



General Affairs

EU Commission Services Package

ACE response to proposal for a Directive & Regulation for a Services e-Card

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On 10 January 2017, the European Commission published the so-called Services Package. The Services Package covers, among other proposals the Introduction of a services e-card (Proposal for a Directive and a Regulation).

The ACE welcomes the idea that the Internal Market should aim to promote mobility within Europe. However, In relation to the proposed introduction of a Services e-Card ACE has a number of concerns:

1. Introduction of the Country of Origin principle through the back door

The new Services e-Card may not make movement of services within the European Union easier, but rather it would encroach disproportionately upon pre-existing EU and national law. There is a danger that the “country of origin principle” could be introduced via this card, in relation to the recognition of qualifications. This would mean that the sovereignty of the Member States to determine the form of their own vocational qualifications would be infringed. This danger would be particularly apparent if - as is proposed - a co-ordinating authority (cf. Art. 12 of the draft directive) has to check professional qualifications in the least possible time.

2. Precedence of professional and local jurisdiction and the system of the PQD

It is intended that Services e-Cards would be issued automatically, unless the host Member State decides to veto the application within an extremely short time frame (Art. 12 of the draft Directive). Otherwise an assumption of approval would come into effect that, in the case of a possible establishment, could become binding for registration as an architect in the country concerned.

In addition, a veto against the issuing of a Services e-Card is only supposed to be possible if, among other things, the circumstances of the applicant lead to genuine and sufficiently serious threats to the public interest in the context of public order, public safety, public health or environmental protection.

This approach would render null and void the European Union's tried and tested system for recognising professional qualifications under the Directive on the Recognition of Professional Qualifications (PQD), The PQD is and must remain the only set of rules for establishing the equivalence of qualifications. This system must not be undermined by a situation in which the possibility exists for a qualification to be recognised according to the requirements of the country of origin. This danger exists if - as is proposed - a co-ordinating authority (cf. Art. 12 of the draft Directive) has to check professional qualifications in the least possible time.



3. The Directive on the Recognition of Professional Qualifications is *lex specialis* and effective

Under this proposal, the PQD would no longer take priority for regulating the mutual recognition of qualifications. It is not clear what the European Professional Card would cover and whether it would overlap with the new card.

Furthermore, ACE studies have proved that the Professional Qualifications and current Services Directive are already effective in ensuring EU cross-border trade in architectural services and proportionate consumer protection. It has to be underlined that the PQD provides for a good system of automatic recognition and therefore mobility (94% of cross-border applications are satisfied). Meanwhile, the barriers to cross-border trade lie elsewhere, namely: insurance, language, culture, family etc. A Services e-Card will not solve these problems.

4. Preservation of the bureaucracy-free notice for temporary services

The existing rules based on the PQD do not present any barrier to the provision of temporary services. The system of simply placing a notice for services at an authority in the place where the services are provided has been shown to work in practice. In addition, under this system verification of the equivalence of qualifications in accordance with the PQD, continues to be undertaken by a professionally relevant and competent body, namely the Chambers of architecture or the registration bodies in the Member States. This system is essential for quality assurance.

5. Danger of a mandatory system in the future

Although the current proposal is for the Services e-Card to be optional, it may well become obligatory or mandatory in the future, as take up of a voluntary system is likely to be low or non-existent (as illustrated by the up-take of the European Professional Card).

6. Duration of the new Card – unlimited time period?

It is intended that Service e-Cards will be issued for lifetime. So the question is whether and how it would be possible to take it back when the conditions for issuing do not exist any longer.

7. New administrative structure means unnecessary additional administrative burden and bureaucracy

It is proposed that the Services e-Card is to be issued by a new central “co-ordinating authority”. Such an authority is certainly not compatible with the constitutional law of several federal Member States.



In addition, it would not make economic sense to create a new authority because the technical competence to assess foreign professional qualifications already exists in the relevant architects' chambers.

It will require significant and disproportionate infrastructure and resources to be applied effectively and constant updating of any businesses' details (insurance, qualified personnel, etc.). So it would only lead to unnecessary additional administrative burden and cost for the State and businesses, which would hinder the competitiveness and effectiveness of EU businesses. Furthermore, it is not clear why the existing Points of Single Contact could not have such a co-ordinating role, thereby avoiding a duplication of structures.

Therefore, service provision by architects should be completely excluded from the proposal for the Regulation and Directive to introduce a Service e-Card. Given the existing, tried and tested regulations provided by the Directive on the Recognition of Professional Qualifications there is no need at all for a parallel development of structures and procedures.