function	p-value	α	Stat. significance
Period 1	-0.6667	Decreasing	0.0831	0.05	small significant
Period 2	0.6593	Increasing	0.0171	0.05	no significant
Overall	0.5909	Increasing	0.0056	0.05	no significant

Source: own representation

Table 3. Standard guide for verbal describing of the strength of correlation for Spearman's p (in absolute value)

Spearman's $ p $	Size of the effect of correlation
.00-.19	"very weak"
.20-.39	"weak"
.40-.59	"moderate"
.60-.79	"strong"
.80-1.0	"very strong"

Source: own representation

Statistical analyses of Period 1 implies a strong, monotonically decreasing correlation while for Period 2 it implies strong, monotonically increasing correlation, which means than these two correlations are mutually excluding.



Moreover the p-value of Period 2 indicates statistical non-significance of its correlation. Looking at the significance of Period 1 we see that it has some significance but this would mean that effect of the issued licenses to the number of tourists is in inverse proportionality, which is the complete opposite to the argument favouring tourist guide licenses. Analysing the overall period, without separating it into the two parts, we see moderately strong monotonical increase but with no relevant statistical significance. In conclusion we can state that the argument that number of issued licenses has a favourable effect on the number of tourists is false. From the statistical analysis the researcher did not see any notable correlation that could disapprove the statement that the number of issued permits in the Slovak Republic has no influence on the number of inbound tourists. Therefore one can conclude that the requirement of a specialized tourist guide course for the tourist guide trade is only an obstacle in providing the needed services.

European countries that have the trade concerned as a regulated business in fact only discriminate against their own citizens- applicants for a Certificate of Trade Authorisation, since the European Parliament and the Council Directive 2006/123/ES on services in the Internal Market of 12 December 2006 page 36 (referred to as Directive on services in the Internal Market) allows to provide certain services (including tourist guide services) to a foreign person in a temporary way in the territory of the other EU Member State, or EEA without an obligation to get established in the host Member State, i.e. without the obligation to acquire a special business (trade) license from a competent authority of the host state. To take the advantage of this option, it is sufficient, if the foreign individual has the status of an entrepreneur according to the legal order of the domicile. There is no period of time determined for the temporary provision of services (Free provision of services in questions and answers - RPIC, 2009).

The cross-border (temporary) provision of services in the territory of the Slovak Republic and other states fall under the reporting obligations of a cross-border service provider, who is obliged to report on issues such as the provision of services to a competent authority like a One-stop shop in whose jurisdiction the place of the first provision of services is situated. If more convenient for the services provider, he may choose to meet this obligation in the Ministry of the Interior of the Slovak Republic, Department of Trade and Crafts, and submit compulsory documents there, because even though this is the provision of services that belong among regulated (craft or concession) trades, in cross-border (temporary) provision of services in the territory of Slovakia the recognition of professional qualification is not required. In the other case, if the Slovak tourist guide would accompany tourists in the Czech Republic, this duty does not exist because in the Czech Republic the tourist guide trade is an unregulated trade.

Although in the European area the basic European legislation applies, there exist



a number of exceptions in the individual Member States, in spite of the obligation for Member States to secure free movement of services to providers settled in an EC Member State by removing legal and administrative barriers that make provision of services more difficult and expensive, or that set any disproportionate restrictions in the other (host) Member State. As for an issue of the permanent provision of tourist guide services, that is opening the trade; in case of regulated trade the entrepreneur has to apply for the recognition of a professional qualification. The biggest problems arise in the case where this trade is regulated in one state and unregulated in other state. Persons within the Community that meet the requirements of professional qualifications required for pursuing business in one Member State, need not meet them in the other Member States, because these requirements fail to satisfy the requirements determined by the Trade Licensing Act there, or the other legislation of the country concerned, and therefore he has to report his activity. In case of the provision of tourist guide services in the territory of the other Member States in terms of licenses, it means meeting the same requirements for the professional qualifications as the Member State imposes on its own nationals.

