



ARCHITECTS' COUNCIL OF EUROPE  
CONSEIL DES ARCHITECTES D'EUROPE

Date: 6 June 2012  
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## Access to the Profession

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Work Group Professional Qualifications Directive (PQD)

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ACE proposed amendments

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Final

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### **ARCHITECTS' COUNCIL OF EUROPE PROPOSED Amendments to the Proposal for a DIRECTIVE OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL**

**amending Directive 2005/36/EC on the recognition of professional qualifications and on regulation of administrative cooperation through the internal market information system (6th June 2012)**

#### **I. Purpose of this Submission**

- a. To assist Member Organisations in lobbying the EU Council of Ministers and the EU Parliament, who co-legislate with the EU Commission (COM) in amending and adopting the COM Legislative Proposal;
- b. For submission by the ACE itself to the Parliament and the COM following discussions in the ACE; and
- c. To make this lobbying more effective by reducing the number of amendments which the ACE seeks to make in the COM's legislative proposal of December 2011.

**1. The Architects' Council of Europe (ACE)** is the representative organisation for the architectural profession at European level, and represents the interests of over half a million architects. ACE policy seeks an increase in the minimum duration of training for architects under Article 46 of the Professional Qualifications Directive (PQD), from the existing four years to the worldwide UIA-UNESCO minimum of five years, as already exists in the vast majority of EU/EEA Member States, plus two years of professional experience: "5+2".

#### **2. Positive Developments in the COM legislative proposal of December 2011**

The ACE welcomes a number of positive developments contained in the COM legislative proposal for modernising the PQD. The ACE is pleased to note the proposals to:

2.1 increase minimum training requirements for architects from the existing four-year minimum duration ("4+0"), by giving Member States a choice between five years minimum academic study plus one year of supervised and remunerated traineeship ("5+1"), or four years minimum plus two years traineeship ("4+2"), so clarifying that this period of professional experience has the character of additional training. The ACE will again seek to obtain the 5+2 minimum at the Commission's next five-yearly review of the PQD in 2017. Meanwhile the ACE encourages the many Member States already complying with (or coming closer to) the 5+2 UIA-UNESCO minimum to continue to do so in line with the objective of 'voluntary convergence';

2.2 retain the five levels in Article 11;

- 2.3 strengthen the commitment to lifelong learning and social betterment at Article 47 through the amendment of Article 12;
- 2.4 streamline the process for notification of diplomas;
- 2.5 employ e-certificates as the 'professional card', and to permit a Home State competent authority to charge proportionate fees to defray the costs of providing such an e-certificate;
- 2.6 simplify the PQD by harmonizing some of its provisions with those of the EU Services Directive 2006/123.
- 2.7 The ACE also welcomes strong assurances from the Commission that judicious use of delegated and implementing acts will include continued consultation with stakeholders such as the ACE.

## **II. ACE proposals to the European Parliament and to the European Council to amend the COM legislative proposal of December 2011**

The Architects' Council of Europe asks the European Parliament and Council of Ministers to consider the following concerns, and amend the proposal as follows:

### **Partial Access**

#### *Commission proposal*

##### **Recital 4**

Directive 2005/36/EC only applies to professionals who want to pursue the same profession in another Member State. There are cases where the activities concerned are part of a profession with a larger scope of activities in the host Member State. If the differences between the fields of activity are so large that in reality a full programme of education and training is required from the professional to compensate for shortcomings and if the professional so requests, a host Member State should under these particular circumstances grant partial access. However, in case of overriding reasons of general interest, such as in the case of a doctor of medicine or other health professionals, a Member State should be able to refuse partial access.

#### *Commission proposal*

##### **Article 4f**

Partial access may be rejected if such rejection is justified by an overriding reason of general interest, such as public health, it would secure the attainment of the objective pursued and it would not go beyond what is strictly necessary.

#### *Suggested Amendment*

##### **Recital 4**

**- deletion -**

#### *Suggested Amendment*

##### **Article 4f**

**- deletion -**

### *Justification*

The Commission proposal imposes a heavy burden on competent authorities. They will need to justify the refusal of applications on a case-by-case basis following the criteria established in the case law on internal market. Moreover, partial access has the potential to create significant disruption, and possibly undermine the level of competences and quality. Deletion of the proposal on 'partial access' is in support of EU policies for consumer protection and for simplification of regulations. It is more transparent to retain the current system in which partial access is granted in exceptional cases in line with the Treaty (TFEU) and with the Case Law of the CJEU. An additional legislative system in the Directive and in national laws will be confusing.

### **Training of Architects**

#### *Commission proposal*

##### **Article 46**

1. The duration of the training as an architect must be at least six years which may also be expressed with the equivalent ECTS credits. The training in a Member State shall comprise any of the following:

- (a) at least four years of full-time study at a university or comparable teaching institution leading to successful completion of a university-level examination and at least two years of remunerated traineeship;
- (b) at least five years of full-time study at a university or comparable teaching institution leading to successful completion of a university-level examination and at least one year of remunerated traineeship."

2. The study, which must be at university level, and of which architecture is the principal component, must maintain a balance between theoretical and practical aspects of architectural training and guarantee the acquisition of the following knowledge, skills and competences

(a) – (k)

3. The remunerated traineeship must be carried out in a Member State, under the

#### *Suggested Amendment*

##### **Article 46**

1. The duration of the formal and practical training as an architect must be at least six years and shall comprise one of the following:

- (a) at least four years of full-time study, or equivalent ECTS credits, at a university or comparable teaching institution concluding with successful completion of the relevant university-level examination awarding formal qualification and at least two years of remunerated traineeship for the practical training awarding professional qualification ;
- (b) at least five years of full-time study, or equivalent ECTS credits, at a university or comparable teaching institution concluding with successful completion of the relevant university-level examination, awarding formal qualification and at least one year of remunerated traineeship for the practical training, awarding professional qualification."

