

**Evaluation of the  
Professional Qualifications Directive  
2005/36/EC**

**Experience reports from national authorities  
with regard to architects**



**Evaluating the Professional Qualifications Directive**  
**Experience reports from competent authorities**  
**(ARCHITECTS)**

*This questionnaire does not need to be answered in full, and respondents are welcome to address topics not included in the questions. The purpose of the questionnaire is to prompt the experience reports which are a key part of the fact-finding phase of the evaluation.*

**POSSIBLE QUESTIONNAIRE FOR EACH SECTORAL PROFESSION**

**A. RECOGNITION PROCEDURE IN CASE OF MIGRATION ON A PERMANENT BASIS**

1. (a) Do you accept applications from EU citizens for the recognition of foreign diplomas sent by email or requests made on line? (b) Under which conditions can they send documents and declarations electronically? (c) What are your experiences in this respect?
2. What is the yearly number of applications for recognition from 2000 to 2009? Please submit specific data for applications for automatic recognition based on diplomas, automatic recognition based on acquired rights (as from 2005), and recognition based on the general system<sup>1</sup>. Please verify first the data in the Regulated Professions Database.
3. (a) To what extent have the system of automatic recognition and the general system been a success? (b) How do you see the costs and benefits? Specify in particular whether automatic recognition based on diploma, Annex V and the current notification system represent an efficient way to facilitate automatic recognition. Please submit comments for:
  - automatic recognition based on diploma
  - automatic recognition based on acquired rights (Art. 49 – Annex VI)
  - recognition based on the general system.
4. (a) Is the general system applied in your country each time the conditions for automatic recognition are not met? (b) What are in your view "specific and exceptional reasons" as provided in Art. 10 (1)? (c) Are there major difficulties in the recognition procedure under the general system (e. g. burden of proof)? Please include any comments you may have on the implementation of compensation measures.
5. What is your experience with the recognition procedure for EU citizens with professional qualifications obtained in a third country and already recognised in a first Member State (see Articles 2(2) and 3(3))?
6. Please describe the government structure of the competent authority or authorities in charge of the recognition.

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<sup>1</sup> Please provide this information unless it has already been provided to the Commission in the Database or the implementation reports.

## **B. TEMPORARY MOBILITY (OF A SELF-EMPLOYED OR AN EMPLOYED WORKER)**

7. Are EU citizens interested in using the provisions for exercising their professional activities on a temporary and occasional basis in your Member State? How many citizens used this new system in 2008 and 2009 (per month, per year) <sup>2</sup>?
8. How are the provisions of Directive 2005/36/EC concerning temporary mobility applied by the competent authorities in practice taking into account the relevant provisions of the Code of Conduct? For instance:
  - How is the "legal establishment" criteria foreseen by Article 5(1) (a) interpreted in practice? What conditions does a migrant need to fulfil in his home Member State in order to be able to provide services?
  - How are the "temporary and occasional basis" criteria foreseen by Article 5.2 interpreted in practice? Do Member States assess duration, frequency, regularity and continuity of an activity and if so according to which criteria?
9. (a) Do you have a prior declaration system? (b) If so, please indicate why it is necessary? (c) What do competent authorities do with the information received? (d) Are other possibilities conceivable?

## **C. MINIMUM TRAINING REQUIREMENTS**

10. To what extent are the common minimum requirements for training set out in Title III Chapter III of Directive 2005/36/EC in line with scientific progress and professional needs in the last ten years? Are the knowledge and skills outlined in Article 46 still relevant and up to date? Please specify.
11. (a) How long is the duration of the training for architects under your national law? (b) In how many years do you cover all 11 items as listed in Article 46?
12. The Directive is based on mutual trust between Member States. (a) To what extent is such trust actually achieved? (b) Are training programmes accredited by external bodies in your country? (c) Does accreditation of a training program in another Member State enhance trust or is it not relevant?
13. (a) To what extent are the existing Directive provisions (see recital 39 and Article 22(b) on continuous professional development (continuous training) adequate? (b) Is continuous training mandatory in your country and what are the exact conditions?

## **D. ADMINISTRATIVE COOPERATION**

14. To which extent does administrative cooperation, as outlined in Articles 8, 50, and 56 of the Directive, simplify procedures for the migrant professionals?

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<sup>2</sup> Please provide this information unless it has already been provided to the Commission in the Database on Regulated Professions

15. (a) Is the competent authority in your country registered with IMI? (b) Under which circumstances does your competent authority use IMI? (c) What are your experiences? (d) If not registered, why not and what would be the conditions for changing this situation?
16. (a) How could a professional card (see Recital 32 of the Directive) facilitate recognition of professional qualifications and provision of temporary services? (b) Under which conditions could it be issued by professional associations?
17. How do you share information about suspensions/restrictions with competent authorities in other Member States?

**E. OTHER OBSERVATIONS**

18. (a) How and when are the necessary language skills of migrants checked after recognition of the professional qualifications? (b) Are you aware of any complaints (especially from patients/clients/employers) about insufficient language skills of migrants? (c) If serious doubts about language skills have arisen which action do competent authorities undertake towards the migrant?
19. Are there any considerable cost implications for the migrant? Please specify the fees involved with establishment and the fees involved with temporary services.
20. What is your experience with training provided by franchising universities?
21. Have you encountered particular problems with non-EU nationals with qualifications listed in Annex V being treated differently to EU nationals with the same listed qualifications?
22. (a) What are the experiences of (outgoing) architects from your country who (would like to) practice in another Member State? (b) Are there in particular problems if the profession of an architect is not regulated in your country? (c) What feedback do you have from incoming migrants on the assistance they have been given by their home Competent Authority? (a general response without naming any Competent Authority in particular is expected)

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## Evaluating the Professional Qualifications Directive

### Experience reports from competent authorities

#### (ARCHITECTS)

*This questionnaire does not need to be answered in full, and respondents are welcome to address topics not included in the questions. The purpose of the questionnaire is to prompt the experience reports which are a key part of the fact-finding phase of the evaluation.*

#### POSSIBLE QUESTIONNAIRE FOR EACH SECTORAL PROFESSION

##### A. RECOGNITION PROCEDURE IN CASE OF MIGRATION ON A PERMANENT BASIS

**1.(a) Do you accept applications from EU citizens for the recognition of foreign diplomas sent by email or requests made on line? (b) Under which conditions can they send documents and declarations electronically? (c) What are your experiences in this respect?**

**BG:**

Yes, we accept applications for recognition of foreign diplomas of EU nationals sent by e-mail.

Conditions: The application shall follow the sample approved by the Chamber of Architects in Bulgaria and all the required documents shall be attached to it, namely: a copy of the diploma, translation in Bulgarian certified by a notary; a copy of the identity document, evidence of non-criminal conviction and evidence of fee paid for the service.

Experience: The professional qualification of two citizens of the United Kingdom who have completed their higher education in Bulgaria has been recognized.

Note: There are no unified criteria and therefore no answer to the following question: The competent authority of which Member State recognizes the professional qualification of applicants who are nationals of a Member State, on the grounds of what principals and indications?

- a) The competent authority of the country where the applicant shall pursue the profession;
- b) The competent authority of the country of origin;
- c) The competent authority of the country where the applicant has completed his/her higher education.

The answer to this question would lead to unification of the procedures which shall facilitate applicants in the recognition of their professional qualification.

If the procedure of mutual recognition of professional qualifications stipulated under Article 51 of the Directive requires that the competent authority of the host Member State recognize the professional qualification, why has this requirement not been observed?

Example: Should the competent authority of Bulgaria recognise the professional qualification of applicants who have obtained their professional qualification in Bulgaria and who are not Bulgarian nationals but nationals of another Member State and do not wish to pursue the profession in Bulgaria but in their country of residence and whose nationals they are?

**2. What is the yearly number of applications for recognition from 2000 to 2009? Please submit specific data for applications for automatic recognition based on diplomas, automatic recognition based on acquired rights (as from 2005), and recognition based on the general system<sup>1</sup>. Please verify first the data in the Regulated Professions Database.**

**BG:**

For 2008 – 3 applications, for 2009 – 11 applications.

Such information has been available to us since 2008 as the Professional Qualifications Recognition Act was adopted in that year.

**3. (a) To what extent have the system of automatic recognition and the general system been a success? (b) How do you see the costs and benefits? Specify in particular whether automatic recognition based on diploma, Annex V and the current notification system represent an efficient way to facilitate automatic recognition. Please submit comments for:**

- **automatic recognition based on diploma**
- **automatic recognition based on acquired rights (Art. 49 – Annex VI)**
- **recognition based on the general system.**

**BG:**

- The automatic recognition of a professional qualification based on a diploma obtained is regulated both in the Directive and in the Professional Qualifications Recognition Act adopted by the National Assembly of the Republic of Bulgaria.

We consider that this provision should be applied provided that the duration of the architectural education is at least 5 years and the training ends with a final examination. As for the acquisition of access to and pursuit of the professional activities as architect we think that 3 years of practical experience shall be required apart from the diploma.

- The automatic recognition based on the obtained rights shall be applied only to cases when the applicants have obtained their diplomas before the academic reference year of the respective higher school and the diplomas are accompanied by certificates issued by the competent authority. This procedure shall be continuously abated and shall be abandoned after a certain period.
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- The general system for recognition of professional qualifications is vague and unclear. The architecture is not painting and the access to this profession should not be allowed without obtaining the required education and the adequate professional experience.

**4.(a) Is the general system applied in your country each time the conditions for automatic recognition are not met? (b) What are in your view "specific and exceptional reasons" as provided in Art. 10 (1)? (c) Are there major difficulties in the recognition procedure under the general system (e. g. burden of proof)? Please include any comments you may have on the implementation of compensation measures.**

**BG:**

a) No application forms for recognition of professional qualification under the general system have been submitted in this country.

b) The probable reasons can be the following:

“The specific and exceptional reasons” which the candidates shall specify in order to justify their application evidenced by documents have not been laid down.

c) The competent authority or the authority responsible for recognition do not have legally stipulated criteria and rules on the grounds of which the professional qualification can be recognized and subjective assessment can be avoided.

**5.What is your experience with the recognition procedure for EU citizens with professional qualifications obtained in a third country and already recognised in a first Member State (see Articles 2(2) and 3(3))?**

**BG:** We do not have such experience.

**6.Please describe the government structure of the competent authority or authorities in charge of the recognition.**

**BG:** The Professional Qualifications Recognition Act of the Republic of Bulgaria designates the Chair of the Chamber of Architects in Bulgaria as the authority responsible for recognition of the professional qualification of the architect.

## **B. TEMPORARY MOBILITY (OF A SELF-EMPLOYED OR AN EMPLOYED WORKER)**

**7.Are EU citizens interested in using the provisions for exercising their professional activities on a temporary and occasional basis in your Member State? How many citizens used this new system in 2008 and 2009 (per month, per year)**

**BG:** We have an approved procedure for recognition of professional qualification and acquisition of design capacity for exercising the architects professional activities on a temporary and occasional basis, but no such application have been submitted so far.

**8. How are the provisions of Directive 2005/36/EC concerning temporary mobility applied by the competent authorities in practice taking into account the relevant provisions of the Code of Conduct? For instance:**

- **How is the "legal establishment" criteria foreseen by Article 5(1) (a) interpreted in practice? What conditions does a migrant need to fulfil in his home Member State in order to be able to provide services?**

**BG:** The migrant has to fulfil the condition in his own country, and to be registered by the Chamber of Architects in Bulgaria.

- **How are the "temporary and occasional basis" criteria foreseen by Article 5.2 interpreted in practice? Do Member States assess duration, frequency, regularity and continuity of an activity and if so according to which criteria?**

**BG:** NO, the competent authority doesn't assess duration, frequency, regularity and continuity of the architect's activity.

- 9. (a) Do you have a prior declaration system? (b) If so, please indicate why it is necessary? (c) What do competent authorities do with the information received? (d) Are other possibilities conceivable?**

**BG:** NO. If necessary, the competent authority'll operate according to art.7 of the directive 2005/36/EC

## **C MINIMUM TRAINING REQUIREMENTS**

- 10. To what extent are the common minimum requirements for training set out in Title III Chapter III of Directive 2005/36/EC in line with scientific progress and professional needs in the last ten years? Are the knowledge and skills outlined in Article 46 still relevant and up to date? Please specify.**

**BG:** The duration of higher education in architecture in Bulgaria is five years full-time study ending with a university-level state examination. The requirements stipulated in Article 46 of the Directive are sufficient.

- 11. (a) How long is the duration of the training for architects under your national law? (b) In how many years do you cover all 11 items as listed in Article 46?**

**BG:** a) The requirements under the Higher Education Act stipulate five years of full-time study (there are no studies on a part-time basis). The duration of the training is sufficient in order to satisfy the requirements of Article 46. However, the duration shall not in any case be shorter than that.

**12. The Directive is based on mutual trust between Member States. (a) To what extent is such trust actually achieved? (b) Are training programmes accredited by external bodies in your country? (c) Does accreditation of a training program in another Member State enhance trust or is it not relevant?**

**BG:** There are not any training programmes accredited by external bodies in Bulgaria. The training programmes are carried out by the Chamber of Architects.

**13.(a) To what extent are the existing Directive provisions (see recital 39 and Article 22(b) on continuous professional development (continuous training) adequate? (b) Is continuous training mandatory in your country and what are the exact conditions?**

**BG:** a) The Chamber of Architects in Bulgaria established a training unit with a scientific council in order to organize and carry out continuing professional training recommended to all members of the Chamber. The continuing professional training is carried out on the grounds of an approved curriculum and is intended for one year.

#### **D. ADMINISTRATIVE COOPERATION**

**14. To which extent does administrative cooperation, as outlined in Articles 8, 50, and 56 of the Directive, simplify procedures for the migrant professionals?**

**BG:** The reciprocal information simplifies the procedures.

**15. (a) Is the competent authority in your country registered with IMI? (b) Under which circumstances does your competent authority use IMI? (c) What are your experiences? (d) If not registered, why not and what would be the conditions for changing this situation?**

**BG:** a) In its capacity as designated competent authority in Bulgaria, the Chamber of Architects in Bulgaria is registered in IMI;

Unfortunately, the use of IMI is not very active both on our part and on the part of the other competent authorities;

**16. (a) How could a professional card (see Recital 32 of the Directive) facilitate recognition of professional qualifications and provision of temporary services? (b) Under which conditions could it be issued by professional associations?**

**BG:** Such card has not been introduced in Bulgaria yet but it could facilitate the architects in offering their services in other EU Member States.

**17. How do you share information about suspensions/restrictions with competent authorities in other Member States?**

**BG:** Mainly by e-mails and telephone conversations. The regular meetings of the ENACA members also provide good opportunities. Personal contacts are very well used during such meetings and, what is even more important, disputable issues and unspecified cases can be clarified and standards and regulations can be unified thus facilitating the decision-making by the competent authorities and ensuring the architects' right to provide services in the EU Member States.

**E. OTHER OBSERVATIONS**

**18. (a) How and when are the necessary language skills of migrants checked after recognition of the professional qualifications? (b) Are you aware of any complaints (especially from patients/clients/employers) about insufficient language skills of migrants? (c) If serious doubts about language skills have arisen which action do competent authorities undertake towards the migrant?**

**BG:** a) for the present does the legislation in Bulgaria not stipulate a requirement for command of language for the pursuit of the profession of the architect.

**19. Are there any considerable cost implications for the migrant? Please specify the fees involved with establishment and the fees involved with temporary services.**

**BG:** According to a decree of the Council of Ministers of the Republic of Bulgaria the fees for recognition of professional qualification of nationals of the Member States are as follows:

- For recognition of professional qualification and issuing of a certificate – BGN 260 /€ 130 )
- For re-issuing of a certificate – BGN 10 /€ 5.

**20. What is your experience with training provided by franchising universities?**

**BG:** No, we have not.

**21. Have you encountered particular problems with non-EU nationals with qualifications listed in Annex V being treated differently to EU nationals with the same listed qualifications?**

**BG:** NO.

**22. (a) What are the experiences of (outgoing) architects from your country who (would like to) practice in another Member State? (b) Are there in particular problems if the profession of an architect is not regulated in your country? (c)**

**What feedback do you have from incoming migrants on the assistance they have been given by their home Competent Authority? (a general response without naming any Competent Authority in particular is expected)**

**BG:** Bulgarian architects with recognized professional qualification in Bulgaria as well as those who have acquired design capacity and are members of the Chamber have not faced any difficulties when migrating in other Member States. The mutual exchange of information and trust among the competent authorities broadens the possibilities for free pursuit of the profession of the architect within the European Union and the European Economic Area.



**Evaluating the Professional Qualifications Directive**  
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**POSSIBLE QUESTIONNAIRE FOR EACH SECTORAL PROFESSION**

**A. RECOGNITION PROCEDURE IN CASE OF MIGRATION ON A PERMANENT BASIS**

1. (a) Do you accept applications from EU citizens for the recognition of foreign diplomas sent by email or requests made on line? (b) Under which conditions can they send documents and declarations electronically? (c) What are your experiences in this respect?

Yes we accept, but the documents attached to applications for recognition of qualifications and registration applicants must deliver physically. Applications must be submitted on forms for this purpose designed by CCA (available on the website). Till now we do not have any negative experiences.

2. What is the yearly number of applications for recognition from 2000 to 2009? Please submit specific data for applications for automatic recognition based on diplomas, automatic recognition based on acquired rights (as from 2005), and recognition based on the general system<sup>1</sup>. Please verify first the data in the Regulated Professions Database.

For the period 2004 - 2009 we have recorded 64 resident persons, visiting persons are recorded only for the year and in 2009 there was 16.

3. (a) To what extent have the system of automatic recognition and the general system been a success? (b) How do you see the costs and benefits? Specify in particular whether automatic recognition based on diploma, Annex V and the current notification system represent an efficient way to facilitate automatic recognition. Please submit comments for:

- automatic recognition based on diploma
- automatic recognition based on acquired rights (Art. 49 – Annex VI)
- recognition based on the general system.

Process was considered successful, in most cases we have no problem with recognition of qualifications, but given the small number of applications we have not much experience.

4. (a) Is the general system applied in your country each time the conditions for automatic recognition are not met? (b) What are in your view "specific and exceptional reasons" as

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provided in Art. 10 (1)? (c) Are there major difficulties in the recognition procedure under the general system (e. g. burden of proof)? Please include any comments you may have on the implementation of compensation measures.

Given the small number of applications we have applications only under the conditions for automatic recognition, but if it is not the case, we raised individual recognition and compensation measures in accordance with the requirements of Article 46 of the Directive.

5. What is your experience with the recognition procedure for EU citizens with professional qualifications obtained in a third country and already recognised in a first Member State (see Articles 2(2) and 3(3))?

We have no experience, see. response in item 4.

6. Please describe the government structure of the competent authority or authorities in charge of the recognition.

The Office of the Chamber receives the applications, examines the knowledge and skills confirmed by diplomas, certificates and other documents of official qualification attained by the applicant and make a comparison with the knowledge and skills attested by documents of official qualification required for access to the relevant professional practice in the CR and if they meet all required formality proceeds whether it is recognition of qualifications acquired abroad (submit it for consideration to the Authorisation Board) or a request to allow access to the profession (i.e. provides the examination commission on a special form his/her professional education, professional practice, portfolio of works) and then undergoing recognition examination in the Czech language and promise. The Office of the Chamber after receiving the registration fee will the applicant register and issue him/her a certificate and stamp.

#### **B. TEMPORARY MOBILITY (OF A SELF-EMPLOYED OR AN EMPLOYED WORKER)**

7. Are EU citizens interested in using the provisions for exercising their professional activities on a temporary and occasional basis in your Member State? How many citizens used this new system in 2008 and 2009 (per month, per year)<sup>2</sup>?

In 2008 the Office of the CCA registered 23 visiting persons and in 2009 16.

8. How are the provisions of Directive 2005/36/EC concerning temporary mobility applied by the competent authorities in practice taking into account the relevant provisions of the Code of Conduct? For instance:

- How is the "legal establishment" criteria foreseen by Article 5(1) (a) interpreted in practice? What conditions does a migrant need to fulfil in his home Member State in order to be able to provide services?