Conclusions

The Single Market is one of Europe's great achievements. To create this single market, hundreds of technical, legal and bureaucratic barriers to free trade and free movement between the EU's member countries have been abolished but still, there remain many obstacles in product and services markets. Barriers to the free exchange of products and services, inadequate enforcement of existing rules, low levels of cross-border public procurement and insufficient political support for structural reforms, all limit the opportunities for businesses and citizens, resulting in fewer jobs and unnecessarily high prices (COM/2015/0550 final). For all the progress made, too many significant economic barriers remain, notably in the area of services. According to an estimate The Commission more ambitious implementation of the Services Directive would add 1.8 % of EU Gross domestic product. "The adoption and transposition into domestic law of EU Directives is a necessary but insufficient condition for the well-functioning of the Internal Market" (Ilzkovitz, Dierx, Kovacs and Sousa, 2007). Some Member States' policies are too protective of their businesses and do not necessarily support the Single Market. Their policies may occasionally, if not often, hamper the outcome of the Single Market Programme in situations where barriers have been removed. (Erixon and Georgieva, 2016).

Despite the pressure on liberalization of European market the tourist guide trade is differently defined in different European countries. In fifteen European Union member states, the tourist guide trade is bound to a qualification, while in other countries it is an unregulated trade. The regulated trade should be utilized only in such professions which can harm health and life of citizens or can cause material



damage. Tourist guides of poor quality will definitely be liquidated by the “invisible hand of the market” because a subject that offers services of poor quality would not succeed in competition in case it does not have a monopoly.

If the European Union really wants to create a competitive market, it needs to continuously create pressure on the removal of all obstacles (Sumption, 2013) such as inappropriate government regulations. “These regulations can affect the entry and operations not only of foreign service suppliers, but also of new domestic service suppliers, and this can directly raise the price or cost of both foreign and domestically supplied services” (Productivity Commission, 2000). Service barriers have the effect of raising the price of services, but this effect on trade is not directly observable (Nguyen-Hong, 2005: 611). Paradoxically, a quality service for a reasonable price will grant the formation of a competitive market much more than a certificate. If the legislation does not reflect the change of economic conditions, the further development may cause elimination of this trade, because globalization and information technology allows not just the full individualization of customer’s requirements, but also operates in moving the activities to the ‘black economy’.

References

- Act 105/1990 Coll. on entrepreneurship of citizens.
Act 130/2008 Coll. amending Act 455/1991 Coll. on on Trade Licensing.
Act 281/2001 Coll. on package tours, business conditions for travel agencies and tour operators and amending the Civil Code, as amended.
Act 293/2007 Coll. on recognition of professional qualifications, as amended.
Act 386/1997 Coll. on further Education, as amended.
Act 455/1992 Coll. on Trade Licensing, as amended.
Act 568/2009 Coll. on lifelong learning, as amended.
- Austrian Professional Association of Sports and Leisure Enterprises (2014). Arguments for a regulated tourist guide industry (retrieved from http://www.freizeitbetriebewien.at/Download/argumentarium_fremdenfuehrer_reglementierung_en_.pdf).
- Bárd, P., Carrera, S., Guild, E. & Kochenov, D. (2016). An EU mechanism on Democracy, the Rule of Law and Fundamental Rights CEPS Paper in Europe, No.91/April 2016.
- Barnard, C. (2002). The Law of the Single European Market: Unpacking the premises, Hart Publishing, 414.



Bohutínska, J. (2008). AČCKA víta zařazení průvodcovské činnosti do živnosti volné. Server Podnikatel.cz (retrieved from <https://www.podnikatel.cz/clanky/zarazeni-pruvodcovske-cinnosti-do-zivnosti-volne/>).

Case C-154/89 Commission v France(1991) ECR 1- 659.

COM/2015/0550 final . COMMUNICATION FROM THE COMMISSION TO THE EUROPEAN PARLIAMENT, THE COUNCIL, THE EUROPEAN ECONOMIC AND SOCIAL COMMITTEE AND THE COMMITTEE OF THE REGIONS Upgrading the Single Market: more opportunities for people and business (retrieved from <https://www.ceps.eu/system/files/LSE%20No%2091%20EU%20Mechanism%20for%20Democracy.pdf>).

Consolidated version of the Treaty on the Functioning of the European Union/Title IV: Free Movement of Persons, Services and Capital. Article 49 ex Article 43.

Dee, D., Geisler, Ch., & Watts, G. (1996). The Impact of APEC's Free Trade Commitment. Staff information paper. Australia. Industry Commission Publisher.