2. The study, which must be at university level, and of which architecture is the principal component, must maintain a balance between theoretical and practical aspects of architectural training and guarantee the acquisition of the following knowledge, skills and competences

(a) – (k)

3. The remunerated traineeship must be carried out in a EU Member State, under

supervision of a person providing adequate guarantees regarding their ability to provide practical training. It must be undertaken after the completion of the study referred to in paragraph 1. The completion of the remunerated traineeship must be attested to in a certificate accompanying the evidence of formal qualifications.

4. The Commission shall be empowered to adopt delegated acts in accordance with Article 58a to specify:

- (a) the adequacy of knowledge of items as set out in point (i) of paragraph 2, and the necessary competences such degree of knowledge entails in line with technical progress and recent educational developments;
- (b) the need for design skills as referred to in point (j) of paragraph 2, and the necessary competences such degree of skills entails in line with technical progress and recent educational developments."

the supervision or guidance of an architect or of a person or body authorised by the competent authority for this purpose who has provided adequate verification regarding their ability to provide practical training. The completion of the remunerated traineeship must be attested to in a certificate issued by the competent authority and accompanying the evidence of formal qualifications.

4. The Commission shall be empowered to adopt delegated acts in accordance with Article 58a to specify:

- (a) the adequacy of knowledge of items as set out in point (i) of paragraph 2, and the necessary competences such degree of knowledge entails in line with technical progress and recent educational developments;
- (b) the need for design skills as referred to in point (j) of paragraph 2, and the necessary competences such degree of skills entails in line with technical progress and recent educational developments."

#### *Justification*

It is necessary to provide greater flexibility to assist graduate mobility and to develop administrative co-operation between competent authorities regarding the supervision, the timing and the location of the remunerated traineeship period for architects.

### **Automatic Recognition on the basis of common training principles**

#### *Commission proposal*

#### **Article 49 a**

1. For the purpose of this Article, 'common training framework' shall mean a common set of knowledge, skills and competences necessary for the pursuit of a specific profession. For the purpose of access to and pursuit of such profession, a Member State shall give evidence of qualifications acquired on the basis of such framework the same effect in its territory as the evidence of formal qualifications which it itself issues, on condition that such framework fulfils the criteria set under paragraph 2. Such criteria shall respect the specifications referred to in paragraph 3.

2. A common training framework shall comply with the following conditions:

#### *Suggested Amendment*

#### **Article 49 a**

1. For the purpose of this Article, 'common training framework' shall mean a common set of knowledge, skills and competences necessary for the pursuit of a specific profession. For the purpose of access to and pursuit of such profession, a Member State shall give evidence of qualifications acquired on the basis of such framework the same effect in its territory as the evidence of formal qualifications which it itself issues, on condition that such framework fulfils the criteria set under paragraph 2. Such criteria shall respect the specifications referred to in paragraph 3.

2. A common training framework shall comply with the following conditions:

(a) – (c)

(d) the knowledge, skills and competences for such common training framework shall refer to levels of the European Qualifications Framework, as defined in Annex II of the Recommendation of the European Parliament and of the Council on the establishment of the European Qualifications Framework for lifelong learning(\*);

(e) – (f)

(g) the common training framework permits nationals from any Member State to be eligible for acquiring the qualification under such framework without being required to be a member of any professional organization or to be registered with such organization.

(a) – (c)

(d) the knowledge, skills and competences for such common training framework shall refer to levels of professional qualification as defined in Article 11 of this Directive.

(e) – (f)

(g) the common training framework permits nationals from any Member State to acquire qualifications under such framework without being required in advance to be a member of any professional organization.

*Justification* Paragraph 49 a 2 (e) clarifies that common Training Frameworks will not affect Architects, since they are a profession “regulated already under Chapter III of Title III”. But Article 49 a could apply to specialists in the broader field of architecture like landscape architects, interior architects or urban planners, who are regulated in some European countries. ACE believes that proposed Article 49 a 2 (d) must relate to the five levels stipulated in Article 11 of the Directive and that contradictory references to the European Qualifications Framework should be deleted in line with the conclusions of the 2011 GHK study published by the Commission.

The wording of Article 49 a) 2 (g) should also be clarified. It (unclearly) says that “the common training framework permits nationals from any Member State to be eligible for acquiring the qualification without being required to be a member of any professional organisation or to be registered with such organisation”. 2 (g) thus creates confusion for countries where architects are registered by professional chambers and/or carry out certain functions designated in national laws.

### **Committee procedure**

#### *Commission proposal*

#### **Article 58**

#### *Committee procedure*

1. The Commission shall be assisted by a Committee on the recognition of professional qualifications. That Committee shall be a committee within the meaning of Regulation (EU) No 182/2011.

#### *Suggested Amendment*

#### **Article 58**

#### *Committee procedure*

1. The Commission shall be assisted by a Committee on the recognition of professional qualifications, ensuring appropriate representation and consultation of European and national experts as referred to in recital 24. That Committee shall be a committee within the meaning of Regulation (EU) No 182/2011.

#### *Justification*

While no amendment of the legislative proposal for delegated and implementing acts is necessary in order to provide for COM consultation and involvement of competent authorities and professional bodies, the ACE emphasises that consultation and involvement of these stakeholders will be most necessary, both at EU level and at national level, for the proposals to succeed both in the legislative process and in later implementation. The ACE welcomes assurances from the Commission in this

regard. The involvement of competent authorities is especially important both in the notification of diplomas and in the deployment of an IMI-linked professional card.

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