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- How are the “temporary and occasional basis” criteria foreseen by Article 5.2 interpreted in practice? Do Member States assess duration, frequency, regularity and continuity of an activity and if so according to which criteria?

Conditions of registration: In addition to formal application with personal data submits the applicant certification granted by another Member State in fulfilment of official qualification, a certificate on passing the professional practice within the prescribed period, a document proving suitability and full legal capacity, documentation of liability insurance against damages caused by professional practice, documentation of the payment of the registration administration fee.

The Office of the CCA doesn't assess duration, frequency, regularity and continuity of an activity only in case of visiting persons – duration 1 year – which could be extended.

9. (a) Do you have a prior declaration system? (b) If so, please indicate why it is necessary? (c) What do competent authorities do with the information received? (d) Are other possibilities conceivable?

**Deleted:** <#>Do you charge a fee for temporary services? If yes, how much? ¶

No

### C MINIMUM TRAINING REQUIREMENTS

10. To what extent are the common minimum requirements for training set out in Title III Chapter III of Directive 2005/36/EC in line with scientific progress and professional needs in the last ten years? Are the knowledge and skills outlined in Article 46 still relevant and up to date? Please specify.

They are up to date and it is not need to amend the Directive.

11. (a) How long is the duration of the training for architects under your national law? (b) In how many years do you cover all 11 items as listed in Article 46?

6 years

12. The Directive is based on mutual trust between Member States. (a) To what extent is such trust actually achieved? (b) Are training programmes accredited by external bodies in your country? (c) Does accreditation of a training program in another Member State enhance trust or is it not relevant?

The trust is achieved and we cooperate with other professional bodies as well as use information from ENACA.

13. (a) To what extent are the existing Directive provisions (see recital 39 and Article 22(b) on continuous professional development (continuous training) adequate? (b) Is continuous training mandatory in your country and what are the exact conditions?

CCA organizes continuous professional development (CPD) on a voluntary basis, it is not mandatory. Although the system is not precisely required by law, some provisions of the Act No. 360/1992 Coll., on the Professional Practice of Certified Architects and on the Professional Practice of Certified Engineers and Technicians Active in Construction, the importance and necessity of such a system conclude. There is a 2

years cycle planned after which all participants of the CPD would hand over their CPD dossiers to the CPD Working group. The dossiers would be then inspected by the WG and, if CPD activities proven correctly, a certificate would be given to the participants.

#### **D. ADMINISTRATIVE COOPERATION**

14. To which extent does administrative cooperation, as outlined in Articles 8, 50, and 56 of the Directive, simplify procedures for the migrant professionals?

We have no problems in cooperation with other competent authorities.

15. (a) Is the competent authority in your country registered with IMI? (b) Under which circumstances does your competent authority use IMI? (c) What are your experiences? (d) If not registered, why not and what would be the conditions for changing this situation?

The CCA is registered with IMI system but we don't use it very often and have no experience.

16. (a) How could a professional card (see Recital 32 of the Directive) facilitate recognition of professional qualifications and provision of temporary services? (b) Under which conditions could it be issued by professional associations?

We do not support the idea of a professional card. If, however, have been implemented, we require to serve as a full license to supply all information required for registration so architects do not have to submit additional documents.

17. How do you share information about suspensions/restrictions with competent authorities in other Member States?

Through the responsible institutions and professional organizations, we use mainly mail communications.

#### **E. OTHER OBSERVATIONS**

18. (a) How and when are the necessary language skills of migrants checked after recognition of the professional qualifications? (b) Are you aware of any complaints (especially from patients/clients/employers) about insufficient language skills of migrants? (c) If serious doubts about language skills have arisen which action do competent authorities undertake towards the migrant?

CCA does not verify the language skills of migrants, however if they undertake examination of professional competence it must be completed in Czech.  
We have no complaints.

19. Are there any considerable cost implications for the migrant? Please specify the fees involved with establishment and the fees involved with temporary services.

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No, the administration registration fee is 2000 CZK and then annual fee of 6000 CZK.

20. What is your experience with training provided by franchising universities?

We have no experience.

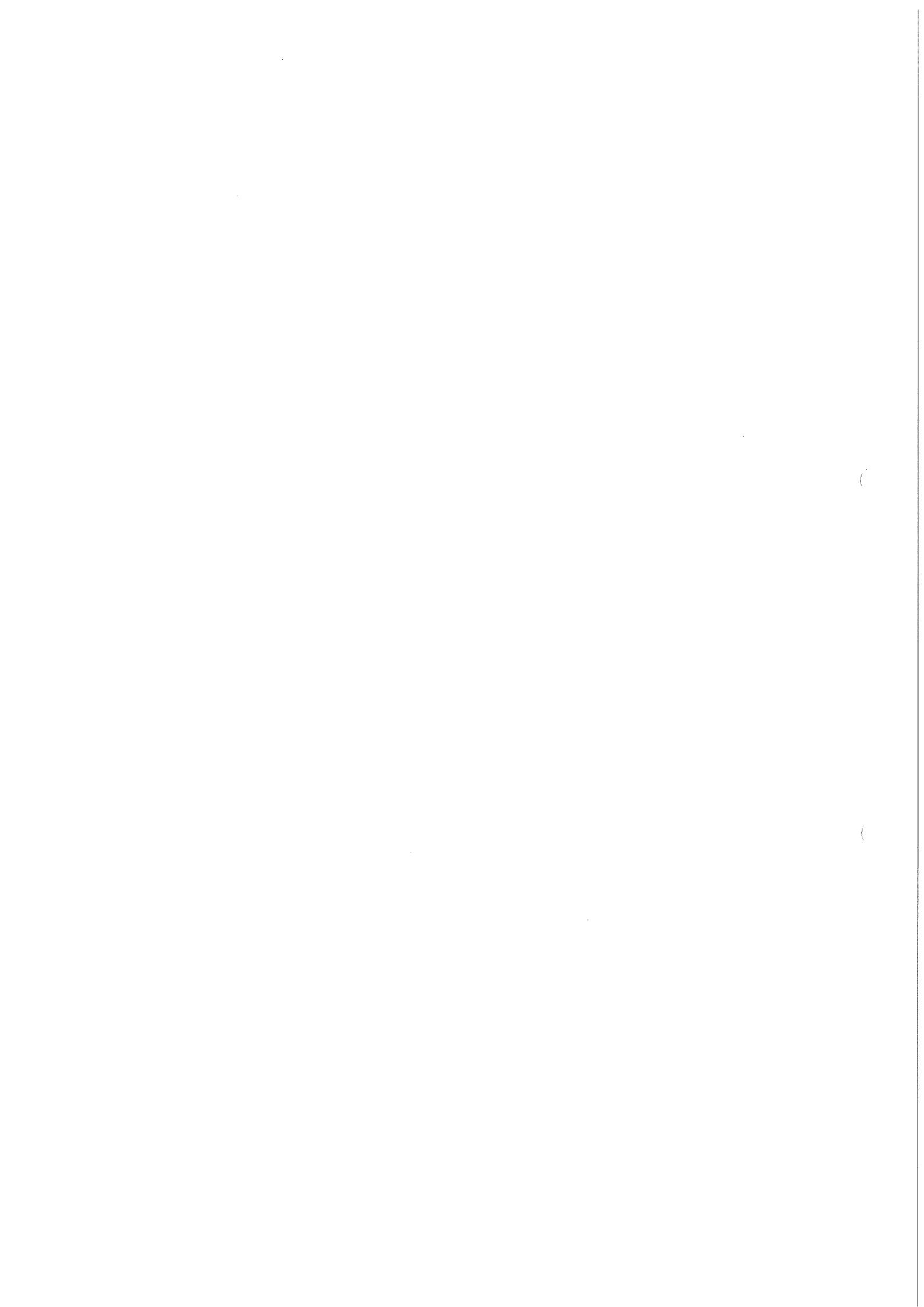
21. Have you encountered particular problems with non-EU nationals with qualifications listed in Annex V being treated differently to EU nationals with the same listed qualifications?

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No

22. (a) What are the experiences of (outgoing) architects from your country who (would like to) practice in another Member State? (b) Are there in particular problems if the profession of an architect is not regulated in your country? (c) What feedback do you have from incoming migrants on the assistance they have been given by their home Competent Authority? (a general response without naming any Competent Authority in particular is expected)

Architectural profession is regulated in the CR. CCA issues certificates to certified architects, which were mostly without problems accepted by other Member States but we have no specific feedback on the course of registration.



**Bewertung der Richtlinie über Berufsqualifikationen  
Erfahrungsberichte der zuständigen Behörden  
(Architekten)**

**Bundesrepublik Deutschland Stand 24-8-2010**

**FRAGEBOGEN FÜR DEN EINZELRICHTLINIEN-BERUF DES ARCHITEKTEN**

**A. ANERKENNUNGSVERFAHREN BEI DAUERHAFTER NIEDERLASSUNG**

1. Akzeptieren Sie Anträge von EU-Bürgern auf Anerkennung ausländischer Diplome, die per E-Mail oder online gestellt werden? Unter welchen Bedingungen können Anträge und Unterlagen elektronisch übermittelt werden? Welche Erfahrungen haben Sie in diesem Zusammenhang gemacht?

- **Ja, als Teil des Eintragungsverfahrens.**
- **Möglich, sobald ein sicheres elektronisches Verfahren vorliegt.**
- **Bisher keine spezifischen Erfahrungen.**

2. Wie viele Anerkennungsanträge wurden im Zeitraum 2000 bis 2009 jährlich gestellt? Bitte übermitteln Sie uns spezifische Angaben zu Anträgen auf automatische Anerkennung auf der Grundlage von Diplomen, automatische Anerkennung auf der Grundlage erworbener Rechte (ab 2005) und Anerkennung nach der allgemeinen Regelung<sup>1</sup>.

**Die Zahlen sind über die Datenbank der EU „Reglementierte Berufe“ verfügbar (siehe auch Fußnote).**

3. Inwieweit waren das System der automatischen Anerkennung und die allgemeine Regelung ein Erfolg? Wie schätzen Sie Kosten und Nutzen ein? Bitte äußern Sie sich insbesondere dazu, ob die automatische Anerkennung auf der Grundlage von Diplomen, Anhang V und das derzeitige Meldesystem die automatische Anerkennung wirksam erleichtern. Bitte machen Sie Angaben zur
- automatischen Anerkennung auf der Grundlage von Diplomen,
  - automatischen Anerkennung auf der Grundlage erworbener Rechte,
  - Anerkennung nach der allgemeinen Regelung.

- **Die automatische Anerkennung ist ein großer Erfolg.**
- **Das günstige Kosten-Nutzenverhältnis hat sich gegenüber der Architektenrichtlinie (85/384/EWG) nicht verändert.**
- **Die Anwendung des Systems der automatischen Anerkennung ist für die notifizierte Diplomabschlüsse eine erhebliche administrative Erleichterung**

4. Wird in Ihrem Land in allen Fällen, in denen die Bedingungen für die automatische Anerkennung nicht erfüllt sind, die allgemeine Regelung angewendet? Was sind Ihrer Ansicht nach „besondere und außergewöhnliche Gründe“ im Sinne von Artikel 10 Satz 1 der Richtlinie 2005/36/EG? Existieren größere Probleme mit dem Anerkennungsverfahren nach der allgemeinen Regelung? Machen Sie gegebenenfalls Angaben zur Anwendung der Ausgleichsmaßnahmen.

**Problem: Die noch nicht notifizierte Abschlüsse müssen nach der allgemeinen Regelung geprüft werden. Dies führt im Zusammenhang mit der „Passerelle“ (dem**

<sup>1</sup> Es sei denn, diese Angaben wurden der Kommission bereits für die Datenbank oder in den Durchführungsberichten übermittelt.

**System der Anerkennung unterschiedlicher Ausbildungsniveaus nach Art 11 und 13 der Richtlinie) und den teilweise unklaren Ausbildungsniveaus (Art. 11) sowie den anwendungsbezogenen Schwierigkeiten bei Ausgleichsmaßnahmen (Art. 14) zu Problemen bei der praktischen Handhabung dieser Vorschriften.**

**Aufgrund der Ausbildungssituation liegen jedoch kaum Fälle vor.**

5. Welche Erfahrungen haben Sie mit dem Anerkennungsverfahren für EU-Bürger gemacht, die über in Drittländern erworbene Berufsqualifikationen verfügen, die bereits in einem anderen Mitgliedstaat anerkannt wurden (s. Artikel 2 Absatz 2 und Artikel 3 Absatz 3)?

**Die Behandlung dieser Fälle ist unproblematisch.**

6. Stellen Sie bitte die Organisationsstruktur der zuständigen Behörde(n) dar, die für die Anerkennungen verantwortlich ist (sind).

**Für die Anerkennung und damit die Eintragung in die Berufsverzeichnisse sind die unabhängigen Eintragungsausschüsse der Architektenkammern der jeweiligen Bundesländer zuständig. Als Vorsitzende dieser Ausschüsse fungieren im Regelfall Personen mit der Befähigung zum Richteramt. Die Rechtsaufsicht obliegt dem zuständigen Länderministerium.**

## **B. VORÜBERGEHENDE MOBILITÄT (Selbständiger oder abhängig Beschäftigter)**

7. Zeigen die EU-Bürger Interesse an der Nutzung der Bestimmungen für die vorübergehende oder gelegentliche Ausübung ihres Berufes in Ihrem Mitgliedstaat? Wie viele Bürger haben dieses neue System 2008 und 2009 genutzt (monatlich, jährlich)<sup>2</sup>?

**Ja, über 100 Fälle pro Jahr (bundesweit).**

8. Wie wenden die zuständigen Behörden – unter Berücksichtigung der relevanten Bestimmungen des Verhaltenskodex – die Bestimmungen der Richtlinie 2005/36/EG zur vorübergehenden Mobilität in der Praxis an? Geben Sie z. B. an,  
- wie das in Artikel 5 Absatz 1 Buchstabe a vorgesehene Kriterium der „rechtmäßigen Niederlassung“ in der Praxis ausgelegt wird. Welche Bedingungen muss ein Migrant in seinem Herkunftsmitgliedstaat erfüllen, um Dienstleistungen erbringen zu dürfen?

**Die Erbringung der Dienstleistung ist nach Vorlage der Dokumente nach Art. 7 Abs. 2 BARL problemlos möglich.**

**Für den Fall, dass der Beruf nicht reglementiert ist, kann das Kriterium der „rechtmäßigen Niederlassung“ auch durch eine Eigenerklärung glaubhaft gemacht werden.**

- wie die in Artikel 5 Absatz 2 vorgesehenen Kriterien für den „vorübergehenden und gelegentlichen“ Charakter der Berufsausübung in der Praxis ausgelegt werden. Prüfen die Mitgliedstaaten Dauer, Häufigkeit, regelmäßige Wiederkehr und Kontinuität der Tätigkeit, und, wenn ja, anhand welcher Kriterien?

**Nein.**

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<sup>2</sup> Machen Sie die Angaben bitte dann, wenn sie der Kommission nicht bereits für die Datenbank oder in den Durchführungsberichten übermittelt wurden.

9. Gibt es ein System der vorherigen Meldung? Wenn ja, warum ist ein solches System notwendig? Wie verwenden die zuständigen Behörden die eingegangenen Informationen? Sind andere Lösungen denkbar?

**- Ja, entsprechend Art. 7 BARL. Das System ist sinnvoll, damit die Berufsaufsicht (vgl. Art. 5 Abs. 3 BARL) im Empfangsstaat effizient ausgeübt werden kann.**  
**- Andere Lösungen sind im Sinne eines effektiven Verbraucherschutzes nicht denkbar.**

### **C. MINDESTAUSBILDUNGSANFORDERUNGEN**

10. Inwieweit entsprechen die in Titel III Kapitel III der Richtlinie 2005/36/EG enthaltenen gemeinsamen Mindestanforderungen an die Ausbildung und die in Anhang V vorgeschriebenen Ausbildungsfächer noch dem wissenschaftlichen Fortschritt und den beruflichen Erfordernissen? Sind die in der Richtlinie geforderten Kenntnisse und Fähigkeiten noch relevant und aktuell? (Bitte machen Sie hierzu spezifische Angaben.) Was ist zu den Bestimmungen betreffend die Dauer der Ausbildung zu bemerken?

**- Die Mindestkriterien des Art. 46 BARL sind weit gefasst und ermöglichen die Berücksichtigung neuer Entwicklungen in der Ausbildung und der Berufsausübung.**  
**- Daher besteht aus unserer Sicht kein Änderungsbedarf.**

11. Wie lange dauert die Ausbildung der Architekten nach Ihrem innerstaatlichen Recht? In wie vielen Studienjahren werden sämtliche 11 Ausbildungsinhalte von Artikel 46 der Richtlinie 2005/36/EG abgedeckt?

**- Die Eintragung in die Architektenliste (voller Berufszugang) setzt in der Regel eine akademische Mindestausbildungszeit von vier Jahren Vollzeitstudium voraus, ergänzt durch mindestens zwei Jahre Praxiszeit. Die Mindestausbildungszeit ist nur dann ausreichend, wenn 11 Ausbildungsinhalte von Artikel 46 der Richtlinie 2005/36/EG damit abgedeckt sind**  
**- Nach Umstellung der Studiengänge auf BA (meistens 6 Semester, auch 8 Semester) und MA (meistens 4 Semester, auch 2 Semester) beträgt die akademische Ausbildungszeit aber häufig fünf Jahre.**

12. Grundlage der Richtlinie ist das Vertrauen zwischen den Mitgliedstaaten. Inwieweit existiert dieses Vertrauen wirklich? Werden in Ihrem Land Ausbildungsgänge akkreditiert? Fördert es das Vertrauen, wenn ein Ausbildungsgang in einem anderen Mitgliedstaat akkreditiert ist, oder ist dies ohne Bedeutung?

**- Grundsätzlich besteht Vertrauen; zum intensiven Austausch wurde ENACA (European Network of Architects' Competent Authorities) gegründet.**  
**- Die Akkreditierungen sind für die gegenseitige Anerkennung ohne Bedeutung, zumal der Inhalt der Akkreditierung von Land zu Land unterschiedliche ist (Beispiel: Systemakkreditierung vs. Fachakkreditierung).**

13. Inwieweit sind die derzeitigen Bestimmungen der Richtlinie zur beruflichen Weiterbildung (Erwägungsgrund 39 und Artikel 22 Buchstabe b) angemessen? Ist Weiterbildung in Ihrem Land vorgeschrieben, und wie sehen die Bestimmungen im Einzelnen aus?

**- Sie sind angemessen.**  
**- Es besteht eine allgemeine, gesetzlich sanktionierte Fortbildungspflicht.**

#### D. VERWALTUNGSZUSAMMENARBEIT

14. Inwieweit vereinfacht die Verwaltungszusammenarbeit gemäß den Artikeln 8, 50 und 56 der Richtlinie die Verfahren für Migranten?

**Die Verwaltungszusammenarbeit funktioniert und wird in der Verwaltungspraxis durch ENACA und IMI (Binnenmarktinformationssystem) wesentlich erleichtert.**

15. Ist die zuständige Behörde in Ihrem Land im IMI (Binnenmarktinformationssystem) registriert? Unter welchen Bedingungen nutzt Ihre zuständige Behörde das IMI? Falls sie nicht registriert ist: warum nicht, und unter welchen Bedingungen könnte sich dies ändern?

**- Ja, alle Architektenkammern als zuständige Behörden in Deutschland sind in IMI registriert**

**- Rückfragen bei anderen zuständigen Behörden innerhalb der EU laufen über IMI.**

16. Auf welche Weise könnten Berufsausweise (s. Erwägungsgrund 32 der Richtlinie) die Anerkennung von Berufsqualifikationen und die vorübergehende Erbringung von Dienstleistungen erleichtern? Unter welchen Bedingungen könnten Berufsausweise von Berufsorganisationen ausgestellt werden?

