

**ACE
POLICY
POSITION**
2016

REGULATION
OF ARCHITECTS



ARCHITECTS' COUNCIL OF EUROPE
CONSEIL DES ARCHITECTES D'EUROPE



■ Highlights

- ACE believes that positive elements of EU Directives should be used to facilitate cross-border service and establishment, but undue deregulatory tendencies that blur professional boundaries and undermine public confidence in service providers should be resisted
- ACE considers that protection of the public and of consumers is best secured by ensuring that architects have the necessary ability to provide a proper service to the consumer with a combination of high-level qualifications, professional experience, adherence to Codes of Practice, respect for public health and safety, as well as maintenance of expertise through Continuing Professional Development (CPD).
- ACE considers that the architectural profession satisfies the Commission's criteria for regulation. Moreover, it believes that the public good is secured by registration systems for architects which are non-discriminatory, in the general interest and consistent with the EU jurisprudence in relation to the quality of services and the independence of the service provider.
- ACE further considers that the public good is served by commercial transactions through transparent registration systems.
- ACE considers that the regulation of architects is necessary to ensure a quality built environment and protection of Europe's unique architectural/open heritage.

■ ACE position

• **Reasons for regulating professional services**

According to the Commission's website, there are three reasons for regulating professional services: 1) asymmetry of information; 2) externalities; 3) the concept of public good.

Our own studies – and those of the Commission – show that professional services are typically regulated *ex ante* (where access to the profession is regulated i.e. training) – or *ex post* (where the function is regulated). It happens that while Registration is not the only way of regulating professional services, it is the most common.

• **Cornerstones for registration**

In relation to consumer protection and public benefit, the registration of architects ensures the protection of public health, safety and welfare; a level playing field; consistency of standards; and quality of service. Registration provides a system for investigating complaints and ensures the accountability of registered architects.

Registration bodies maintain a register of qualified persons; oversee the conduct of registrants through Deontological Codes and sanctions; provide for dispute settlement; monitor requirements for Professional Indemnity Insurance cover and Continuing Professional Development (CPD).

Registration systems for architects are non-discriminatory, in the public interest and proportional.

• **Reserves of function**

Some areas of work are reserved to members of particular professions for the protection of the public interest on the basis that the professionals' governing body will ensure that those licensed to practice are qualified and conduct themselves appropriately.

Additionally, it has been found in some countries that the involvement of regulated professionals in building inspection allows Governments to step back from this area with consequent improvement in standards and overall reduction in Government and Local Authority administrative costs.

Examples of Reserves of Functions include: authorisations to make applications for buildings to receive regulatory approval and/or planning permission – thereby transferring public responsibility to professionals making it possible to maintain public safety while having regard for the sustainability of buildings. Functions may also be reserved in relation to the design of particular building types e.g. for residential or conservation projects.



Report

Concern is sometimes expressed in various Commission reports about the diversity in the education of architects across the EU. Diversity is a product of the subsidiarity which protects Europe's unique architectural and urban heritage; there is no one solution that would respect and develop such subsidiarity.

At the same time, there is no evidence to suggest that Reserves of Function, of themselves, have an impact on competition in the market. In fact, the 2012 DG MARKT *Study to provide an inventory of Reserves of Activity linked to professional qualifications in 13 EU Member States and assessing their economic impact*¹ showed that there is no statistically significant correlation between reserves of activity and the power of professions, their market dominance or competitiveness. Indeed, regulation of title does not restrict choice – it helps the client to choose a competent provider.

Growth in architectural practices is driven by the economy. In particular, cross-border services are driven by economic activity in cities and regions where there is construction activity.

■ Background

*The Overview of the regulatory framework in the business services sector by using the example of architects*²; the Infringement proceedings against Germany for the minimum fee scale for Architects and Engineers; and the concerns raised by the European Commission in relation to multi-disciplinary partnerships in Austria and France indicate that the mutual evaluation exercise launched under Article 59 of the Professional Qualifications Directive³ (PQD) goes beyond the basic regulation of the profession and would now appear to include issues related to the Services Directive⁴ (fees, legal-form and shareholding, multi-disciplinary practices etc.).

For these reasons it is important that ACE achieve a common position on the regulation of the profession through recognition of commonality in systems across the European Union. Indeed, in spite of assurances to the contrary – and in spite of the fact that 96% of requests for cross-border registration have been satisfied (unlike 62% for engineers), the Overview Report underlines the risks of focusing primarily on our differences and stressing the perceived unique nature of national systems. In particular, page 22 of the Report states that *“Many architectural qualifications benefit from automatic recognition through harmonised minimum training requirements so it is striking to find so much disparity existing despite this common understanding. The range of approaches taken towards the other architecture related professions and the degree of diversity across Member States in how rather similar public interest objectives are addressed begs the question how this disparity can be rationally explained and whether there would be some room for reassessing regulation in light of this finding. Contrary to what one might expect to find in such a multifaceted environment, it could be noted with interest that a high incidence of those reporting show little appetite to seek improvements and total satisfaction with their current systems. Where an appetite for reform is indicated it tends generally towards an increase in requirements and is not always supported by a clear rationale.”*

¹ *Study to provide an inventory of Reserves of Activity linked to professional qualifications in 13 EU Member States and assessing their economic impact*, DG MARKT, 2012

² *Overview of the regulatory framework in the business services sector by using the example of architects*, DG MARKT, 17 July 2015

³ Directive 2013/55/EU of 20 November 2013 amending Directive 2005/36/EC on the recognition of professional qualifications

⁴ Directive 2006/123/EC of 12 December 2006 on Services in the Internal Market

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