Deník.cz (2015), (retrieved from <https://www.denik.cz/ekonomika/v-praze-je-az-40-procent-nekvalifikovanych-pruvodcu-20150126.html>).

Erixon, F. & Georgieva, R. (2016). What is Wrong with the Single Market? Working paper No 1/2016 (retrieved from http://ecipe.org/app/uploads/2016/02/5Freedoms-012016-paper_fixed_v2.pdf).

EUROPEAN COMMISSION, (retrieved from http://ec.europa.eu/internal_market/consultations/docs/2011/professional_qualifications/janeba_en.pdf) Smith, M.(2013)

EUROPEAN FEDERATION OF TOURIST GUIDE ASSOCIATIONS, 2011. (retrieved from http://ec.europa.eu/internal_market/consultations/2011/professional_qualifications_directive/professional-organisations/feg_en.pdf). Explanatory Memorandum to Act 130/2008 Coll.

Explanatory Memorandum to Act 136/2010 Coll. on services in the Internal Market and amending and supplementing certain acts, as amended.

Eurokodex. (2011). ISBN 978-80-89447-42-8 pp.158.



Findlay, C. & Warren, T. (eds) (2000). *Impediments to Trade in Services: Measurement and Policy Implications*, Routledge, London and New York.

Gonenc, R. & Nicoletti, G. (2000). Regulation, Market Structure and Performance in Air Passenger Transport, Working Paper No. 254, ECO/WKP 27, Economics.

Fosman, J. (2005). Tour guides – Legal Aspects (retrieved from [http://www.israelbar.org.il/uploadfiles/Tour Guides - Legal Aspects \(2005\).doc](http://www.israelbar.org.il/uploadfiles/Tour%20Guides%20-%20Legal%20Aspects%20(2005).doc)).

Hillion, C. (2004). 'The Copenhagen Criteria and Their Progeny' in: C. Hillion, EU Enlargement: A Legal Approach, Oxford: Hart, 1–23.

Houdek, I. (1943). Guilds in Slovakia (Cechovníctvo na Slovensku). Turčianský svätý Martin: The Slovak Museum Society (Muzeálna slovenská spoločnosť).

Kochenov, D. (2004). 'Behind the Copenhagen Façade. The Meaning and Structure of the Copenhagen Criterion of Democracy and the Rule of Law', 8 European Integration online Papers 10, 2004.

Mladá veda. Young Science. (2013). (retrieved from http://www.mladaveda.sk/casopisy/02/02_2013_05.pdf).

Nguyen-Hong (2005). In Ferrantino Michael J, Dee Philippa Quantitative Methods For Assessing The Effects Of Non-tariff Measures And Trade Facilitation World Scientific.

Nováková, V. (2002). Guilds (Cechy). In Vrabcová, E. - Petrovič, R., Sered' – dejiny mesta (Sered'- History of the Town).

Online petice na podporu kvalifikovaných českých průvodců v ČR (retrieved from <http://www.konecceskychpruvodcuvcr.cz/petice>).

Productivity Commisioan Australian Government (retrieved from <http://www.pc.gov.au/research/supporting/services-restriction>).

Reding, V. (2013). "The EU and the Rule of Law: What Next?", speech delivered at CEPS, 4 September 2013.

Smejkal Brandejská, M. (2008/2009). Směrnice o službách na vnitřním trhu a její implementace do českého právního řádu, (retrieved from https://is.muni.cz/th/55369/pravf_r/Rigorozni_prace-smernice_o_sluzbach.txt).



Sumption, M. (2013). Tackling Brainwaste: Strategies to Improve the Recognition of Immigrants' Foreign Qualifications. Migration Policy Institute. file:///H:/Users/Fodran/Downloads/Sumption-Credentialing-FINAL.pdf.

Špiesz, A. (1972), Crafts in Slovakia in the Era of Guilds (Remeslo na Slovensku v období existencie cechov).

The Archive of Museum in Hlohovec, Statues of Boot Guild.

The European Parliament and the Council Directive 2006/123/ES of 12 December 2006 on services in the Internal Market.

Vojáček, L. – Kolárik, J. – Gábriš, T. (2011). Czech-Slovak Legal History (Česko-slovenské právne dejiny).

Voľné poskytovanie služieb v otázkach a odpovediach – RPIC, (2009). (Free provision of services in questions and answers).