**- Ein europäischer Berufsausweis könnte zur Erleichterung des grenzüberschreitenden Dienstleistungsverkehrs herangezogen werden, wenn damit die notwendige Authentizitätsprüfung der Erfüllung zumindest von Teilen der Berufszugangsbedingungen erspart werden könnte (vgl. Art. 5 Abs. 3 BARL) und eine diesbezügliche Anerkennung EU-weit vorgegeben wäre.**

**- In Deutschland sind nur die Architektenkammern aufgrund eigener gesetzlicher Befugnisse zur Prüfung der Voraussetzungen hinsichtlich Ausbildung und Praxis und zur Ausstellung der für die Berufsausübung notwendigen Bescheinigungen in der Lage, veritable, europaweit anerkennungsfähige Berufsausweise auszustellen; andere Organisationen hingegen mangels gesetzlicher Zuständigkeiten nicht. Die deutschen Kammern können sich auch vorstellen, solche Ausweise einzuführen.**

17. Auf welche Weise tauschen Sie Informationen über Aussetzungen/Beschränkungen mit den zuständigen Behörden anderer Mitgliedstaaten aus? Könnte hier mehr getan werden?

**- Über IMI, ergänzend wurde ENACA gegründet.**

**- Daher besteht im Moment kein weiterer Handlungsbedarf.**

#### E. SONSTIGE BEOBACHTUNGEN

18. Wie und zu welchem Zeitpunkt werden die erforderlichen Sprachkenntnisse der Migranten geprüft, nachdem ihre Berufsqualifikation anerkannt wurde? Liegen Ihnen Informationen über Beschwerden (insbesondere von Patienten/Kunden/Arbeitgebern) über ungenügende Sprachkenntnisse von Migranten vor? Soweit erhebliche Zweifel an den Sprachkenntnissen bestehen, welche Maßnahmen haben Sie als zuständige Behörde gegenüber den Migranten getroffen?

**- Es erfolgt keine Prüfung der Sprachkenntnisse.**

**- Beschwerden hierzu liegen nicht vor.**

19. Welche Kosten entstehen bei der Registrierung für den Migranten? Bitte beziffern Sie die Gebühren, die bei dauerhafter Niederlassung und bei temporärer Dienstleistungserbringung anfallen.



- Bei temporärer Dienstleistungserbringung werden bei einigen zuständigen Behörden keine, bei anderen eine dem Aufwand angemessene Gebühren verlangt.
- Die Gebühren bei dauerhafter Niederlassung entsprechend den Gebühren der Eintragung von Inländern.

20. Was für Erfahrungen haben Sie mit Ausbildungsprogrammen, die durch Akkreditierungsprogramme (z.B. Franchise-Kurse durch RIBA) vorgegeben werden?

**Keine, in Deutschland gibt es solche Kurse nicht.**

21. Sind Ihnen Probleme bekannt, die auf einer Ungleichbehandlung von Nicht-EU-Staatsangehörigen und EU-Staatsangehörigen beruhen, wenn beide Gruppen über eine in Anhang V der Richtlinie 2005/36/EG gelistete Berufsqualifikation verfügen?

**Nein, es sind keine Probleme bekannt.**

22. Über welche Erfahrungen berichten Architekten aus Ihrem Land, die bereits in einem anderen EU-Mitgliedstaat tätig sind oder dies beabsichtigen? Gibt es besondere Probleme in dem Fall, dass in Ihrem Land der Beruf des Architekten kein geregelter Beruf ist? Welche Rückmeldungen haben Sie von Migranten aus anderen EU-Mitgliedstaaten zur Unterstützung/Hilfestellung durch die zuständigen Behörden ihres Herkunftsstaates im Migrationsfall? (Allgemeine Angaben ohne Benennung der zuständigen Behörden sind ausreichend).

- Im Bereich Architektur sind hierzu keine Probleme bekannt.
- Teilweise gibt es im Migrationsfall Probleme mit Berufsträgern der Fachrichtungen Innen- und Landschaftsarchitektur sowie Stadtplanung – in Einzelfällen wird im Empfangsstaat vorgebracht, dass diese Berufe dort nicht existierten.

Ende des Fragebogens



**Evaluating the Professional Qualifications Directive**  
**Experience reports from competent authorities**  
**(Architects)**

Federal Republic of Germany, 24 August 2010

**QUESTIONNAIRE FOR THE SECTORAL PROFESSION OF ARCHITECTS**

**A. RECOGNITION PROCEDURE IN CASE OF MIGRATION ON A PERMANENT BASIS**

1. Do you accept applications from EU citizens for the recognition of foreign diplomas sent by email or requests made on line? Under which conditions can they send documents and declarations electronically? What are your experiences in this respect?

- **Yes, as part of the registration procedure**
- **Possible, as soon as secure electronic procedure is available.**
- **No specific experience for the time being.**

2. What is the yearly number of applications for recognition from 2000 to 2009? Please submit specific data for applications for automatic recognition based on diplomas, automatic recognition based on acquired rights (as from 2005), and recognition based on the general system<sup>1</sup>. Please verify first the data in the Regulated Professions Database.

**Data/figures are available through EU database on regulated professions only.**

3. To what extent have the system of automatic recognition and the general system been a success? How do you see the costs and benefits? Specify in particular whether automatic recognition based on diploma, Annex V and the current notification system represent an efficient way to facilitate automatic recognition. Please submit comments for:

- automatic recognition based on diploma
- automatic recognition based on acquired rights (Art. 49 – Annex VI)
- recognition based on the general system.

- **The automatic recognition is working well and is successful.**
- **Compared with the Architects' Directive (85/384/EEC) the very favourable cost-benefit ratio has not changed under the PQD.**
- **The application of automatic recognition facilitates a lot the recognition of already notified diplomas.**

4. Is the general system applied in your country each time the conditions for automatic recognition are not met? What are in your view "specific and exceptional reasons" as provided in Art. 10 (1)? Are there major difficulties in the recognition procedure under the

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<sup>1</sup> Please provide this information unless it has already been provided to the Commission in the Database or the implementation reports.

general system (e. g. burden of proof)? Please include any comments you may have on the implementation of compensation measures.

**Problem: Diplomas not yet notified must be assessed under the general system. In the context of Art. 11 and Art. 13 (“passerelle”), of the partly unclear definition of qualification levels under Art. 11 and problems of applying compensation measures under Art. 14, this may lead to problems with the handling of these provisions in practice.**

5. What is your experience with the recognition procedure for EU citizens with professional qualifications obtained in a third country and already recognised in a first Member State (see Articles 2(2) and 3(3))?

**The handling of such cases is unproblematic.**

6. Please describe the government structure of the competent authority or authorities in charge of the recognition.

**Competent for recognition and thus registration (professional register) are independent bodies, i.e. registration committees of the Architects Chamber of each Land. The chair of these committees is regularly held by a person qualified for being a Judge (2<sup>nd</sup> legal State Examination). The procedure is supervised and controlled by the competent Ministry of the Land.**

#### **B. TEMPORARY MOBILITY (OF A SELF-EMPLOYED OR AN EMPLOYED WORKER)**

7. Are EU citizens interested in using the provisions for exercising their professional activities on a temporary and occasional basis in your Member State? How many citizens used this new system in 2008 and 2009 (per month, per year)<sup>2</sup>?

**Yes, more than 100 cases per year, considered Germany as a whole.**

8. How are the provisions of Directive 2005/36/EC concerning temporary mobility applied by the competent authorities in practice taking into account the relevant provisions of the Code of Conduct? For instance:

- How is the "legal establishment" criteria foreseen by Article 5(1) (a) interpreted in practice? What conditions does a migrant need to fulfil in his home Member State in order to be able to provide services?

**The provision of services is unproblematic, just provision of documents according to Art. 7 (2) necessary.**

**In case profession is not regulated, criteria of “legal establishment” can be made plausible through personal declaration.**

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<sup>2</sup> Please provide this information unless it has already been provided to the Commission in the Database on Regulated Professions

- How are the “temporary and occasional basis” criteria foreseen by Article 5.2 interpreted in practice? Do Member States assess duration, frequency, regularity and continuity of an activity and if so according to which criteria?

No.

9. Do you have a prior declaration system? If so, please indicate why it is necessary? What do competent authorities do with the information received? Are other possibilities conceivable?

- **Yes, according to Art. 7 PQD. The system makes sense, as it allows for an efficient deontological control (see Art. 5 (3) PQD) in the country of destination.**
- **Other solutions are not conceivable, as only this ensures an efficient consumer protection.**

### C MINIMUM TRAINING REQUIREMENTS

10. To what extent are the common minimum requirements for training set out in Title III Chapter III of Directive 2005/36/EC in line with scientific progress and professional needs in the last ten years? Are the knowledge and skills outlined in Article 46 still relevant and up to date? Please specify.

- **As the wording of the different criteria listed in Art. 46 PQD is rather general, this allows for new developments in education and professional practice to be subsumed under the present criteria.**
- **Therefore, from our point of view no need to update Art. 46 PQD.**

11. How long is the duration of the training for architects under your national law? In how many years do you cover all 11 items as listed in Article 46? Do you use ECTS when implementing the Directive? Does it pose any problems?

- **Registration with the Architects Register (i.e. full access to the profession) requires an academic qualification of minimum 4 years (full time studies), followed by minimum 2 years of professional practice. In this context, the academic qualification has to meet the requirements (11 criteria) set by Art. 46 PQD.**
- **Subsequent to the change/reorganisation of the academic education to BA (mostly 6 semesters, but also 8 existing) and MA (mostly 4 semesters, but also 2 existing), the duration of the academic education has raised in most of the cases to 5 years.**

12. The Directive is based on mutual trust between Member States. To what extent is such trust actually achieved? Are training programmes accredited by external bodies in your country? Does accreditation of a training program in another Member State enhance trust or is it not relevant?

- **Basically, there is mutual trust; to further improve the exchange of information, the architects' competent authorities founded an European Network, the ENACA (i.e. European Network of Architects' Competent Authorities).**
- **Accreditation is irrelevant for mutual recognition, as the contents/subject matter of accreditation vary from one Land to another.**

13. To what extent are the existing Directive provisions (see recital 39 and Article 22(b) on continuous professional development (continuous training) adequate? Is continuous training mandatory in your country and what are the exact conditions?

- **These provisions are adequate.**
- **CPD is a general and legally imposed obligation of the profession.**

**D. ADMINISTRATIVE COOPERATION**

14. To which extent does administrative cooperation, as outlined in Articles 8, 50, and 56 of the Directive, simplify procedures for the migrant professionals?

- **Administrative cooperation is working well and has been substantially facilitated in practice through ENACA and IMI.**

15. Is the competent authority in your country registered with IMI? Under which circumstances does your competent authority use IMI? What are your experiences? If not registered, why not and what would be the conditions for changing this situation?

- **Yes, all Architects' Chambers are registered as Competent Authorities under the IMI.**
- **Questions to other Competent Authorities are addressed via IMI.**

16. How could a professional card (see Recital 32 of the Directive) facilitate recognition of professional qualifications and provision of temporary services? Under which conditions could it be issued by professional associations?

- **A European professional card could facilitate the cross border provision of services, if this would spare the necessary authenticity control of at least some of the conditions giving access to the profession (see Art. 5 (3) PQD), and provided that this would be based on EU-wide recognition.**
- **In Germany only Architects' Chambers are authorised by law (specific legal competence) to control/check the preconditions concerning academic qualification and professional practice. As only Chambers are competent to issue certificates referring to the professional practice, veritable professional cards can be issued by these bodies only; other organisations are legally not competent to do so. The German Architects' Chambers are considering the introduction of such professional cards as being conceivable.**

17. How do you share information about suspensions/restrictions with competent authorities in other Member States?

- **Through IMI, additionally ENACA was founded.**
- **No further need for action for the time being.**

**E. OTHER OBSERVATIONS**

18. How and when are the necessary language skills of migrants checked after recognition of the professional qualifications? Are you aware of any complaints (especially from patients/clients/employers) about insufficient language skills of migrants? If serious doubts about language skills have arisen which action do competent authorities undertake towards the migrant?

- **There is no control of language skills, these are not checked.**
- **No complaints known so far.**

19. Are there any considerable cost implications for the migrant?

- **In case of temporary provision of services, some competent authorities do not charge any fees, while others charge equitable fees reflecting the administrative costs.**
- **Fees charged in case of establishment are in conformity with the fees Nationals have to pay for registration.**

20. What is your experience with training provided by franchising universities?

- **None, no such programs in Germany.**

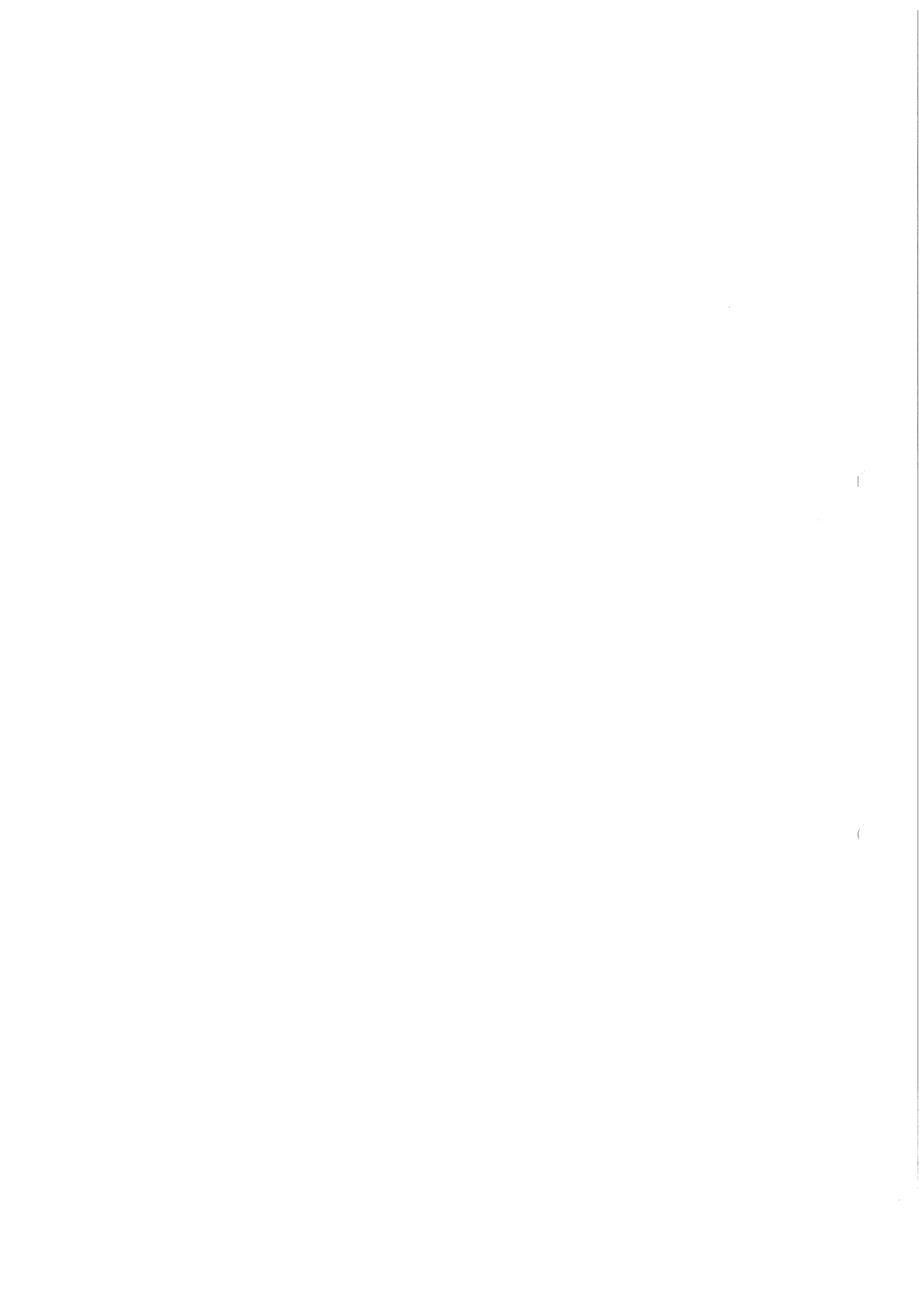
21. Have you encountered particular problems according to which EU nationals with third country qualifications do not enjoy equal treatment compared to third country nationals?

- **No, no problems known so far.**

22. What are the experiences of (outgoing) architects from your country who (would like to) practice in another Member State? Are there in particular problems if the profession of an architect is not regulated in your country? What are the experiences of (incoming) architects from another Member State who (would like to) practice in your country, in particular about their competent authorities?

- **For the profession of architects, no problems known so far.**
- **Nevertheless, there are problems known from migrating Interior Architects, Landscape Architects and Space Planners. In some cases, the EU-State of destination claimed that these professions did not exist, thus denying market access.**

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**Evaluating the Professional Qualifications Directive**  
**Experience reports from competent authorities**  
**ARCHITECTS - ESTONIA**

**A. RECOGNITION PROCEDURE IN CASE OF MIGRATION ON A PERMANENT BASIS**

1. (a) Do you accept applications from EU citizens for the recognition of foreign diplomas sent by email or requests made on line? (b) Under which conditions can they send documents and declarations electronically? (c) What are your experiences in this respect?

*(a) No. (b) Email can be used to give a preliminary assessment. Documents that have been signed electronically (digital signature) are accepted in principle. (c) No experience.*

2. What is the yearly number of applications for recognition from 2000 to 2009? Please submit specific data for applications for automatic recognition based on diplomas, automatic recognition based on acquired rights (as from 2005), and recognition based on the general system<sup>1</sup>. Please verify first the data in the Regulated Professions Database.

*None. (See database)*

3. (a) To what extent have the system of automatic recognition and the general system been a success? (b) How do you see the costs and benefits? Specify in particular whether automatic recognition based on diploma, Annex V and the current notification system represent an efficient way to facilitate automatic recognition. Please submit comments for:

- automatic recognition based on diploma

*No experience.*

- automatic recognition based on acquired rights (Art. 49 – Annex VI)

*No experience.*

- recognition based on the general system.

*No experience.*

4. (a) Is the general system applied in your country each time the conditions for automatic recognition are not met? (b) What are in your view "specific and exceptional reasons" as provided in Art. 10 (1)? (c) Are there major difficulties in the recognition procedure under the general system (e. g. burden of proof)? Please include any comments you may have on the implementation of compensation measures.

<sup>1</sup> Please provide this information unless it has already been provided to the Commission in the Database or the implementation reports.

*No experience.*

5. What is your experience with the recognition procedure for EU citizens with professional qualifications obtained in a third country and already recognised in a first Member State (see Articles 2(2) and 3(3))?

*No experience.*

6. Please describe the government structure of the competent authority or authorities in charge of the recognition.

*Since the profession of architect as such is not regulated in Estonia, the responsibility for the limited recognition process is shared across a number of institutions. In Estonia, certain limited activities, some of which are practised by architects, are regulated. These limited activities are regulated on the premise of public safety, and are closely linked to the licensing of companies for various activities. According to the law, a company that wishes to undertake an activity such as building, design, planning, needs to have a 'specialist in charge' for that particular activity (to ensure that the company follows legal, safety, etc requirements). So, although architectural design is in itself not regulated, if an architect wishes to be the 'specialist in charge' of design work, for example, in a company, the architect's professional qualifications need to be in accordance with the law. The position of 'specialist in charge' is therefore regulated.*

*The institutions involved are: Ministry of Economic Affairs and Communications (the Register of Economic Activity that records the licensing of companies is held by the Ministry), the Ministry's Technical Inspectorate Board (that provides the technical competence to the Register for the evaluation of qualifications), and the Ministry of Education and Research that works as coordinator for the profession of architect.*

## **B. TEMPORARY MOBILITY (OF A SELF-EMPLOYED OR AN EMPLOYED WORKER)**

7. Are EU citizens interested in using the provisions for exercising their professional activities on a temporary and occasional basis in your Member State? How many citizens used this new system in 2008 and 2009 (per month, per year)<sup>2</sup>?

