

**Guidelines
on the procedure related to the provision of cross-border services.**

General notes

These guidelines are intended to coordinate and ensure the uniform conduct of the district councils of the district chambers of civil engineers when entering new members of the civil engineering professional self-government to the list of members authorised to provide cross-border services.

In accordance with Community law, cross-border services are activities that are temporary and cross-border in nature and at the same time are not covered by regulations on the free movement of capital, goods and persons. Pursuant to Article 50 of the Treaty establishing the European Community, services **primarily include activities** of an industrial character, activities of a commercial character, activities of craftsmen, and activities of the professions.

According to the general principle, a service involves the production of a new good, which calls for the need for **expertise** and **executive capacity**. This applies to most work that can be performed under civil contracts.

A service provided as part of cross-border service provision, by definition a one-time service, must be limited in material scope and time. Freedom to provide services is based on temporariness. This means that the service provider provides a service in another EU Member State for a specific period of time, so the activity is not continuous or permanent.

Pursuant to Article 20a(1) of the Act of 15 December 2000 on Professional Self-Governing Bodies of Architects and Civil Engineers (Journal of Laws of 2023, item 551), a citizen of a Member State with professional qualifications as a civil engineer who lawfully carries on activities within the scope of this profession in a Member State other than the Republic of Poland is entitled to provide a cross-border service in the territory of the Republic of Poland within the meaning of Article 5(10) of the Act of 22 December 2015 on the Principles of Recognition of Professional Qualifications Acquired in the Member States of the European Union (Journal of Laws of 2023, item 334) in the profession of civil engineer.

Tasks of the district council of the chamber of civil engineers in recognizing the experience for cross-border services.

a) Documents to be submitted by the applicant

Before provision supply of cross-border services commences for the first time in the territory of the Republic of Poland, a civil engineer shall submit to the district council of the chamber competent for the place of intended supply of services:

1) a written statement of intent to provide the service with information on:

a) the type of professional activities that the civil engineer intends to perform, if it is possible to determine them,

- b) the insurance or other means of individual or collective protection available with respect to professional liability;
- 2) a document confirming citizenship;
- 3) a certificate issued by a competent authority of a Member State that a citizen of a Member State with professional qualifications of a civil engineer is actually and lawfully practising the profession or activity in that Member State, and that at the time of submitting the certificate such a citizen is not prohibited, even temporarily, from practising the profession or activity;
- 4) documents confirming professional qualifications.

A civil engineer intending to provide cross-border services **in subsequent years** shall re-submit the statement referred to in item 1 **once a year**.

If the contract covers more than one voivodeship, the documents shall be submitted to the selected district chamber with local jurisdiction for that contract.

Elements to be assessed by the district council of the chamber

Provision of cross-border services is subject to individual evaluation by the relevant district council of the chamber. When evaluating cross-border services to be provided in Poland, the district council of the chamber should consider the following elements:

- 1) subject of the service provided,
- 2) length of service provision,
- 3) frequency of service provision in Poland,
- 4) regularity of service provision,
- 5) continuity of services provided.

These should be evaluated **on a nationwide basis**, which involves the obligation of the district council to register persons who have obtained temporary registration as members of the district chamber of civil engineers in connection with the provision of cross-border services in Poland in a special tab of the PIIB BUDINFO program.

The publicly available information allows the chambers to evaluate the service to be provided in the territorial area of the district chamber of civil engineers on a national scale.

Powers and duties of the district council of the district chamber of civil engineers

The competent district council of the district chamber of civil engineers may ask the competent authorities of the member state to provide information confirming that the civil engineer performs his or her activities lawfully, in a proper manner, and that no disciplinary or criminal sanctions have been imposed on him or her in connection with the practice of his or her profession or activity.

In addition, on the basis of reciprocity, the competent district council of the district chamber of civil engineers, at the request of the competent authority of a member state other than the Republic of Poland, shall make available information confirming that the civil engineer performs his or her activity lawfully, in a proper manner, and that no disciplinary or criminal sanctions have been imposed on him or her in connection with the practice of his or her profession or activity, where such information is necessary during review of a complaint filed against the civil engineer by the service recipient.

Temporary registration on the list of chamber members

Once it is determined that a civil engineer planning to provide cross-border services in Poland has met all the conditions stipulated by law, the competent district council of the district chamber of civil engineers shall make **a provisional, free of charge** entry in the list of chamber members.

A civil engineer enrolled as a member of the chamber has full membership rights and is obliged to fulfil all obligations imposed on members of the professional self-government by law and resolutions of the chamber's bodies.

Duration of case processing

Proceedings at the district council of the district chamber of civil engineers are to be conducted **without undue delay** that could expose the chamber to allegations that it is obstructing provision of cross-border services or causing delays in performance of such services. The resolution on enrolment in the list of members of the district chamber of civil engineers should be adopted no later than 2 months from the date of submission of the statement of intent to provide cross-border services.

Certificate of membership in the chamber

The district council of the district chamber of civil engineers shall inform the service provider of the conditions for obtaining the chamber membership certificate referred to in Article 12(5) of the Act on the Building Law, along with the amount, dates and method of payment of membership fees resulting from the rules of financial management adopted by the Polish Chamber of Civil Engineers.

The district council of the district chamber of civil engineers shall issue a certificate of membership in the chamber upon payment of the required membership fees and confirmation of the mandatory third party liability insurance.