



**Public Consultation on the Proposal to introduce a Services Passport and address regulatory barriers in the construction and business services sectors**

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Single Market Strategy

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ACE response to the public consultation

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*The Architects' Council of Europe (ACE) is the representative organisation for the architectural profession at European level: it aspires to speak with a single voice on its behalf in order to achieve its aims. Its membership currently consists of 43 Member Organisations, which are the regulatory and professional representative bodies in all European Union (EU) Member States, Accession Countries, Switzerland and Norway. Through them, the ACE represents the interests of over 565.000 architects from 31 countries in Europe.*

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The structure of the questionnaire is such as to lead respondents to agree to more EU regulation and implies that the right answer must inevitably be to have a 'Services Passport'. That being the case, we find the format of the questionnaire somewhat manipulative and prefer to submit a commentary instead, as we do not necessarily agree with the 'logic' to which the questionnaire appears to be leading.

Of course most would agree that anything that makes trade easier and reduces the number of rules ('barriers') would be welcome for those trading outwards, but this needs to be balanced by recognising the reasons for the creation of these national rules. Their purpose is not protectionism from outside traders; their purpose is to enable local systems to operate.

An example is Professional Indemnity Insurance (PII), which is addressed somewhat simplistically in the questionnaire. PII systems respond to local legal systems, contract laws and liability requirements (for example the Napoleonic system of codified law in France, compared to a case law system, in the UK). This needs to be clearly understood and of course it would be unprofitable for the EU to try to involve itself with national legal systems. So the PII questions seem rather misdirected, as if trying to circumnavigate existing systems.

We are not entirely against the idea of a Services Passport but require to be convinced about the need for it, the added value it might bring and how easily it could be made to work.



**1. Principle –**

an electronic procedure to facilitate communication between responsible authorities in Home and Host jurisdictions could be useful, along with the use of multi-lingual standardised forms. The idea of having a single interlocutor is also tempting.

**2. Up-dating –**

the validity of Passports would have to be of limited duration. The Commission says that they would be easily up-dated electronically. This may be easier said than done given that the information they could contain relates to a range of different business legislation (insurance, liability, financial/funding requirements, Health & Safety, employment requirements) that is constantly changing during any business cycle. Clearly it would be almost impossible to regularise and harmonise these across the different legal systems in the EU – in which case, the Passports would merely confirm differences in standards/systems...

**3. Administration –**

who will administer these passports? Under the terms of the proposal, while applications would be made through the IMI, these would be examined by a single “coordinating authority”. Would this be the Point of Single Contact for which provision is already made under the SIM Directive? There are very different registration systems for businesses across the EU, so does this mean setting up a large, central infrastructure to administer these Services passports? Or would the burden be placed on national governments (ministries) to do this individually and somehow co-ordinate. The current 'European Professional Card' relies on the existing national Competent Authorities (identified under the Professional Qualifications Directive) that already have regulatory control over their professional members. 'Passporting' personal qualifications as they are achieved by an individual is one thing, trying to do the same for a range of business parameters that are constantly changing (at least annually) such as insurance policies, financial status, employees, etc. is likely to be more difficult to pin down and keep current.

**4. Cost & effort –**

while we understand that the purpose of the card is to reduce costs and save time, the work involved for a business / consultancy to obtain a services passport, provide the evidence and keep it up-to-date could be disproportionate to any benefit derived. Has any evaluation been undertaken to calculate the real savings that are expected to accrue from this proposal?

**5. Other benefits / beneficiaries –**

is it envisaged that these Passports could be used by persons other than Service Providers and the Host Country registering jurisdiction? It is not envisaged that this could this also be a tool for the client/consumer as the Commission considers that clients could obtain such information from Chambers of Commerce. However, it could be useful – if only to give an historic snap-shot of a business's credentials,



track record etc. if meaningful and trusted? It is noted that up-take of the Passport is intended to be voluntary. Does this mean that it is up to an individual to opt in or opt out – or are whole professions required to opt in / out?

**6. Duplication –**

we would like to be sure that the Services Passport proposal does not duplicate the 'European Professional Card'. It should be noted that the Professional Qualifications Directive already provides for the automatic recognition of architects' qualifications. 96% of cross-border requests for registration are satisfied and there is little evidence of architects being prevented from trading their services across the EU. The absence of mutual recognition of insurance cover (relating to differences in professional indemnity laws) has been cited as an issue. There are signs that the industry is looking to provide some solutions, though these may be limited for the time being. An agreed methodology for assessing insurance cover to determine whether there is any shortfall and the extent to which "top up" cover may be required, would be useful. However, it should be noted that if intra-EU mobility has declined during the period 20080 – 2014, this is because of the recession and reduced workloads – not regulatory 'barriers' (whether real or imaginary).

Ends