*No experience.*

8. How are the provisions of Directive 2005/36/EC concerning temporary mobility applied by the competent authorities in practice taking into account the relevant provisions of the Code of Conduct? For instance:

- How is the "legal establishment" criteria foreseen by Article 5(1) (a) interpreted in practice? What conditions does a migrant need to fulfil in his home Member State in order to be able to provide services?

*Migrants must demonstrate that they have a legal right to practise in their home country.*

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<sup>2</sup> Please provide this information unless it has already been provided to the Commission in the Database on Regulated Professions

- How are the “temporary and occasional basis” criteria foreseen by Article 5.2 interpreted in practice? Do Member States assess duration, frequency, regularity and continuity of an activity and if so according to which criteria?

*According to the law, the frequency and duration of the temporary provision of services is assessed case by case.*

9. (a) Do you have a prior declaration system? (b) If so, please indicate why it is necessary? (c) What do competent authorities do with the information received? (d) Are other possibilities conceivable?

*(a) Yes, (b) The regulation of the activity of 'specialist in charge' is built on the premise of concern for public safety so a declaration is necessary, (c) The competent authority has the right to check the qualifications, (d) The system is already relatively unregulated.*

### **C MINIMUM TRAINING REQUIREMENTS**

10. To what extent are the common minimum requirements for training set out in Title III Chapter III of Directive 2005/36/EC in line with scientific progress and professional needs in the last ten years? Are the knowledge and skills outlined in Article 46 still relevant and up to date? Please specify.

*Satisfactory. We believe Article 46 has weathered very well. Updates could be restricted to some rewording or further detailing in the field of digital media.*

10. (a) How long is the duration of the training for architects under your national law? (b) In how many years do you cover all 11 items as listed in Article 46?

*(a) 5 years. (b) 5 years.*

11. The Directive is based on mutual trust between Member States. (a) To what extent is such trust actually achieved? (b) Are training programmes accredited by external bodies in your country? (c) Does accreditation of a training program in another Member State enhance trust or is it not relevant?

*(a) No experience with incoming, but our outgoing architects have had problems, (b) Yes. (c) Yes.*

12. (a) To what extent are the existing Directive provisions (see recital 39 and Article 22(b)) on continuous professional development (continuous training) adequate? (b) Is continuous training mandatory in your country and what are the exact conditions?

*(a) Satisfactory, (b) No.*

### **D. ADMINISTRATIVE COOPERATION**

14. To which extent does administrative cooperation, as outlined in Articles 8, 50, and 56 of the Directive, simplify procedures for the migrant professionals?

*Administrative cooperation between competent authorities is essential.*

15. (a) Is the competent authority in your country registered with IMI? (b) Under which circumstances does your competent authority use IMI? (c) What are your experiences? (d) If not registered, why not and what would be the conditions for changing this situation?

*(a) The Ministry of Education and Research as coordinating competent authority is registered. (b) No experience. (c) No experience with architects*

16. (a) How could a professional card (see Recital 32 of the Directive) facilitate recognition of professional qualifications and provision of temporary services? (b) Under which conditions could it be issued by professional associations?

*In the case of temporary provision of services, it could be useful.*

17. How do you share information about suspensions/restrictions with competent authorities in other Member States?

*No experience.*

#### **E. OTHER OBSERVATIONS**

18. (a) How and when are the necessary language skills of migrants checked after recognition of the professional qualifications? (b) Are you aware of any complaints (especially from patients/clients/employers) about insufficient language skills of migrants? (c) If serious doubts about language skills have arisen which action do competent authorities undertake towards the migrant?

*(a) According to Estonian law, it is the duty of the employer to ensure sufficient language skills when dealing with the public. The Estonian Language Board carries out inspections and responds to complaints from the public, (b) No. (c) See (a).*

19. Are there any considerable cost implications for the migrant? Please specify the fees involved with establishment and the fees involved with temporary services.

*Only the state fee for the recognition process (1000 EEK = ca 64 EUR).*

20. What is your experience with training provided by franchising universities?

*No experience.*

21. Have you encountered particular problems with non-EU nationals with qualifications listed in Annex V being treated differently to EU nationals with the same listed qualifications?

*No.*

22. (a) What are the experiences of (outgoing) architects from your country who (would like to) practice in another Member State? (b) Are there in particular problems if the profession of an architect is not regulated in your country? (c) What feedback do you have from incoming migrants on the assistance they have been given by their home

Competent Authority? (a general response without naming any Competent Authority in particular is expected)

*(a) Little experience so far, but there are indications that can be quite difficult for them, (b) in particular because the profession of architect is not regulated in Estonia, (c) No experience.*

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**Evaluating the Professional Qualifications Directive**  
**Experience reports from competent authorities**  
**(ARCHITECTS): Response from the RIAI, Ireland**

*This questionnaire does not need to be answered in full, and respondents are welcome to address topics not included in the questions. The purpose of the questionnaire is to prompt the experience reports which are a key part of the fact-finding phase of the evaluation.*

**A. RECOGNITION PROCEDURE IN CASE OF MIGRATION ON A PERMANENT BASIS**

1. (a) Do you accept applications from EU citizens for the recognition of foreign diplomas sent by email or requests made on line? (b) Under which conditions can they send documents and declarations electronically? (c) What are your experiences in this respect?
  - a) Elements of the submission can be made online, primarily using PDF documents
  - b) Documents that must be provided in the original are generally not accepted online, however, the majority of supporting documentation can be issued electronically.
  - c) It is important to be flexible and occasionally innovative to ensure timely decision making and to avoid adverse effects on applicants.
  
2. What is the yearly number of applications for recognition from 2000 to 2009? Please submit specific data for applications for automatic recognition based on diplomas, automatic recognition based on acquired rights (as from 2005), and recognition based on the general system<sup>1</sup>. Please verify first the data in the Regulated Professions Database.

See appendix 1

3. (a) To what extent have the system of automatic recognition and the general system been a success? (b) How do you see the costs and benefits? Specify in particular whether automatic recognition based on diploma, Annex V and the current notification system represent an efficient way to facilitate automatic recognition. Please submit comments for:
  - automatic recognition based on diploma – automatic recognition based on the diploma and Annex V provision works very well. The process is relatively smooth and straightforward. The only real area where problems may arise, but have not to date, is where qualifications already awarded to graduates have not yet been included in the Annex. This is only a potential problem and has not yet arisen for the RIAI when recognising applicants' qualifications.
  - automatic recognition based on acquired rights (Art. 49 – Annex VI) – Recognition based on Annex VI has not presented any significant problems to date. Occasionally provision of certification to reflect the Article 49 derogation, for example graduates of the German fachschulen, causes problems where the time worked cannot be easily certified or delays arise. The differences between Annex V and Annex VI occasionally cause confusion but not material problems.

<sup>1</sup> Please provide this information unless it has already been provided to the Commission in the Database or the implementation reports.

- recognition based on the general system. To date there have been no applications from EU nationals for recognition under the general system. There have been expressions of interest from a small number of potential candidates, but the requirement for an attestation of competence from the home state could not be met in each case. Regulation, in the form of protection of title, is recent in Ireland and a small number of individuals who did not meet the basic requirements for recognition in the home State and who came to Ireland to practice because the profession was unregulated cannot now avail of the general system because of the attestation of competence issue. Systems for a combination of assessment and recognition of prior learning, combined with a minimum period in practice (7 years at the level of an architect) are available to these individuals for the purposes of registration in Ireland. Those practising in Ireland for then or more years before 1 May 2008 can also apply through 'Technical Assessment' which is a submission based assessment of work done and competencies demonstrated (Article 46)

4. (a) Is the general system applied in your country each time the conditions for automatic recognition are not met? (b) What are in your view "specific and exceptional reasons" as provided in Art. 10 (1)? (c) Are there major difficulties in the recognition procedure under the general system (e. g. burden of proof)? Please include any comments you may have on the implementation of compensation measures.

The number of EU nationals seeking recognition in Ireland has declined rapidly as a result of economic conditions. This drop coincided with the implementation of the Directive and as a result there have been no valid applications for recognition under the general system, the attestation of competence from the home state being the key stumbling block. As noted, there are alternative mechanisms in place for such individuals who have established in Ireland without qualifications or recognition in the home State.

The only potential example of 'specific and exceptional reasons' experienced to date was a case where the academic programme had allegedly been advertised as being in the process of recognition in the home state and of inclusion in the Architects Directive but this did not happen (nationally or at EU level). In this case the attestation of competence was not forthcoming and meant that the application could not proceed anyway. If the home State authorities and the applicant had found a remedy to the academic qualification problem and the authorities had provided an attestation of competence on that basis then an application could have been considered under the general system.

The key problem anticipated with the general system, as transposed under Irish law, is the requirement in the legislation (Section 16, Building Control Act 2007) to register, under the general system, an applicant who has not yet completed the Article 14 compensation measures when they are required. As the register is intended for consumer protection the legal requirements to register such applicants as architects prior to final confirmation or completion of compensation appears contrary to the principles underlying regulation and indeed the mutual trust required under the Directive that the 'certifying State' has confirmed competence.

Significant work is also anticipated in the formulation of aptitude testing as it must be tailored to the individual's experience, which is a detailed and expert task. The adaptation period also requires significant input. It is also dependent on the availability of work placements which are not under the control of the Competent Authority or within its capacity to provide.

The key problem with the general system is that it does not restrict itself to recognition of cognate, non-recognised qualifications. It extends to such qualifications at a significantly lower level than is required for the purposes of automatic recognition. The system must therefore deal with qualifications which have not been reviewed or passed by the Commissions' experts and which may be at a substantially lower standard than is required of those benefiting from automatic recognition. There is the safeguard that the home state must provide an attestation of competence but the system nevertheless presents significant risks to the host country and the potential clients therein, particularly in the case of Ireland where registration occurs prior to



completion of compensation measures and can be withdrawn only on failure to satisfactorily complete compensation measures. In keeping with Recital 12, measures are in place to ensure that those benefiting from registration on this basis, i.e. prior to completion of compensation measures, cannot avail of automatic recognition in other States on the basis of Irish recognition, but this does not protect the Irish consumer.

5. What is your experience with the recognition procedure for EU citizens with professional qualifications obtained in a third country and already recognised in a first Member State (see Articles 2(2) and 3(3))?

This has only occurred in one case so far where Ireland was the home state. There is one in process where Ireland is the host State. The process does not present significant difficulties based on current limited experience. It facilitates mobility and works well once all concerned are clear on the process. As this is relatively unusual thus far there tends to be a requirement for direct discussion with the other Competent Authority to ensure a clear understanding of what is required.

There have been a number of instances where non-EU nationals with non-EU qualifications have sought recognition in Ireland and, having been advised with regard to the provisions of Article 3(3), have halted the process. There is anecdotal evidence that in some cases the applicant's intention was to avoid, on the basis of recognition in Ireland, recognition procedures in the State in which they were actually operating. Advice as to the content of Articles 2(2) and 3(3) has clarified the situation.

6. Please describe the government structure of the competent authority or authorities in charge of the recognition.

The RIAI was appointed as the Registration Body and Competent Authority for architects under the terms of the Building Control Act 2007. The RIAI was a pre-existing professional body with a membership encompassing architects, graduates and architectural technicians. As part of the 'co-regulation' model there are four independent boards dealing with Admissions, Technical Assessment, Professional Conduct and Appeals established under the terms of the legislation, all have Chairs with a legal background and a majority of ministerial non-architect nominees.

The RIAI has a governing Council as well as an executive which carries out the day-to-day work relating to recognition under the guidance and review of Council.

#### **B. TEMPORARY MOBILITY (OF A SELF-EMPLOYED OR AN EMPLOYED WORKER)**

7. Are EU citizens interested in using the provisions for exercising their professional activities on a temporary and occasional basis in your Member State? How many citizens used this new system in 2008 and 2009 (per month, per year) <sup>2</sup>?

Only limited interest has been expressed in this mode of registration, and this has only arisen with regard to competition entrants. No temporary registrations have taken place so far. This may be a result of contraction in the Irish market for architectural services.

8. How are the provisions of Directive 2005/36/EC concerning temporary mobility applied by the competent authorities in practice taking into account the relevant provisions of the Code of Conduct? For instance:

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<sup>2</sup> Please provide this information unless it has already been provided to the Commission in the Database on Regulated Professions

- How is the "legal establishment" criteria foreseen by Article 5(1) (a) interpreted in practice? What conditions does a migrant need to fulfil in his home Member State in order to be able to provide services?

We have no practical experience of this as yet, however, the most obvious mode of demonstrating establishment is registration where such a system exists. Alternatives might include evidence of an office base or company registration, evidence that work is carried out in the home state on an ongoing basis.

- How are the "temporary and occasional basis" criteria foreseen by Article 5.2 interpreted in practice? Do Member States assess duration, frequency, regularity and continuity of an activity and if so according to which criteria?

Again, we have no practical experience of this, but a demonstration of the duration of work anticipated as well as the frequency of work would seem appropriate.

9. (a) Do you have a prior declaration system? (b) If so, please indicate why it is necessary? (c) What do competent authorities do with the information received? (d) Are other possibilities conceivable?

The legislation transposing Directive 2005/36/EC with regard to architects in Ireland requires that the prior declaration be provided (see Section 60, Building Control Act 2007)

## **C MINIMUM TRAINING REQUIREMENTS**

10. To what extent are the common minimum requirements for training set out in Title III Chapter III of Directive 2005/36/EC in line with scientific progress and professional needs in the last ten years? Are the knowledge and skills outlined in Article 46 still relevant and up to date? Please specify.

The RIAI has not identified any difficulties with Article 46. All admission systems are based on a Standard of Knowledge Skill and competence setting out indicators to provide guidance on how the 11 competencies may be demonstrated. This, in effect, meant that Article 46 was reviewed in detail and stood the test well. The 11 items set out in Article 46 are sufficiently flexible and robust to protect the interests of consumers and to demonstrate the knowledge skill and competence requirements for entry to the profession while allowing for the inclusion of emerging areas of critical expertise such as sustainable design, universal design (access for those with disabilities), urban design, computer skills, cost management science etc

11. (a) How long is the duration of the training for architects under your national law? (b) In how many years do you cover all 11 items as listed in Article 46?

The academic phase of architectural formation requires a minimum of five years full-time study for a recognised award. This is followed by two years of experience and a professional level examination. There are some alternatives provided for in our legislation, including an option to gain an exemption from the professional level examination on the basis of 7 years practical experience post graduation and successful completion of an assessment of the competencies attained.

The five year degree addresses article 46 at the graduate level as set out in the Directive. The professional level qualification builds on the breadth and depth of knowledge of certain elements of Article 46 relating to practice, for example item (K). The five years of study are considered to be essential to cover the breadth and depth of Article 46 satisfactorily at the graduate level.

12. The Directive is based on mutual trust between Member States. (a) To what extent is such trust actually achieved? (b) Are training programmes accredited by external bodies in your

country? (c) Does accreditation of a training program in another Member State enhance trust or is it not relevant?

Trust is generally very good between architectural competent authorities. There is a very open environment for contact and enquiry between most CA's and extends to exploring how standards are applied and regulations implemented. This is due in so small part to the activities of the ACE (Architects Council of Europe) and, in particular, the ENACA (European Network of Architects Competent Authorities) which meets regularly as well as disseminating up to date information via email and the ENACA's website ([www.enaca.eu](http://www.enaca.eu)).

In Ireland, academic programmes are 'prescribed' in legislation with the approval of the relevant Minister who has the option to consult either or both of two national agencies dealing with education. By legislation certain 'Awarding Bodies' provide academic accreditation for their own awards and others are accredited by the Higher Education Training and Awards Council. Accreditation of a programme by a reputable body enhances trust

13. (a) To what extent are the existing Directive provisions (see recital 39 and Article 22(b) on continuous professional development (continuous training) adequate? (b) Is continuous training mandatory in your country and what are the exact conditions?

The provisions made with regard to CPD (continuous training) could be more robust as it is very valuable to the maintenance of professional competence. At the very least, CPD is an established ethical obligation of architects across the EU, this obligation is increasingly extending beyond being an 'ethical requirement' with professional bodies and authorities making CPD mandatory and introducing monitoring systems. CPD is mandatory for architects in Ireland and monitored by the registration body/Competent Authority. This is provided for in the Code of Conduct as opposed to primary legislation. The requirements is forty hours of CPD per year, monitored with an online system, sanctions can include referral to the Professional Conduct Committee and potential removal from the register. The system used to monitor CPD compliance by members/registrants is also designed to deliver CPD opportunities to architects by providing information on courses (which are explicitly linked to elements of Article 46 which provides the benchmark for all CPD opportunities included in the system) and booking information as well as links to online CPD opportunities, some of which are actually developed by the RIAI itself, and the remainder of which have been audited, all are referenced to the relevant competency in Article 46.

#### **D. ADMINISTRATIVE COOPERATION**

14. To which extent does administrative cooperation, as outlined in Articles 8, 50, and 56 of the Directive, simplify procedures for the migrant professionals?

The obligation placed on Competent Authorities to carry out business in a particular manner and to co-operate is of significant benefit to migrant professionals. Experience to date suggests that co-operation between the majority of architects competent authorities would occur with or without the obligations established in the Directive, but it is important that they are there should they be needed.

15. (a) Is the competent authority in your country registered with IMI? (b) Under which circumstances does your competent authority use IMI? (c) What are your experiences? (d) If not registered, why not and what would be the conditions for changing this situation?

a) Yes, the RIAI is registered and uses the IMI

b) Most frequently to identify request handlers and experts in other member States, and also to verify details when an application for recognition presents a difficulty

c) Our experience of the IMI is positive to date, but we use it rarely

16. (a) How could a professional card (see Recital 32 of the Directive) facilitate recognition of professional qualifications and provision of temporary services? (b) Under which conditions could it be issued by professional associations?

With access to the IMI and the need for up to date information the RIAI has not, to date, identified benefits for professional recognition using a professional card. As noted above, mutual trust between competent authorities is very important and takes work to establish. Where the professional card would stand in relation to this is unclear.

17. How do you share information about suspensions/restrictions with competent authorities in other Member States?

On specific request and in writing

#### **E. OTHER OBSERVATIONS**

18. (a) How and when are the necessary language skills of migrants checked after recognition of the professional qualifications? (b) Are you aware of any complaints (especially from patients/clients/employers) about insufficient language skills of migrants? (c) If serious doubts about language skills have arisen which action do competent authorities undertake towards the migrant?

Verification of language skills is built into our registration legislation (see sections 15 and 16 of the Building Control Act 2007) and is part of the registration process, it is the final matter considered by the Admissions board having addressed recognition of the qualifications of applicants and confirmed the status of the qualifications prior to considering language.

There has been some anecdotal feedback from employers regarding capacity to engage with clients presenting a problem where language skills are low, but no formal complaints have been made.

19. Are there any considerable cost implications for the migrant? Please specify the fees involved with establishment and the fees involved with temporary services.

The annual registration charge is €490, The admission fee for establishment under automatic recognition provisions is €145. There is no fee for considering an application for recognition on a temporary and occasional basis, but Section 60 of the Building Control Act requires registration of such persons, there is only one register (by law) and there is no provision for remission of registration fees in Section 60.

20. What is your experience with training provided by franchising universities?  
No significant experience to date

21. Have you encountered particular problems with non-EU nationals with qualifications listed in Annex V being treated differently to EU nationals with the same listed qualifications?

This problem has not arisen to date

22. (a) What are the experiences of (outgoing) architects from your country who (would like to) practice in another Member State? (b) Are there in particular problems if the profession of an architect is not regulated in your country? (c) What feedback do you have from incoming migrants on the assistance they have been given by their home

Competent Authority? (a general response without naming any Competent Authority in particular is expected)

No problems have been formally reported, however, with regard to outgoing migrants some problems have been encountered with making contact and establishing a process with the Competent Authority of one EEA state and there have also on occasion been issues for incoming migrants securing the necessary documentation from the Competent Authority in the Home State within a reasonable time period.

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### **Additional issues**

The Irish transposition legislation (the Building Control Act 2007), in a marginal note (to Section 15), restricts the application of automatic recognition procedures to nationals from Member States other than Ireland. The RIAI sought legal advice on this matter and secured advice that the marginal note could be disregarded in light, among other things, of Article 1 of the Directive establishing the state of qualification as the home state. This interpretation was discussed with the Commission and is currently being applied and Irish Nationals with qualifications from other Member States can avail of the provisions for automatic recognition. However, it is the RIAI's experience that Ireland is not the only State to have had a difficulty clarifying the implications of, or processes for, upholding Article 1. This problem is reinforced by the current structure of Annex V.7.1 which appears to require that all qualifications, up to and including the accompanying certificate level, must be secured in a single State. A literal interpretation of the Annex can place a barrier in the way of individuals completing their academic and professional training across a number of States as there is no explicit provision for establishing equivalence at successive stages (where qualifications are acquired across states) or recognising Article 1 within the Annex. It would benefit professional recognition and mobility, as well as student mobility greatly if this could be addressed and resolved appropriately soon. Apart from administrative simplification this would contribute to the acquisition by individuals of architectural knowledge, skill and competence across States within the EU which would be of benefit to European architecture.

# Appendix 1: Statistics

	<b>Total Number of Applicants</b>	<b>Total Number of EEA Applicants</b>	<b>Automatic Recognition based on Diplomas Annex V.7 - 15(1)(a)</b>	<b>Automatic Recognition based on acquired rights as from 2005 Annex VI - 15(1)(b)</b>	<b>Partial Recognition (PP Exam)<sup>3</sup></b>	<b>Recognition based on General System</b>
<b>2000</b>	63	Detail not available at this time	Detail not available at this time	Detail not available at this time	Detail not available at this time	0
<b>2001</b>	113	"	"	"	"	0
<b>2002</b>	137	"	"	"	"	0
<b>2003</b>	120	"	"	"	"	0
<b>2004</b>	100	"	"	"	"	0
<b>2005</b>	125	"	"	"	"	0
<b>2006</b>	133	"	"	"	"	0
<b>2007</b>	310	100	73	1	19	0
<b>2008</b>	209	24	21	1	2	0
<b>2009</b>	151	33	27	1	5	0

<sup>3</sup> Indicates EU nationals with listed qualifications but without the accompanying certificate where one is required. In such cases the qualification is recognised for the purpose of access to the professional level qualification (professional practice examination) on the basis of which the applicants is registered/becomes an architect member of the RIAI

**Evaluating the Professional Qualifications Directive**  
**Experience reports from competent authorities**

**POSSIBLE QUESTIONNAIRE FOR EACH SECTORAL PROFESSION**

**A. RECOGNITION PROCEDURE IN CASE OF MIGRATION ON A PERMANENT BASIS**

1. (a) Do you accept applications from EU citizens for the recognition of foreign diplomas sent by email or requests made on line? (b) Under which conditions can they send documents and declarations electronically? (c) What are your experiences in this respect?
  - a) YES
  - b) No particular condition, in case of doubt, we can consult the concerned competent authority
  - c) No problem until now
2. What is the yearly number of applications for recognition from 2000 to 2009? Please submit specific data for applications for automatic recognition based on diplomas, automatic recognition based on acquired rights (as from 2005), and recognition based on the general system<sup>1</sup>. Please verify first the data in the Regulated Professions Database.
  - a) From 2000 to 2009, see the document I attached. Most of them are based on diplomas
  - b) In 2007 : 90 decisions based on annex V and VI ; in 2008 : 80 ;
  - c) Decisions based on general system : 1 in 2007, 1 in 2008 (5 applications on general system were refused in 2007 and 2008)

For data b) and c), see document II attached
3. (a) To what extent have the system of automatic recognition and the general system been a success? (b) How do you see the costs and benefits? Specify in particular whether automatic recognition based on diploma, Annex V and the current notification system represent an efficient way to facilitate automatic recognition. Please submit comments for:
  - automatic recognition based on diploma : success
  - automatic recognition based on acquired rights (Art. 49 – Annex VI) : not enough experience
  - recognition based on the general system. Not enough experience
4. (a) Is the general system applied in your country each time the conditions for automatic recognition are not met? (b) What are in your view "specific and exceptional reasons" as provided in Art. 10 (1)? (c) Are there major difficulties in the recognition procedure under the general system (e. g. burden of proof)? Please include any comments you may have on the implementation of compensation measures.

<sup>1</sup> Please provide this information unless it has already been provided to the Commission in the Database or the implementation reports.

- a) Yes the legislation dated 2 and 17 December 2009 makes provisions on this matter but we have not yet experience
5. What is your experience with the recognition procedure for EU citizens with professional qualifications obtained in a third country and already recognised in a first Member State (see Articles 2(2) and 3(3))?

Only 5 decisions in 2003 and 2004

6. Please describe the government structure of the competent authority or authorities in charge of the recognition.

For applications based on annex V and VI, the regional council of the order of architects are competent authorities

For applications based on general system or qualifications obtained in a third country: the competent authority is the ministry of Culture which decides after asking advice of the national council of the order of architects

## **B. TEMPORARY MOBILITY (OF A SELF-EMPLOYED OR AN EMPLOYED WORKER)**

7. Are EU citizens interested in using the provisions for exercising their professional activities on a temporary and occasional basis in your Member State? How many citizens used this new system in 2008 and 2009 (per month, per year) <sup>2</sup>?

YES see document III attached for 2008 and 2009

8. How are the provisions of Directive 2005/36/EC concerning temporary mobility applied by the competent authorities in practice taking into account the relevant provisions of the Code of Conduct? For instance:

- How is the "legal establishment" criteria foreseen by Article 5(1) (a) interpreted in practice? What conditions does a migrant need to fulfil in his home Member State in order to be able to provide services?

The architect informs the competent authority in the host Member State in a written declaration to be made in advance including :

- a) the details of his insurance cover according to the French law The attestation certifying that the architect is covered for all his liabilities must be recent (less than three months before the declaration)
- b) proof of the nationality (copy of the passport)
- c) an attestation certifying that the holder is legally established in a Member State for the purpose of pursuing architecture and that he is not prohibited from practising, even temporarily, at the moment of delivering the attestation
- d) evidence of professional qualifications

This declaration is renewed once per year, if the architect wants to provide services during the concerned year. In this case, he has only to provide documents a) and c)

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<sup>2</sup> Please provide this information unless it has already been provided to the Commission in the Database on Regulated Professions



- How are the “temporary and occasional basis” criteria foreseen by Article 5.2 interpreted in practice? Do Member States assess duration, frequency, regularity and continuity of an activity and if so according to which criteria?  
No particular criteria, the competent authority doesn’t dictate conditions based on the minimum duration for one temporary service

9. (a) Do you have a prior declaration system? (b) If so, please indicate why it is necessary? (c) What do competent authorities do with the information received? (d) Are other possibilities conceivable?

- See beyond
- It’s obviously necessary for the security of the user’s service
- The information received is on the web site of the order of architects under the title free provision of services

#### C Minimum training requirements

10. To what extent are the common minimum requirements for training set out in Title III Chapter III of Directive 2005/36/EC in line with scientific progress and professional needs in the last ten years? Are the knowledge and skills outlined in Article 46 still relevant and up to date? Please specify.

- same as 85/384/CE directive
- yes

10. (a) How long is the duration of the training for architects under your national law? (b) In how many years do you cover all 11 items as listed in Article 46? (c) Do you use ECTS when implementing the Directive? Does it pose any problems?

- 5 years for the master + 1
- 5 years + 1

12. The Directive is based on mutual trust between Member States. (a) To what extent is such trust actually achieved? (b) Are training programmes accredited by external bodies in your country? (c) Does accreditation of a training program in another Member State enhance trust or is it not relevant?

Trust is obvious when the qualification is based on the annex V and VI

Training programmes are accredited by a commission which is ministry of Culture and ministry of Education responsibility

13. (a) To what extent are the existing Directive provisions (see recital 39 and Article 22(b) on continuous professional development (continuous training) adequate? (b) Is continuous training mandatory in your country and what are the exact conditions?

At this moment, in France CPD is included in the French code of conducts. But the Order of architects has asked the government to include it in the law in order CPD becomes a legal obligation

#### D. ADMINISTRATIVE COOPERATION

14. To which extent does administrative cooperation, as outlined in Articles 8, 50, and 56 of the Directive, simplify procedures for the migrant professionals?

French Order and professional associations or institutes or orders of the other countries of Europe have a good cooperation

15. (a) Is the competent authority in your country registered with IMI? (b) Under which circumstances does your competent authority use IMI? (c) What are your experiences? (d) If not registered, why not and what would be the conditions for changing this situation?

The French competent authorities are registered with IMI system.

But, until now, this system doesn't work. No answer at all to our questions

16. (a) How could a professional card (see Recital 32 of the Directive) facilitate recognition of professional qualifications and provision of temporary services? (b) Under which conditions could it be issued by professional associations?

We are in favour a professional card if this card :

- is annual
- includes qualifications and professional insurances
- is delivered to architects who meets good repute and ethics obligations

17. How do you share information about suspensions/restrictions with competent authorities in other Member States?

Through Orders or professional associations or Institutes

#### **E. OTHER OBSERVATIONS**

18. (a) How and when are the necessary language skills of migrants checked after recognition of the professional qualifications? (b) Are you aware of any complaints (especially from patients/clients/employers) about insufficient language skills of migrants? (c) If serious doubts about language skills have arisen which action do competent authorities undertake towards the migrant?

A and b) on our web site, all agreements between client and architect are translated in English language, and we have been never informed of any complaint about insufficient language skills of migrants

19. Are there any considerable cost implications for the migrant?

No cost at all for free provision of services

The same cost for any architect who wants to be registered at the order

20. What is your experience with training provided by franchising universities?

21. Have you encountered particular problems according to which EU nationals with third country qualifications do not enjoy equal treatment compared to third country nationals?

No

(OPTIONAL) 22. (a) What are the experiences of (outgoing) architects from your country who (would like to) practice in another Member State? (b) Are there in particular problems if the profession of an architect is not regulated in your country? (c) What are the experiences of (incoming) architects from another Member State who (would like to) practice in your country, in particular about their competent authorities?

**Valutazione della direttiva sulle qualifiche professionali  
Relazioni sulle esperienze delle autorità competenti**

**EVENTUALE QUESTIONARIO PER CIASCUN SETTORE PROFESSIONALE:  
ARCHITETTI**

**A. PROCEDURA DI RICONOSCIMENTO IN CASO DI MIGRAZIONE SU BASE PERMANENTE**

1. Accettate le domande concernenti il riconoscimento di diplomi stranieri inviate tramite posta elettronica o fatte in linea da cittadini dell'UE? Quali condizioni sono applicate all'invio elettronico dei documenti e delle dichiarazioni? Quali sono le vostre esperienze al riguardo?

*Allo stato attuale non accettiamo le richieste inviate tramite posta elettronica. La documentazione cartacea rimane il migliore strumento di garanzia.*

2. Quante domande di riconoscimento sono state presentate ogni anno nel periodo 2000-2009? Si prega di inviare dati specifici per le domande concernenti il riconoscimento automatico in base a diplomi, il riconoscimento automatico in base a diritti acquisiti (a decorrere dal 2005) e il riconoscimento in base al sistema generale<sup>1</sup>.

*Numero domande di riconoscimento automatico in base al diploma: anno 2000 – n. 24, anno 2001 – n. 100; anno 2002 - n. 20; anno 2003 – n. 36; anno 2004 – n- 35; anno 2005 – n. 40; anno 2006 – n. 44; anno 2007 – n. 57; anno 2008 – n. 84; anno 2009 – n.113. Non si è proceduto ad alcun riconoscimento relativo ai diritti acquisiti e al sistema generale.*

3. In che misura ritenete che il sistema di riconoscimento automatico e il sistema generale abbiano funzionato? Qual è la vostra opinione riguardo a costi e benefici? Indicare segnatamente se ritenete efficaci il riconoscimento automatico in base a diplomi, l'allegato V e l'attuale sistema di notifica per agevolare il riconoscimento automatico. Si prega di trasmettere osservazioni in merito a:

*Per quanto di competenza funziona*

- il riconoscimento automatico in base a diplomi;
- il riconoscimento automatico in base a diritti acquisiti;
- il riconoscimento in base al sistema generale.

*Non si è mai proceduto ai riconoscimenti adottando il sistema generale in quanto ad oggi sono pervenute solo domande di titoli presenti in Allegato.*

<sup>1</sup> Non rispondere se queste informazioni sono già state trasmesse alla Commissione tramite la base dati o nelle relazioni di attuazione.

4. Nel vostro paese il sistema generale è applicato ogni qualvolta le condizioni per il riconoscimento automatico non sono soddisfatte? Avete incontrato particolari difficoltà nella procedura di riconoscimento prevista dal sistema generale? Si prega di esporre eventuali osservazioni sull'attuazione dei provvedimenti di compensazione.
5. Quali sono le vostre esperienze riguardo alla procedura di riconoscimento per i cittadini dell'UE aventi qualifiche professionali conseguite in un paese terzo e già riconosciute in un primo Stato membro (cfr. articolo 2, paragrafo 2, e articolo 3, paragrafo 3).

*In caso di titoli non presenti in Allegato si procede alla valutazione del percorso formativo ed eventualmente si propongono misure compensative.*

6. Descrivere la struttura amministrativa dell'autorità competente o delle autorità incaricate del riconoscimento.

*La struttura è composta da un funzionario e dal Dirigente della unità cui afferiscono numerose altre diverse competenze.*

**B. MOBILITÀ TEMPORANEA (DI UN LAVORATORE AUTONOMO O DI UN LAVORATORE DIPENDENTE)**

7. Vi è interesse da parte dei cittadini dell'UE ad avvalersi delle disposizioni per l'esercizio di un'attività professionale su base temporanea e occasionale nel vostro Stato membro? *SI*. Quanti cittadini hanno utilizzato questo nuovo sistema nel 2008 e nel 2009 (su base mensile/annuale)<sup>2</sup>?

*L'interesse si è manifestato nel 2008 – 2009, ma trattasi di pochissime unità.*

8. Descrivere come le autorità competenti applicano nella pratica le norme della direttiva 2005/36/CE concernenti la mobilità temporanea, tenendo presenti le relative disposizioni del codice di condotta. Per esempio:

- Quale interpretazione è data nella pratica al criterio di "domicilio legale" previsto all'articolo 5, paragrafo 1, lettera a)? *il "domicilio legale" è di competenza dell'ordine della provincia in cui si svolge la prestazione. Quali condizioni deve soddisfare un lavoratore migrante nel proprio Stato membro d'origine per poter fornire servizi?*

*Il richiedente deve possedere i requisiti richiesti per l' esercizio della professione nel Paese di provenienza.*

- Quale interpretazione è data nella pratica al criterio "in modo temporaneo e occasionale" di cui all'articolo 5, paragrafo 2? Gli Stati membri valutano la durata, la frequenza, la regolarità e la continuità di un'attività e in caso affermativo secondo quali criteri?

*Per l'Italia "in modo temporaneo e occasionale" si intende "per la realizzazione del Progetto". Purtroppo non si hanno tanti casi per poter declinare nuovi criteri.*

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<sup>2</sup> Non rispondere se queste informazioni sono già state trasmesse alla Commissione tramite la base dati o nelle relazioni di attuazione.

9. Per quale motivo è necessario il sistema di dichiarazione preventiva? Quale uso fanno le autorità competenti delle informazioni ricevute? È possibile prevedere altre possibilità?

*La professione di Architetto è una professione protetta, occorre pertanto una autorizzazione preventiva utile per avere l'autorizzazione allo svolgimento della prestazione presso le autorità locali competenti.*

#### **C. REQUISITI MINIMI DI FORMAZIONE**

10. In che misura i comuni requisiti minimi di formazione, di cui al titolo III, capo III, della direttiva 2005/36/CE, nonché le materie di formazione obbligatorie stabilite nell'allegato V corrispondono al progresso scientifico e alle esigenze professionali? Inoltre, le conoscenze e le competenze necessarie in base alla direttiva sono ancora pertinenti e attuali? Si prega di rispondere in modo dettagliato. Cosa pensate delle condizioni relative alla durata della formazione?

*Non concerne la fattispecie Professione Architetti.*

11. La direttiva si basa sulla fiducia reciproca tra Stati membri. In che misura esiste effettivamente tale rapporto di fiducia? I programmi di formazione sono ammessi nel vostro paese? Il riconoscimento di un programma di formazione in un altro Stato membro aumenta il grado di fiducia o non ha alcun effetto?

*Per quanto riguarda la procedura per il riconoscimento "Architetti" vi è sempre stata mutua fiducia ma in alcuni casi poiché avrebbe portato a commettere errori come ad esempio per le diverse interpretazioni dei titoli professionali di Architetto da comunicare da parte degli Stati Membri, ma l'Italia ha sempre riconosciuto solo "Architetti" che attestavano e/o svolgevano la professione nel proprio Paese e questo ha consentito di non fare errori che sarebbero dipesi dall'applicazione "fiduciosa" della norma che in alcuni casi si dimostrava incompleta.*

12. In che misura ritenete adeguate le attuali disposizioni della direttiva (cfr. considerando 39 e articolo 22, lettera b), sullo sviluppo professionale continuo (formazione permanente)? La formazione permanente è obbligatoria nel vostro paese e quali condizioni si applicano esattamente?

*In Italia è compito degli Atenei e degli Ordini curare la formazione permanente con la attivazione di corsi e convegni di aggiornamento professionale.*

#### **D. COOPERAZIONE AMMINISTRATIVA**

13. In quale misura la cooperazione amministrativa, di cui agli articoli 8, 50 e 56 della direttiva, semplifica le procedure per i professionisti migranti?

14. L'autorità competente del vostro paese è registrata nel sistema di informazione del mercato interno (IMI)? In quali circostanze detta autorità competente si avvale dell'IMI? Se non è registrata, perché e a quali condizioni cambierebbe questa situazione?

*L'Italia è registrata nel sistema IMI del quale ci si avvale ogni qualvolta è necessario.*

15. In che modo una tessera professionale (cfr. considerando 32 della direttiva) potrebbe facilitare il riconoscimento delle qualifiche professionali e la prestazione di servizi temporanei? A quali condizioni potrebbe essere rilasciata da associazioni professionali?

*L'Italia non ha avuto richieste del genere suindicato per quanto concerne gli "Architetti".*

16. Quali modalità avete previsto per lo scambio di informazioni su sospensioni/restrizioni con le autorità competenti di altri Stati membri? È possibile fare di più al riguardo?

*Non abbiamo ancora previsto nulla.*

**E. ALTRE OSSERVAZIONI**

17. Come e quando è previsto il controllo delle necessarie conoscenze linguistiche, dopo il riconoscimento delle qualifiche professionali? Siete a conoscenza di reclami (presentati segnatamente da pazienti/clienti/datori di lavoro) concernenti insufficienti competenze linguistiche di migranti?

*Per la professione di architetto non è previsto accertamento linguistico.*

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**Evaluating the Professional Qualifications Directive**  
**Experience reports from competent authorities**  
**(ARCHITECTS)**

*This questionnaire does not need to be answered in full, and respondents are welcome to address topics not included in the questions. The purpose of the questionnaire is to prompt the experience reports which are a key part of the fact-finding phase of the evaluation.*

**POSSIBLE QUESTIONNAIRE FOR EACH SECTORAL PROFESSION**

**A. RECOGNITION PROCEDURE IN CASE OF MIGRATION ON A PERMANENT BASIS**

- (a) Do you accept applications from EU citizens for the recognition of foreign diplomas sent by email or requests made on line? **THE TECHNICAL CHAMBER OF CYPRUS DOES NOT AT THE PRESENT SUPPORT ONLINE APPLICATIONS FOR REGISTRATION. AS A MATTER OF FACT, THE CHAMBER IS CURRENTLY WORKING ON A FULLY AUTOMATED ONLINE APPLICATION SYSTEM THAT WILL ALLOW APPLICANTS TO FILL OUT THE NECESSARY DETAILS REQUIRED FOR REGISTRATION AND, IF APPLICABLE, THE RELEVANT FEE, THROUGH THE WORLD WIDE WEB. HOWEVER IT MUST BE SAID THAT THE CHAMBER ACCEPTS QUERIES AND ALLOWS SUBMISSION OF INFORMATION REQUIRED FOR REGISTRATION BY EMAIL, ESPECIALLY AS MEANS OF INITIAL CONTACT USUALLY MADE BY APPLICANTS PRIOR TO THE ACTUAL SUBMISSION OF AN APPLICATION. IT MUST BE POINTED OUT THAT THE CHAMBER, WHERE DEEMED NECESSARY, MAY REQUIRE THAT INFORMATION WITH REGARDS TO APPLICANTS QUALIFICATIONS HAS TO BE SUBMITTED IN A HARD COPY FORMAT AS WELL.**
- 1.
- (b) Under which conditions can they send documents and declarations electronically? **APPLICANTS NEED TO SUBMIT COPIES**
- (c) What are your experiences in this respect? **USUALLY NO PROBLEMS, APPLICANTS SUBMIT RELEVANT INFORMATION READILY.**
2. What is the yearly number of applications for recognition from 2000 to 2009? Please submit specific data for applications for automatic recognition based on diplomas, automatic recognition based on acquired rights (as from 2005), and recognition based on the general system<sup>1</sup>. Please verify first the data in the Regulated Professions Database.
3. (a) To what extent have the system of automatic recognition and the general system been a success? **AUTOMATIC RECOGNITION HAS BEEN SUCCESSFUL AND EASILY IMPLEMENTED, GENERAL SYSTEM LESS SO THERE ARE SOME**

<sup>1</sup> Please provide this information unless it has already been provided to the Commission in the Database or the implementation reports.

**PROBLEMS ESPECIALLY WITH QUALIFICATIONS FROM COUNTRIES WHERE THE PROFESSION IS NOT REGULATED.**

(b) How do you see the costs and benefits? Specify in particular whether automatic recognition based on diploma, Annex V and the current notification system represent an efficient way to facilitate automatic recognition. Please submit comments for:

- automatic recognition based on diploma: **EFFICIENT**
- automatic recognition based on acquired rights (Art. 49 – Annex VI): **EFFICIENT**
- recognition based on the general system: **AS EXPLAINED ABOVE**

4. (a) Is the general system applied in your country each time the conditions for automatic recognition are not met? **YES**

(b) What are in your view "specific and exceptional reasons" as provided in Art. 10 (1)?

(c) Are there major difficulties in the recognition procedure under the general system (e. g. burden of proof)? Please include any comments you may have on the implementation of compensation measures. **SOME DIFFICULTIES NOT MAJOR ONES.**

5. What is your experience with the recognition procedure for EU citizens with professional qualifications obtained in a third country and already recognised in a first Member State (see Articles 2(2) and 3(3))?

**VERY FEW CASES WITH NO PROBLEMS.**

6. Please describe the government structure of the competent authority or authorities in charge of the recognition.

**THE TECHNICAL CHAMBER OF CYPRUS IS AN INDEPENDENT ORGANISATION.**

**B. TEMPORARY MOBILITY (OF A SELF-EMPLOYED OR AN EMPLOYED WORKER)**

7. Are EU citizens interested in using the provisions for exercising their professional activities on a temporary and occasional basis in your Member State? **YES**

How many citizens used this new system in 2008 and 2009 (per month, per year) <sup>2</sup>?

**AROUND 20 PER YEAR.**

8. How are the provisions of Directive 2005/36/EC concerning temporary mobility applied by the competent authorities in practice taking into account the relevant provisions of the Code of Conduct? For instance:

- How is the "legal establishment" criteria foreseen by Article 5(1) (a) interpreted in practice? What conditions does a migrant need to fulfil in his home Member State in order to be able to provide services?

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<sup>2</sup> Please provide this information unless it has already been provided to the Commission in the Database on Regulated Professions



**IMPLEMENTED AS IN THE DIRECTIVE PROVIDED THAT THE CONDITIONS MENTIONED IN THE DIRECTIVE ARE MET.**

- How are the “temporary and occasional basis” criteria foreseen by Article 5.2 interpreted in practice? Do Member States assess duration, frequency, regularity and continuity of an activity and if so according to which criteria?

**USUALLY PROVISION OF SERVICES IS FOR GIVEN PROJECTS OR CONTRACT BASED.**

9. (a) Do you have a prior declaration system? **NO**
- (b) If so, please indicate why it is necessary?
- (c) What do competent authorities do with the information received? **EXAMINE THAT THE CONDITIONS ARE MET**
- (d) Are other possibilities conceivable?

**C MINIMUM TRAINING REQUIREMENTS**

10. To what extent are the common minimum requirements for training set out in Title III Chapter III of Directive 2005/36/EC in line with scientific progress and professional needs in the last ten years? **IN SOME CASES PROBLEMATIC.**

Are the knowledge and skills outlined in Article 46 still relevant and up to date? **YES**  
Please specify.

11. (a) How long is the duration of the training for architects under your national law?  
**5 YEARS**
- (b) In how many years do you cover all 11 items as listed in Article 46? **5 YEARS**
12. The Directive is based on mutual trust between Member States. (a) To what extent is such trust actually achieved? **NOT ALWAYS.**
- (b) Are training programmes accredited by external bodies in your country?
- (c) Does accreditation of a training program in another Member State enhance trust or is it not relevant?
13. (a) To what extent are the existing Directive provisions (see recital 39 and Article 22(b) on continuous professional development (continuous training) adequate? **THEY ARE NOT**
- (b) Is continuous training mandatory in your country and what are the exact conditions?  
**NO BUT IT IS UNDER CONSIDERATION**

**D. ADMINISTRATIVE COOPERATION**

14. To which extent does administrative cooperation, as outlined in Articles 8, 50, and 56 of the Directive, simplify procedures for the migrant professionals? **GREAT EXTENT**
15. (a) Is the competent authority in your country registered with IMI? **YES**
- (b) Under which circumstances does your competent authority use IMI? **NOT VERY OFTEN**
- (c) What are your experiences? **VERY POSITIVE**
- (d) If not registered, why not and what would be the conditions for changing this situation?
16. (a) How could a professional card (see Recital 32 of the Directive) facilitate recognition of professional qualifications and provision of temporary services? **IT WOULD BE VERY USEFUL IF PROPERLY IMPLEMENTED**
- (b) Under which conditions could it be issued by professional associations?  
**AGREEMENT ON MINIMUM REQUIREMENTS AND RESPECT BETWEEN COUNTRIES**
17. How do you share information about suspensions/restrictions with competent authorities in other Member States?

**NEED TO BE ASKED**

**E. OTHER OBSERVATIONS**

18. (a) How and when are the necessary language skills of migrants checked after recognition of the professional qualifications? **STILL BEING IMPLEMENTED**
- (b) Are you aware of any complaints (especially from patients/clients/employers) about insufficient language skills of migrants? **YES**
- (c) If serious doubts about language skills have arisen which action do competent authorities undertake towards the migrant? **NEED TO ASSURE COMMUNICATION**
19. Are there any considerable cost implications for the migrant? Please specify the fees involved with establishment and the fees involved with temporary services.  
**FOR ESTABLISHMENT SAME AS COUNTRY NATIONALS. NO FEE FOR PROVISION OF SERVICES**
20. What is your experience with training provided by franchising universities? **NO EXPERIENCE**
21. Have you encountered particular problems with non-EU nationals with qualifications listed in Annex V being treated differently to EU nationals with the same listed qualifications? **NO**
22. (a) What are the experiences of (outgoing) architects from your country who (would like to) practice in another Member State? **NO COMPLAINTS SO FAR**

(b) Are there in particular problems if the profession of an architect is not regulated in your country? **THE PROFESSION IS REGULATED IN CYPRUS**

(c) What feedback do you have from incoming migrants on the assistance they have been given by their home Competent Authority? (a general response without naming any Competent Authority in particular is expected) **NO FEEDBACK**

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**Evaluating the Professional Qualifications Directive**  
**Experience reports from competent authorities**  
**(ARCHITECTS)**

*This questionnaire does not need to be answered in full, and respondents are welcome to address topics not included in the questions. The purpose of the questionnaire is to prompt the experience reports which are a key part of the fact-finding phase of the evaluation.*

LITHUANIA

**POSSIBLE QUESTIONNAIRE FOR EACH SECTORAL PROFESSION**

**A. RECOGNITION PROCEDURE IN CASE OF MIGRATION ON A PERMANENT BASIS**

1. (a) Do you accept applications from EU citizens for the recognition of foreign diplomas sent by email or requests made on line? (b) Under which conditions can they send documents and declarations electronically? (c) What are your experiences in this respect?

*a) We accept applications sent by mail, email or other form. Applicant or authorized person should fill up the application form and submit copies of documents.*

*b) Presently, we do not accept electronically sent documents and declarations electronically, they should be submitted in writing and sent by mail or e-mail. In Lithuania, the legal framework is prepared for the use of electronic signature. However, electronic signature cannot be used because of technical imperfection and Lithuania is planning to start accepting electronically sent documents and declarations from 2011.*

*c) No applications so far*

2. What is the yearly number of applications for recognition from 2000 to 2009? Please submit specific data for applications for automatic recognition based on diplomas, automatic recognition based on acquired rights (as from 2005), and recognition based on the general system<sup>1</sup>. Please verify first the data in the Regulated Professions Database.

*In 2006 one (1) application on automatic recognition based on acquired rights*

3. (a) To what extent have the system of automatic recognition and the general system been a success? (b) How do you see the costs and benefits? Specify in particular whether automatic recognition based on diploma, Annex V and the current notification system represent an efficient way to facilitate automatic recognition. Please submit comments for:

- automatic recognition based on diploma. *No experience*
- automatic recognition based on acquired rights (Art. 49 – Annex VI). *Success*
- recognition based on the general system. *No experience*

<sup>1</sup> Please provide this information unless it has already been provided to the Commission in the Database or the implementation reports.

4. (a) Is the general system applied in your country each time the conditions for automatic recognition are not met? (b) What are in your view "specific and exceptional reasons" as provided in Art. 10 (1)? (c) Are there major difficulties in the recognition procedure under the general system (e. g. burden of proof)? Please include any comments you may have on the implementation of compensation measures.

*Yes. The procedure is set in the Order of Minister of Environment No D1-507 of 29 September 2008, but we have no experience.*

5. What is your experience with the recognition procedure for EU citizens with professional qualifications obtained in a third country and already recognised in a first Member State (see Articles 2(2) and 3(3))?

*We have no experience.*

6. Please describe the government structure of the competent authority or authorities in charge of the recognition.

*Ministry of Environment of the Republic of Lithuania*

**B. TEMPORARY MOBILITY (OF A SELF-EMPLOYED OR AN EMPLOYED WORKER)**

7. Are EU citizens interested in using the provisions for exercising their professional activities on a temporary and occasional basis in your Member State? How many citizens used this new system in 2008 and 2009 (per month, per year)<sup>2</sup>?

*We have not received any applications for exercising professional activities on a temporary and occasional basis*

8. How are the provisions of Directive 2005/36/EC concerning temporary mobility applied by the competent authorities in practice taking into account the relevant provisions of the Code of Conduct? For instance:

- How is the "legal establishment" criteria foreseen by Article 5(1) (a) interpreted in practice? What conditions does a migrant need to fulfil in his home Member State in order to be able to provide services?

*Applicant has to submit the filled in written declaration to the Ministry of Environment when he/she moves from the Member State to the territory of the Republic of Lithuania for provision of architectural services for the first time.*

*The applicant may submit the declaration in writing by email or other form.*

*For providing architectural services in the Republic of Lithuania the applicant has to submit the following documents or copies of documents:*

- 1) *proof of nationality/citizenship;*
- 2) *evidence of professional qualifications;*
- 3) *a certificate with information that the applicant has legitimately established in his/her home Member State and a proof of professional qualification.*

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<sup>2</sup> Please provide this information unless it has already been provided to the Commission in the Database on Regulated Professions

*This declaration is renewed once per year if he/she intends to provide services during that year. In this case, he/she has to provide information about insurance related with his professional activity.*

- How are the “temporary and occasional basis” criteria foreseen by Article 5.2 interpreted in practice? Do Member States assess duration, frequency, regularity and continuity of an activity and if so according to which criteria?

*Criteria by Article 5(2) in Lithuania are foreseen as follows - the temporality or occasion for provision of architectural services in every case is assessed by the Ministry of Environment according to the duration, frequency, regularity and succession of the services' provision.*

9. (a) Do you have a prior declaration system? (b) If so, please indicate why it is necessary? (c) What do competent authorities do with the information received? (d) Are other possibilities conceivable?

a) *Yes*

b) *The declaration is necessary to obtain information whether a service provider is legally established in another Member State and if he/she meets other requirements (see above)*

c) *The information should be collected and kept in the Ministry of Environment. We are considering the possibility, if such declarations would appear, to publish information about on the web site of the Ministry of Environment.*

## **C MINIMUM TRAINING REQUIREMENTS**

10. To what extent are the common minimum requirements for training set out in Title III Chapter III of Directive 2005/36/EC in line with scientific progress and professional needs in the last ten years? Are the knowledge and skills outlined in Article 46 still relevant and up to date? Please specify.

*Yes.*

11. (a) How long is the duration of the training for architects under your national law? (b) In how many years do you cover all 11 items as listed in Article 46?

*4 years for Bachelor + 2 years for Master*

12. The Directive is based on mutual trust between Member States. (a) To what extent is such trust actually achieved? (b) Are training programmes accredited by external bodies in your country? (c) Does accreditation of a training program in another Member State enhance trust or is it not relevant?

a) *Trust is obvious when the qualification is based on the Annex V and VI*

b) *Training programmes of Lithuanian architectural schools (universities and academy) listed in the Annex VI are accredited by external bodies.*

13. (a) To what extent are the existing Directive provisions (see recital 39 and Article 22(b) on continuous professional development (continuous training) adequate? (b) Is continuous training mandatory in your country and what are the exact conditions?

*The continuous professional development training is not mandatory in Lithuania. However, it is required that architects who apply to obtain the Architect Qualification Certificate, must supply supporting documents about their professional development.*

**D. ADMINISTRATIVE COOPERATION**

14. To which extent does administrative cooperation, as outlined in Articles 8, 50, and 56 of the Directive, simplify procedures for the migrant professionals?

*We have no experience in administrative cooperation so far.*

15. (a) Is the competent authority in your country registered with IMI? (b) Under which circumstances does your competent authority use IMI? (c) What are your experiences? (d) If not registered, why not and what would be the conditions for changing this situation?

*The Lithuanian competent authority is registered with IMI system. We use IMI occasionally, mainly to give answers to questions.*

16. (a) How could a professional card (see Recital 32 of the Directive) facilitate recognition of professional qualifications and provision of temporary services? (b) Under which conditions could it be issued by professional associations?

*a) Professional card would facilitate and accelerate the movement of specialists. Depending on the provisions of data security, professional card could provide information about specialists' professional qualifications (graduated university or other institution, acquired qualification, professional experience), legal location of self-establishment, imposed penalties associated with his/her profession and data about correspondent's competent authority.*

*b) Professional associations could issue professional cards if the functions of issuing professional cards were delegated to them by the State.*

17. How do you share information about suspensions/restrictions with competent authorities in other Member States?

*We would ask for information from other competent authority if such cases appeared, however there has been no need to do this so far.*

**E. OTHER OBSERVATIONS**

18. (a) How and when are the necessary language skills of migrants checked after recognition of the professional qualifications? (b) Are you aware of any complaints (especially from patients/clients/employers) about insufficient language skills of migrants? (c) If serious doubts about language skills have arisen which action do competent authorities undertake towards the migrant?



*We are not aware of any complaints about the insufficient language skills of migrants.*

19. Are there any considerable cost implications for the migrant? Please specify the fees involved with establishment and the fees involved with temporary services.

*There is no any cost implications for the migrant.*

20. What is your experience with training provided by franchising universities?

*We have no experience with training provided by franchising universities.*

21. Have you encountered particular problems with non-EU nationals with qualifications listed in Annex V being treated differently to EU nationals with the same listed qualifications?

*We have not encountered such problems.*

22. (a) What are the experiences of (outgoing) architects from your country who (would like to) practice in another Member State? (b) Are there in particular problems if the profession of an architect is not regulated in your country? (c) What feedback do you have from incoming migrants on the assistance they have been given by their home Competent Authority? (a general response without naming any Competent Authority in particular is expected)

- a) *We are not aware of their experience practicing in the other Member State.*  
b) *The profession of architects is regulated in Lithuania.*  
c) *We do not have any feedback in this case.*

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## Evaluating the professional qualifications Directive

### Experience reports from competent authorities

#### (Architectes)

#### LUXEMBOURG

##### A. RECOGNITION PROCEDURE IN CASE OF MIGRATION ON A PERMANENT BASIS

1. (a) Do you accept applications from EU citizens for the recognition of foreign diplomas sent by email or requests made on line?  
(b) Under which conditions can they send documents and declarations electronically?  
(c) What are your experiences in this respect?

##### Answer

We have to distinguish between two kinds of recognition: 1) the recognition sensu stricto and 2) the recognition in the context of a demand for professional establishment.

For the first kind of recognition, the "Ministère de l'Enseignement Supérieur(mesr)" is competent. For the second kind of recognition, the "Ministère des Classes Moyennes" (mcm) is competent.

- a) for mesr: yes for the recognition; for mcm: by end of 2010, demands for establishment may hopefully be introduced electronically through the virtual single point of contact.
  - b) no condition of electronic signature ; the law of the 29 may 2009 abolished the obligation to provide a certified copy
  - c) since may 2009 number of request by email increased
2. What is the yearly number of applications for recognition from 2000 to 2009? Please submit specific data for applications for automatic recognition based on diplomas, automatic recognition based on acquired rights (as from 2005), and recognition based on the general system<sup>[1]</sup>. Please verify first the data in the Regulated Professions Database.

##### Answer:

Total number of academic recognitions of diplomas in architecture from 2000 - 2009

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<sup>[1]</sup> Please provide this information unless it has already been provided to the Commission in the Database or the implementation reports.

2000	48
2001	82
2002	79
2003	61
2004	78
2005	69
2006	59
2007	73
2008	66
2009	76

3. (a) To what extent have the system of automatic recognition and the general system been a success?

(b) How do you see the costs and benefits? Specify in particular whether automatic recognition based on diploma, Annex V and the current notification system represent an efficient way to facilitate automatic recognition. Please submit comments for:

- automatic recognition based on diploma
- automatic recognition based on acquired rights (Art. 49 – Annex VI)
- recognition based on the general system.

Answer:

The number of demands concerning EU-citizens has increased substantially since the last years.

4. (a) Is the general system applied in your country each time the conditions for automatic recognition are not met?

Answer:

Article 10(1) of the 2005/36/CE directive is applied in accordance to the applicable case law of the ECJ.

(b) What are in your view "specific and exceptional reasons" as provided in Art. 10

Answer:

“specific and exceptional reasons” as stipulated in article 10(1) of the 2005/36/CE directive have only arisen for EU-citizens asking recognition of professional experience. For architects, no such case is known.

(c) Are there major difficulties in the recognition procedure under the general system (e. g. burden of proof)? Please include any comments you may have on the implementation of compensation measures.

Answer:

As explained above, no case concerning architects is known.

5. What is your experience with the recognition procedure for EU citizens with professional qualifications obtained in a third country and already recognised in a first Member State (see Articles 2(2) and 3(3))?

Answer:

no experience

6. Please describe the government structure of the competent authority or authorities in charge of the recognition.

Answer:

We have to distinguish between two kinds of recognition: 1) the recognition *sensu stricto* and 2) the recognition in the context of a demand for professional establishment.

For the first kind of recognition, the “Ministère de l’Enseignement Supérieur(mesr)” is competent. For the second kind of recognition, the “Ministère des Classes Moyennes” (mcm) is competent.

## **B. TEMPORARY MOBILITY (OF A SELF-EMPLOYED OR AN EMPLOYED WORKER)**

7. Are EU citizens interested in using the provisions for exercising their professional activities on a temporary and occasional basis in your Member State? How many citizens used this new system in 2008 and 2009 (per month, per year) <sup>[2]</sup>?

Answer:

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<sup>[2]</sup> Please provide this information unless it has already been provided to the Commission in the Database on Regulated Professions

Yes, the interest of European service providers has been very large, especially from companies or professionals established in the border regions of Luxembourg's neighbour countries. The number of European service providers from the handcraft sector (which is the only sector where prior notification is required) is almost as important as the total number of demands for establishment. The Ministry of Higher Education and Research would base the academic recognition on the professional qualification obtained in the third country.

EU citizens interested in exercising their professional activities on a temporary and occasional basis in Luxembourg are registered on the list of temporary and occasional exercising architects of the OAI since the creation of the OAI. This represents 30 people in 2008 and 25 in 2009.

Statistics on the 1<sup>st</sup> of August 2010:

Obligatory members of the OAI (natural members): 495

People registered on the list of of temporary and occasional exercising architects: 142

8. How are the provisions of Directive 2005/36/EC concerning temporary mobility applied by the competent authorities in practice taking into account the relevant provisions of the Code of Conduct? For instance:

Answer:

Prior notification is only required for European handcraft service providers. No prior notification is required for commercial service providers as well as for profession liberal professions such as architects, accountants and engineers.

- How is the "legal establishment" criteria foreseen by Article 5(1) (a) interpreted in practice? What conditions does a migrant need to fulfil in his home Member State in order to be able to provide services?

Answer:

When proceeding to a prior notification, a European service provider needs to prove 1) that he is established in his Member State and 2) that he is authorized in his Member State to provide the services for which he is intending to come to Luxembourg. These two points may be proven by an "EU certificate" or by any other official document issued by a competent authority.

- How are the "temporary and occasional basis" criteria foreseen by Article 5.2 interpreted in practice? Do Member States assess duration, frequency, regularity and continuity of an activity and if so according to which criteria?

Answer:

In practice, no assessment of duration, frequency, regularity or continuity is generally made. However, a service provider is not considered as a service provider anymore if it appears that he has a permanent establishment (material installation) in Luxembourg and/or that he has ceased to be established in his Member State and provides his services exclusively in Luxembourg.

9. (a) Do you have a prior declaration system?

Answer:

Yes, but only for handcraft activities.

(b) If so, please indicate why it is necessary?

Answer:

For reasons of consumer protection and security and in order to avoid abuses (concerning the application of directive 2005/36/CE), unfair competition and tax matters) and finally for statistical reasons

(c) What do competent authorities do with the information received?

Answer:

It is registered in a database which may be consulted by other governmental bodies (e.g. Police, Customs etc.)

(d) Are other possibilities conceivable?

Answer:

No, not for the moment

## **C MINIMUM TRAINING REQUIREMENTS**

10. To what extent are the common minimum requirements for training set out in Title III Chapter III of Directive 2005/36/EC in line with scientific progress and professional needs in the last ten years? Are the knowledge and skills outlined in Article 46 still relevant and up to date? Please specify.

Answer:

To date, there is no university study for architects in Luxembourg. The knowledge and skills outline in the Article 46 mentioned above is taken into account by the University of Luxembourg, which is currently developing a master of architecture.

The 4 continues training cycles for architects organised by the OAI on the following topics also take these requirements into account:

- Construction and Energies
- Construction materials
- Office and project management
- History of architecture, engineering and city planning in Luxembourg

Information on these trainings can be found on the website [www.oai.lu](http://www.oai.lu) under the menu "formations continues" => "oai".

11. (a) How long is the duration of the training for architects under your national law?

Answer: 4 years of academic studies in architecture + 1 year of professional training

(b) In how many years do you cover all 11 items as listed in Article 46?

Answer:

Cf. above

12. The Directive is based on mutual trust between Member States.

(a) To what extent is such trust actually achieved?

Answer:

If it is assured that the competent authorities are reliable and serious, mutual trust should not be an issue. In the past, mutual trust was almost generally achieved. However, in one case (which did not concern architects), a competent authority from another Member-State issued from 2002 to 2007 several hundreds of EU certificates containing false/forged information on professional experience and/or diplomas.

(b) Are training programmes accredited by external bodies in your country?

Answer:

The 1 year professional training which has to be accomplished after academic graduation has to be made with an established architect, either in Luxembourg or any other EU Member State.

(c) Does accreditation of a training program in another Member State enhance trust or is it not relevant?

Answer:

As long as the certificate is established by a competent authority from the Member State.



13. (a) To what extent are the existing Directive provisions (see recital 39 and Article 22(b) on continuous professional development (continuous training) adequate?

(b) Is continuous training mandatory in your country and what are the exact conditions?

**D. ADMINISTRATIVE COOPERATION**

14. To which extent does administrative cooperation, as outlined in Articles 8, 50, and 56 of the Directive, simplify procedures for the migrant professionals?

Answer:

It clarifies situations where there are doubts about the professional qualification or the professional seriousness.

15. (a) Is the competent authority in your country registered with IMI?

Answer:

Yes

(b) Under which circumstances does your competent authority use IMI?

Answer:

When there are doubts about the professional qualification or the professional seriousness.

(c) What are your experiences?

Answer:

With some Member States the experiences are very good. The responses are quick and detailed. With other Member States, the experiences are not good at all (no response, response only after several months or incomplete response).

(d) If not registered, why not and what would be the conditions for changing this situation?

Answer:

/

16. (a) How could a professional card (see Recital 32 of the Directive) facilitate recognition of professional qualifications and provision of temporary services?

Answer:

Such a card could be helpful if the issuer is reliable, if the information it contains is reliable, up to date and comparable (especially concerning the professional qualifications (professional experience, diplomas etc.)

- (b) Under which conditions could it be issued by professional associations?

17. How do you share information about suspensions/restrictions with competent authorities in other Member States?

Answer:

In theory: by IMI ; In practice: There has been no case yet.

#### **E. OTHER OBSERVATIONS**

18. (a) How and when are the necessary language skills of migrants checked after recognition of the professional qualifications?

Answer:

For architects as well as for any other profession regulated by the mcm, no particular language skill or test is required.

- (b) Are you aware of any complaints (especially from patients/clients/employers) about insufficient language skills of migrants?

- (c) If serious doubts about language skills have arisen which action do competent authorities undertake towards the migrant?

Answers for (b) (c):

In Luxembourg, the official languages are Luxembourgish, German and French. Furthermore, English is commonly spoken. As most foreign architects who establish in Luxembourg or who come to Luxembourg as foreign service providers speak one of these four languages. Hence, no particular problems are known in this context.

19. Are there any considerable cost implications for the migrant? Please specify the fees involved with establishment and the fees involved with temporary services.

Answer:

1) For service providers: The prior notification is free. However, this solution is not cost effective/neutral. Due to the fact that the yearly number of prior notifications is almost as high as the number of demands for establishment, the prior notification system creates a certain amount of expenses. Therefore, it is projected to introduce an administrative tax. In this context, particular importance will be given to cost effectiveness.

2) For establishment: An administrative tax of 24€ has to be paid when a demand for establishment is introduced. The costs for establishment are the same for migrants and residents.

20. What is your experience with training provided by franchising universities?

Answer:

None

21. Have you encountered particular problems with non-EU nationals with qualifications listed in Annex V being treated differently to EU nationals with the same listed qualifications?

Answer:

No

22. (a) What are the experiences of (outgoing) architects from your country who (would like to) practice in another Member State?

Answer:

There are very few cases of OAI members practicing in another Member State, but these members report difficulties to do so.

(b) Are there in particular problems if the profession of an architect is not regulated in your country?

Answer:

It is regulated

(c) What feedback do you have from incoming migrants on the assistance they have been given by their home Competent Authority? (a general response without naming any Competent Authority in particular is expected)

Answer:

None

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**Evaluating the Professional Qualifications Directive**  
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*This questionnaire does not need to be answered in full, and respondents are welcome to address topics not included in the questions. The purpose of the questionnaire is to prompt the experience reports which are a key part of the fact-finding phase of the evaluation.*

**POSSIBLE QUESTIONNAIRE FOR EACH SECTORAL PROFESSION**

**A. RECOGNITION PROCEDURE IN CASE OF MIGRATION ON A PERMANENT BASIS**

1. (a) Do you accept applications from EU citizens for the recognition of foreign diplomas sent by email or requests made on line? (b) Under which conditions can they send documents and declarations electronically? (c) What are your experiences in this respect?

Yes, we do accept applications from EU citizens for the recognition of foreign diplomas sent by e-mail. However, our experience is that the applications are submitted in person.

2. What is the yearly number of applications for recognition from 2000 to 2009? Please submit specific data for applications for automatic recognition based on diplomas, automatic recognition based on acquired rights (as from 2005), and recognition based on the general system<sup>1</sup>. Please verify first the data in the Regulated Professions Database.

Automatic recognition based on diploma		
2007	2008	2009
4	6	5

Automatic recognition based on acquired rights		
2007	2008	2009
2	3	1

3. (a) To what extent have the system of automatic recognition and the general system been a success? (b) How do you see the costs and benefits? Specify in particular whether automatic recognition based on diploma, Annex V and the current notification system represent an efficient way to facilitate automatic recognition. Please submit comments for:

- automatic recognition based on diploma

It significantly facilitates the recognition process, when conditions prescribed by the Directive are met.

<sup>1</sup> Please provide this information unless it has already been provided to the Commission in the Database or the implementation reports.

- automatic recognition based on acquired rights (Art. 49 – Annex VI)

It significantly facilitates the recognition process, when conditions prescribed by the Directive are met.

- recognition based on the general system.

We have no experience in this respect.

4. (a) Is the general system applied in your country each time the conditions for automatic recognition are not met? (b) What are in your view "specific and exceptional reasons" as provided in Art. 10 (1)? (c) Are there major difficulties in the recognition procedure under the general system (e. g. burden of proof)? Please include any comments you may have on the implementation of compensation measures.

We have not faced cases when the general system should have been used.

5. What is your experience with the recognition procedure for EU citizens with professional qualifications obtained in a third country and already recognised in a first Member State (see Articles 2(2) and 3(3))?

We have no experience in this respect, we have not had applications like this.

6. Please describe the government structure of the competent authority or authorities in charge of the recognition.

According to the Hungarian Act on the recognition of foreign certificates and degrees we (Budapest Architect Chamber) are the competent authority in charge of the recognition of architect qualifications.

## **B. TEMPORARY MOBILITY (OF A SELF-EMPLOYED OR AN EMPLOYED WORKER)**

7. Are EU citizens interested in using the provisions for exercising their professional activities on a temporary and occasional basis in your Member State? How many citizens used this new system in 2008 and 2009 (per month, per year)<sup>2</sup>?

Up to this date one foreign citizen expressed his interest in exercising professional activity on a temporary and occasional basis, but the said person decided not to provide the service.

8. How are the provisions of Directive 2005/36/EC concerning temporary mobility applied by the competent authorities in practice taking into account the relevant provisions of the Code of Conduct? For instance:

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<sup>2</sup> Please provide this information unless it has already been provided to the Commission in the Database on Regulated Professions

- How is the "legal establishment" criteria foreseen by Article 5(1) (a) interpreted in practice? What conditions does a migrant need to fulfil in his home Member State in order to be able to provide services?
- How are the "temporary and occasional basis" criteria foreseen by Article 5.2 interpreted in practice? Do Member States assess duration, frequency, regularity and continuity of an activity and if so according to which criteria?

We have no experience in this respect.

9. (a) Do you have a prior declaration system? (b) If so, please indicate why it is necessary? (c) What do competent authorities do with the information received? (d) Are other possibilities conceivable?

We have no experience in this respect.

### **C MINIMUM TRAINING REQUIREMENTS**

10. To what extent are the common minimum requirements for training set out in Title III Chapter III of Directive 2005/36/EC in line with scientific progress and professional needs in the last ten years? Are the knowledge and skills outlined in Article 46 still relevant and up to date? Please specify.

As far as we know, negotiations concerning this respect are held by the Chamber of Hungarian Architects.

11. (a) How long is the duration of the training for architects under your national law? (b) In how many years do you cover all 11 items as listed in Article 46?

In Hungary the architects obtain the 11 competences during 5 years.

12. The Directive is based on mutual trust between Member States. (a) To what extent is such trust actually achieved? (b) Are training programmes accredited by external bodies in your country? (c) Does accreditation of a training program in another Member State enhance trust or is it not relevant?

- a) There is a high level of mutual trust.
- b) We have no information in this field, we recommend that you contact the Chamber of Hungarian Architects.

13. (a) To what extent are the existing Directive provisions (see recital 39 and Article 22(b) on continuous professional development (continuous training) adequate? (b) Is continuous training mandatory in your country and what are the exact conditions?

- a) We have no information in this field, we recommend that you contact the Chamber of Hungarian Architects.
- b) The continuous training is mandatory in Hungary, the detailed regulations can be found in Government decree no. 103/2006. (IV.28.).





- in case of temporary services: procedural fee: 25.125.-Ft

20. What is your experience with training provided by franchising universities?

We have no information about that.

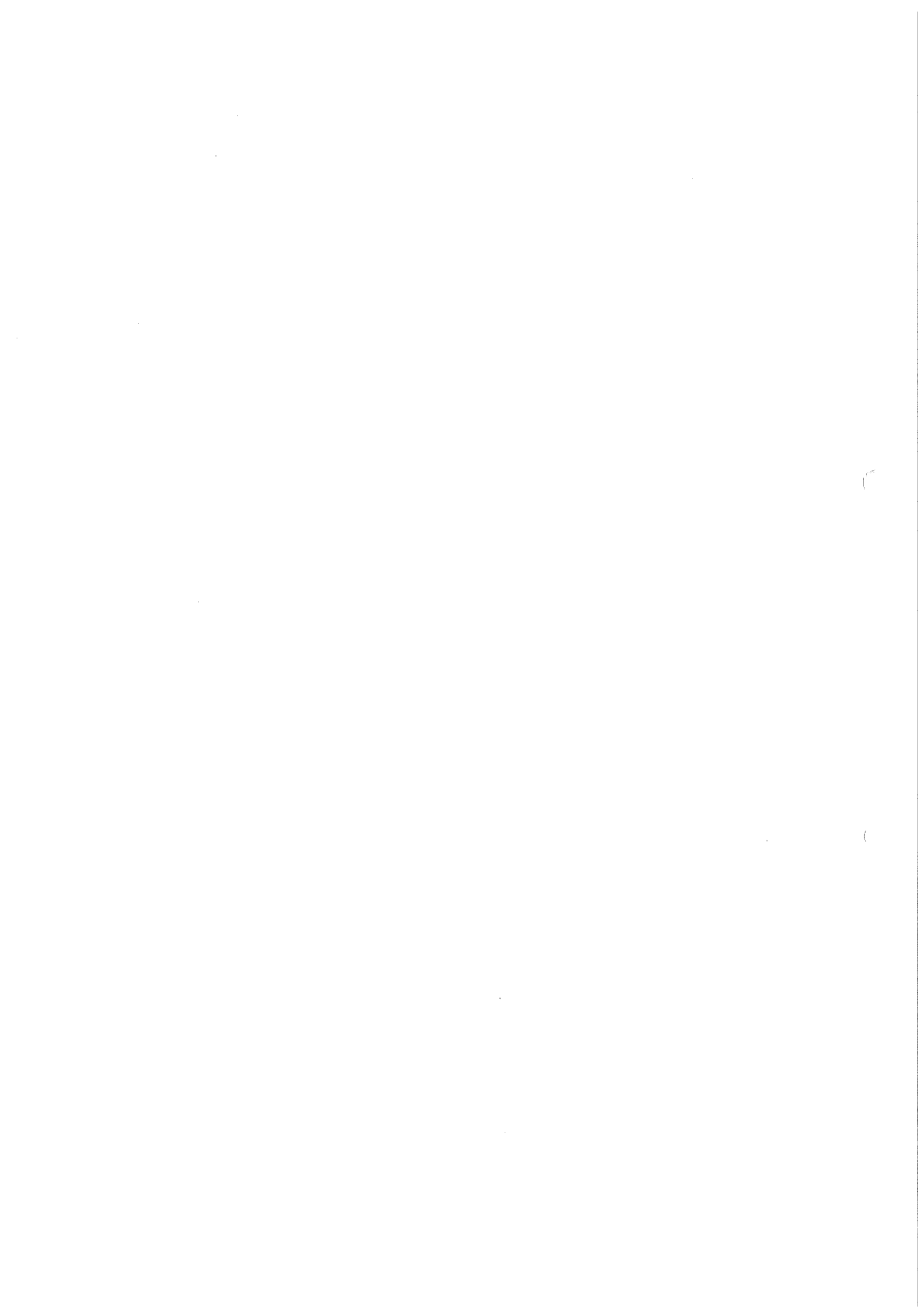
21. Have you encountered particular problems with non-EU nationals with qualifications listed in Annex V being treated differently to EU nationals with the same listed qualifications?

No, we have not.

22. (a) What are the experiences of (outgoing) architects from your country who (would like to) practice in another Member State? (b) Are there in particular problems if the profession of an architect is not regulated in your country? (c) What feedback do you have from incoming migrants on the assistance they have been given by their home Competent Authority? (a general response without naming any Competent Authority in particular is expected)

Unfortunately, we have no (or very little) information about how outgoing architects can practice their profession in foreign countries.  
Architect is a regulated profession in Hungary.

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**Evaluating the Professional Qualifications Directive**  
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**POSSIBLE QUESTIONNAIRE FOR EACH SECTORAL PROFESSION**

**Periti Warranting Board**

**(ARCHITECTS - MALTA)**

**A. RECOGNITION PROCEDURE IN CASE OF MIGRATION ON A PERMANENT BASIS**

1. Do you accept applications from EU citizens for the recognition of foreign diplomas sent by email or requests made on line? Under which conditions can they send documents and declarations electronically? What are your experiences in this respect?
  - Yes we do accept applications from EU Citizens by email.
  - Our experience is very limited so we cannot comment.
2. What is the yearly number of applications for recognition from 2000 to 2009? Please submit specific data for applications for automatic recognition based on diplomas, automatic recognition based on acquired rights (as from 2005), and recognition based on the general system<sup>1</sup>.
  - The following data is being given as from May 2004, the date of admission of Malta in the EU. (Appendix 'A')
  - In addition there were 122 Maltese applicants whose qualifications were obtained prior to May 2004 (from 2000 to 2004) and 170 Maltese applicants whose qualifications were obtained from mid-2004 to 2009.
3. To what extent have the system of automatic recognition and the general system been a success? How do you see the costs and benefits? Specify in particular whether automatic recognition based on diploma, Annex V and the current notification system represent an efficient way to facilitate automatic recognition. Please submit comments for:
  - automatic recognition based on diploma
  - automatic recognition based on acquired rights
  - recognition based on the general system.
  - As we have had limited experience it is not possible to declare whether it has been successful or not.

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<sup>1</sup> Please provide this information unless it has already been provided to the Commission in the Database or the implementation reports.

4. Is the general system applied in your country each time the conditions for automatic recognition are not met? Are there major difficulties in the recognition procedure under the general system? Please include any comments you may have on the implementation of compensation measures.

- So far there were very few applications and a reply cannot be based on insufficient data.

5. What is your experience with the recognition procedure for EU citizens with professional qualifications obtained in a third country and already recognised in a first Member State (see Articles 2(2) and 3(3))?

- To date there were no such cases.

6. Please describe the government structure of the competent authority or authorities in charge of the recognition.

- Composition of Periti Warranting Board
  - a) A chairman to be appointed by the Minister from among persons who are or have been qualified to be appointed judges in Malta.
  - b) Two members appointed by the Minister from among warrant holders, who have held their warrant for at least eight years.
  - c) Two members appointed by the Kamra from among warrant holders who have held their warrant for at least eight years; and
  - d) Two members who shall be elected by secret ballot by warrant holders from among themselves.

#### **B. TEMPORARY MOBILITY (OF A SELF-EMPLOYED OR AN EMPLOYED WORKER)**

7. Are EU citizens interested in using the provisions for exercising their professional activities on a temporary and occasional basis in your Member State? How many citizens used this new system in 2008 and 2009 (per month, per year)<sup>2</sup>?

- No such applications have ever been recorded.

8. How are the provisions of Directive 2005/36/EC concerning temporary mobility applied by the competent authorities in practice taking into account the relevant provisions of the Code of Conduct? For instance:

- How is the "legal establishment" criteria foreseen by Article 5(1) (a) interpreted in practice? What conditions does a migrant need to fulfil in his home Member State in order to be able to provide services?
- How are the "temporary and occasional basis" criteria foreseen by Article 5.2 interpreted in practice? Do Member States assess duration, frequency, regularity and continuity of an activity and if so according to which criteria?
- So far there haven't been such applications, so no comment can be made.

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<sup>2</sup> Please provide this information unless it has already been provided to the Commission in the Database or the implementation reports.

9. Why is a prior declaration system necessary? What do competent authorities do with the information received? Are other possibilities conceivable?

- We are not in a position to give satisfactory information.

#### **C MINIMUM TRAINING REQUIREMENTS**

10. To what extent are the common minimum training requirements set out in Title III Chapter III of Directive 2005/36/EC and the compulsory training subjects as defined in Annex V in line with scientific progress and professional needs?

- Although in general they are adequate, they should be reviewed periodically.

Furthermore, are the knowledge and skills required by the directive still relevant and up to date? Please specify.

- Mainly yes. There may be more emphasis on sustainability and conservation.

What about the conditions relating to the duration of training?

- They are relevant.

11. To what extent are the common minimum requirements for training set out in Title III Chapter III of Directive 2005/36/EC in line with scientific progress and professional needs in the last ten years? Are the knowledge and skills outlined in Article 24.3 still relevant and up to date? Please specify. What about the conditions relating to the duration of training?

- Not applicable.

12. The Directive is based on mutual trust between Member States. To what extent is such trust actually achieved? Are training programmes accredited in your country? Does accreditation of a training program in another Member State enhance trust or is it not relevant?

- By and large, trust is achieved. Yes, training programmes are accredited in our country.

13. To what extent are the existing Directive provisions (see recital 39 and Article 22(b) on continuous professional development (continuous training) adequate?

- It is adequate.

Is continuous training mandatory in your country and what are the exact conditions?

- No, it is not mandatory.

#### **D. ADMINISTRATIVE COOPERATION**

14. To which extent does administrative cooperation, as outlined in Articles 8, 50, and 56 of the Directive, simplify procedures for the migrant professionals?

- Still there have been an insufficient number of cases to be able to provide acceptable response.

15. Is the competent authority in your country registered with IMI? Under which circumstances does your competent authority use IMI? If not registered, why not and what would be the conditions for changing this situation?

- Yes, it is registered with IMI. So far, it has only been used for external requests.

16. How could a professional card (see Recital 32 of the Directive) facilitate recognition of professional qualifications and provision of temporary services? Under which conditions could it be issued by professional associations?

- It does help, it can facilitate conformity with the regulations for registration particularly with temporary services.
- It could be used in cases where Professional Associations are a Competent Authority.

17. How do you share information about suspensions/restrictions with competent authorities in other Member States? Could more be done in this respect?

- There were no such cases

#### **E. OTHER OBSERVATIONS**

18. How and when are the necessary language skills of migrants checked after recognition of the professional qualifications? Are you aware of any complaints (especially from patients/clients/employers) about insufficient language skills of migrants?

- We do not have such awareness.

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**APPLICATION FOR RECOGNITION 2004 - 2009**  
**ARCHITECTS MALTA**

Name	Date of Application	Nationality	Academic Qual.	Professional Status			Recognition			Received Warrant
				Arch.	Civil Eng.	Struc. Eng.	Based on Dipl.	Based on Acquired Rights (As from 2005)	Based on General System	
Dr. Maria Angela Bocchi	27/10/04	Italian	Graduated in Architecture	✓			✓			Pending
S.C. Krassimir D. Konaktchiev	25/06/05	Bulgarian	Civil Engineer		✓				✓	Pending
Andrea Nicole Schmidt	30/12/05	German	Degree in Architecture (Diploma); W14146-Rhineland Pfalz; Prof No.340-Teramo					✓		In Progress
Francesco Becci	22/05/09	Italian	Diploma in Architecture, 1st Level Degree Course - 3yrs	✓					?	Pending
Ernst C. Pienar	27/07/09	African	Civil/Structural Engineer		✓	✓			✓	Refused

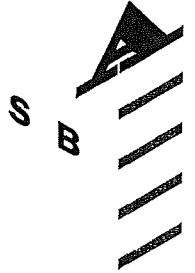
MALTA

Name	Date of Application	Nationality	Academic Qual.	Professional Status			Recognition			Received Warrant
				Arch.	Civil Eng.	Struc. Eng.	Based on Dipl.	Based on Acquired Rights (As from 2005)	Based on General System	
Andrea Sammut	01/10/09	Maltese	B.Eng. In Civil Eng.,(2004-2008 Loughborough), Msc in Struc. Eng. - Manchester (2008-2009)		✓	✓			✓	In Progress
Matthew Grech	15/10/09	Maltese	Degree in Arch. BA Part 1 RIBA (3 yrs) London, 2 year Mas/Dip in Arch. RIBA Part 2 incl. in Q. Dir. Annex Pg 134	✓			✓			In Progress
Steve DeMicoli	21/12/09	Maltese	RIBA Part 1 (3 yrs), RIBA Part 2 - London (2 yrs), Inc. in Q. Dir. Annex Pg 134	✓			✓			In Progress



**Evaluating the Professional Qualifications Directive**  
**Experience reports from competent authorities**  
**(ARCHITECTS)**

**RESPONSE FROM THE SBA (NL)**



**A. RECOGNITION PROCEDURE IN CASE OF MIGRATION ON A PERMANENT BASIS**

1. *(a) Do you accept applications from EU citizens for the recognition of foreign diplomas sent by email or requests made on line? (b) Under which conditions can they send documents and declarations electronically? (c) What are your experiences in this respect?*

a) Yes.

b) As a matter of principle EU citizens can send in all the documents and declarations electronically. We do however ask for proof of the authenticity of formal qualifications awarded in another Member State. According to Article 50(2) of the Directive in cases of doubt we require from the competent authority of the home Member State confirmation of the authenticity of the formal qualification. This may be problematic, for example because the competent authority is not in a position to confirm the authenticity or because it is not allowed to provide information about the applicant. In those cases we recommend the EU citizen to provide a certified copy of the formal qualification.

c) The procedure usually does not cause major problems.

2. *What is the yearly number of applications for recognition from 2000 to 2009. Please submit specific data for applications for automatic recognition based on diplomas, automatic recognition based on acquired rights (as from 2005), and recognition based on the general system. Please verify first the data in the Regulated Professions Database.*

In the period 2000 -2009 the yearly number of automatic recognised diplomas awarded in other EU Member States (incl. Iceland, Liechtenstein, Norway and Switzerland) based on Directive 85/384 and Directive 2005/36, is as follows:

2000: 118  
2001: 189  
2002: 108  
2003: 148  
2004: 91  
2005: 111  
2006: 97  
2007: 117  
2008: 110  
2009: 97

These recognitions are automatic recognitions of diplomas based on Article 2 (and the List drawn up by the Commission pursuant to Article 7) and Articles 10/11 of Directive 85/384 and Articles 20/46/Annex V.7 and Article 49/Annex VI of Directive 2005/36.

There is no information available about how many recognitions as from 2005 are based on recognition of acquired rights.

Only two recognitions were based on the general system.

3. (a) *To what extent have the system of automatic recognition and the general system been a success? (b) How do you see the costs and benefits? Specify in particular whether automatic recognition based on diploma, Annex V and the current notification system represent an efficient way to facilitate automatic recognition. Please submit comments for:*
- *automatic recognition based on diploma*
  - *automatic recognition based on acquired rights (Art. 49 – Annex VI)*
  - *recognition based on the general system.*

a) The system of automatic recognition based on diplomas (Article 46 – Annex V.7) or on acquired rights (Art. 49 – Annex VI) is of great importance for the free movement of architects within the EU and works very well. The general system is in our opinion less successful and burdensome in its application (the SBA has experience in the application of the general system in the field of urbanism, landscape architecture and interior architecture). Compared to the general system, the system of automatic recognition of diplomas/professional qualifications in the field of architecture is quick, light and easy.

b) With regards to the costs and benefits it must be admitted that the current notification system of diplomas/qualifications seems not to be very efficient. We are worried about the functioning and position of the (members of the) Sub-Group in charge of architectural diplomas. Especially when many notifications are communicated in a short period, it is practically impossible for the members to pay the necessary attention to all notifications. The information provided by notifying Member States is not always as clear as could be and the Sub-Group members must be struggling with the many documents that are often in a language that they do not understand. Nevertheless: in our opinion the costs of the system of automatic recognition are outweighed by its benefits. It might be worth while to look for solutions to facilitate the work of the Sub-Group members in order to make their work more effective.

We would also like to make a remark about (the status of) Annex V.7 of the Directive. This Annex is more or less copied from the "List of diplomas in Architecture which are the object of mutual recognition by the Member States", drawn up pursuant to Article 7 of Directive 85/384/EEC. There is an important difference however. Where the List of Article 7 of Directive 85/384/EEC is dealing with diplomas only, Annex V.7, especially by the way column 4 is going to be filled in by the Member States, is developing into a list of requirements that a national of a home Member State must meet before he or she is considered a "fully qualified architect". In Directive 2005/36/EU we see no legal basis however for this status of Annex V.7 (column 4). We consider it of importance that there will be no difference of opinion about the status of this important Annex between the Commission, the Member States and the competent authorities. For this reason we recommend to lay down the status of Annex V.7 (not only a list of diplomas recognised pursuant to Article 46 as it is now) in the Directive.

4 (a) *Is the general system applied in your country each time the conditions for automatic recognition are not met? (b) What are in your view "specific and exceptional reasons" as provided in Art. 10 (1)? (c) Are there major difficulties in the recognition procedure under the general system (e.g. burden of proof)? Please include any comments you may have on the implementation of compensation measures.*

According to the current Dutch legislation (Architects Title Act) the general system has to be applied each time an applicant for registration holds a diploma that does not meet the conditions for automatic recognition. This legislation has recently been amended (Act of 4 March 2010), but is not yet in force; this is expected for 1 January 2011. According to the amended legislation the general system has to be applied only when the migrant is for specific and exceptional reasons not in the possession of a formal qualification listed in Annex V.7.

b) The "specific and exceptional" reasons are not defined in the Architects Title Act. A reference may be found in the Judgement of the Court in the Dreessen-case, but that Judgment dealt with a diploma that did not comply with Article 11 of Directive 85/384 i.e. "acquired rights (now Annex VI of Directive 2005/36), while Article 10(c) of Directive 2005/36 speaks about formal qualifications that are not listed in Annex V.7. This is noteworthy, because Member States may at any time notify formal qualifications that are not (yet) listed in Annex V.7. If they see no reason to do this, why should there be a reason for the competent authority of a host Member State to apply the general system because of specific and exceptional reasons? In our opinion the "specific and exceptional reasons" clause narrows the application of the general system and it should only be applied in exceptional situations, for example when an applicant is holding a diploma that is already notified, meets no objections by other Member States or the Commission, but is not yet added to Annex V.7.

c) As follows from the answer to question 3, the application of the general system is quite burdensome. Our experience is primarily based on the application of the general system to urbanists, landscape architects and interior architects (so not to architects). According to the general system, host Member States have to compare the education/ training received by the applicant in the home Member State with the national education/training and then they have to decide whether there are substantially different matters in the education/training abroad and at home or whether the profession at home comprises professional activities which do not exist in the applicants home Member State. This can be very complicated, especially when the profession is differently regulated in the various Member States. Compensation measures may only concern substantially different matters in the educational system and/or differences in professional activities, This is very difficult to decide upon for a competent authority. Moreover it is not always easy to decide upon the kind of compensation measure. In most cases it is not a matter of "doing" some additional subjects or courses at a university or comparable educational establishment. It is our experience that decisions based on the application of the general system easily evoke appeals and juridical procedures.

*5. What is your experience with the recognition procedure for EU citizens with professional qualifications obtained in a third country and already recognised in a first Member State (see Articles 2(2) and 3(3))?*

Up to the present we have received only a few requests for information about the possibilities to be registered in the Dutch Architects Register from EU citizens who obtained their qualification in a third country and which has already been recognised in another EU Member State (for example Spanish nationals who studied in South America or Mexico). We provide them with information about the Articles 2(2) and 3(3) of Directive 2005/36 and the current Dutch legislation. We have not yet received any applications from EU citizens with professional qualifications obtained in a third country and already recognised in a first Member State.

*6. Please describe the government structure of the competent authority or authorities in charge of the recognition.*

The Stichting bureau Architectenregister (SBA) is an independent authority established by the Architects Title Act to maintain the Architects Register. Directive 2005/36 is transposed into this Act. In the Architects Title Act (Article 3) the SBA is designated as the competent authority ex Article 56 of Directive 2005/36 for architects (and urbanists, landscape architects and interior architects as well). The legal status of the SBA is that of a private body according to Dutch legislation, but will as from 1 January 2011 be changed into a public body. The SBA is accountable to the Minister of Housing, Spatial Planning and the Environment.

## **B. TEMPORARY MOBILITY (OF A SELF-EMPLOYED OR AN EMPLOYED WORKER)**

*7. Are EU citizens interested in using the provisions for exercising their professional activities on a temporary and occasional basis in your Member State? How many citizens used this new system in 2008 and 2009 (per month, per year)?*

EU citizens show no interest in using the provisions for exercising their professional activities on a temporary and occasional basis in the Netherlands. The reason for this is a.o. that there is no legal protection of the function of architect in the Netherlands and the registration procedure (to be entitled to use the title "architect") is easy. A registered person may at any time require the deletion of his name from the Register and can at any time apply for reregistration.

*8. How are the provisions of Directive 2005/36/EC concerning temporary mobility applied by the competent authorities in practice taking into account the relevant provisions of the Code of Conduct? For instance:*

- *How is the "legal establishment" criteria foreseen by Article 5(1)(a) interpreted in practice? What conditions does a migrant need to fulfil in his home Member State in order to be able to provide services?*
- *How are the "temporary and occasional basis" criteria foreseen by Article 5(2) interpreted in practice? Do Member States assess duration, frequency, regularity and continuity of an activity and if so according to which criteria?*
- *Do you charge a fee for temporary services? If yes, how much?*

From the answer to question 7 it follows that we have up till now no experience with the application of these provisions.

- According to the Dutch legislation (Architects Title Act) any EU citizen is allowed to provide (temporary) services in the field of architecture in the Netherlands. If an EU citizen wishes to be registered as a service provider in order to be able to use the architects title in the Netherlands, the applicant has to provide a certificate stating that he/she is legally established in the home Member State for the purpose of pursuing the profession of architect. It is up to the competent authority of the home Member State to decide under which conditions this certificate will be issued. If the applicant presents proof of membership or registration in the home Member State, this will be acceptable in the Netherlands.

- There will be no restrictive interpretation on the "temporary and occasional basis" criteria. The applicant decides himself whether to apply for registration in the Architects Register on the basis of establishment or for temporary mobility. When he/she chooses for registration on a temporary basis, he/she may extend the registration every time with a year if that is necessary for the provision of the service.

- If an EU citizen wishes to be registered as a service provider, he/she has to pay an entrance fee of € 59 and a yearly contribution that amounts € 55 in 2010.

*9. (a) Do you have a prior declaration system? (b) If so, please indicate why it is necessary? (c) What do competent authorities do with the information received? (d) Are other possibilities conceivable?*

There is no prior declaration system in the Netherlands concerning architects.

## **C. MINIMUM TRAINING REQUIREMENTS**

*10. To what extent are the common minimum requirements for training set out in Title III Chapter III of Directive 2005/36/EC in line with scientific progress and professional needs in the last ten years? Are the knowledge and skills outlined in Article 46 still relevant and up to date? Please specify.*

The minimum training requirements set out in Article 46 of Directive 2005/36/EC stem from Directive 85/384/EC and are in force as from 1985. Since then there has been no need to adjust or update these requirements. It is our opinion that the requirements need no review

on the short term. As far as we can see, the knowledge and skills outlined in Article 46 are still relevant for the profession and are up to date.

11. (a) *How long is the duration of the training for architects under your national law? (b) In how many years do you cover all 11 items as listed in Article 46?*

- a) 5 years for the Technical Universities; 8 years for the "Academies van Bouwkunst" (4 years bachelor Higher Vocational Education + 4 years Master Course at the Academies)
- b) 5 years and 8 years respectively.

12. *The Directive is based on mutual trust between Member States. (a) To what extent is such trust actually achieved? (b) Are training programmes accredited by external bodies in your country? (c) Does accreditation of a training program in another Member State enhance trust or is it not relevant?*

- a) We rely on the information presented by competent authorities from other Member States. The ENACA plays an important role in the trust we have in our fellow competent authorities, represented in the ENACA.
- b) Yes, the training programmes in the field of architecture are accredited by the Dutch/ Flemish Accreditation Organisation (NVAO), an independent organisation established by the Higher Education and Scientific Research Act.
- c) In general: yes.

13. (a) *To what extent are the existing Directive provisions (see recital 39 and Article 22(b)) on continuous professional development (continuous training) adequate? (b) Is continuous training mandatory in your country and what are the exact conditions?*

- a) The Directive provisions with regard to CPD (continuous training) are raising questions, such as: what is the meaning of the word "ensure" in Article 22 (b)? Is it for example "ensured" that an architect will keep abreast of professional developments if only CPD is offered leaving it up to the architect to make use of it?
- b) According to the Architects Title Act the Dutch architect is obliged to spend at least 16 hours per year on CPD that must meet certain quality criteria. The CPD is not monitored by the SBA, the Government or any other organisation. In case of a commission a principal may ask the architect if and to what extent he is abreast of the professional developments.

#### **D. ADMINISTRATIVE COOPERATION**

14. *To which extent does administrative cooperation as outlined in Articles 8, 50 and 56 of the Directive, simplify procedures for the migrant professionals?*

In general the information and documents presented by an applicant for registration in the NL are sufficient for us to decide on the application. Whenever we have doubt about the (authenticity of the) documents or about the applicant himself, it is of importance that the competent authorities of home Member States can provide information and assistance to facilitate the registration procedure. The experience we have with the assistance by the competent authorities of a number of Member States is positive.

15. (a) *Is the competent authority in your country registered with IMI? (b) Under which circumstances does your competent authority use IMI? (c) What are your experiences? (d) If not registered, why not and what would be the conditions for changing this situation?*

- a) Yes
- b) We only use IMI when we need information from a competent authority that is not familiar to us (i.e. authorities that are not represented in the ENACA).
- c) We seldom use IMI and in the cases we do, the response is generally rather poor.

16. (a) *How could a professional card (see Recital 32 of the Directive) facilitate recognition of professional qualifications and provision of temporary services? (b) Under which conditions could it be issued by professional organisations?*

If the automatic recognition system of Directive 2005/36/EC is working properly and the competent authorities keep collaborating as they do now, there will be little need for a professional card for architects. If there are no major problems in the free movement of architects, we do not see for what problem a professional card will be the solution. As far as we know, the ACE is exploring possibilities for an ARCHcard for EU architects. We will follow the developments with interest.

17. *How do you share information about suspensions/restrictions with competent authorities in other Member States?*

In the Netherlands there are no legal provisions on suspension or restriction in the practising of the profession of architect. If competent authorities of other Member States require a certificate that a Dutch architect is not prohibited from practising the profession, we will inform them about the legal provisions in the Netherlands along with the announcement that as far as the SBA knows, there are no measures or disciplinary actions taken against the Dutch architect concerned.

#### **E. OTHER OBSERVATIONS**

18. (a) *How and when are the necessary language skills of migrants checked after recognition of the professional qualifications? (b) Are you aware of any complaints (especially from patients/clients/employers) about insufficient language skills of migrants? (c) If serious doubts about language skills have arisen which action do competent authorities undertake towards the migrant?*

- a) In the Netherlands there is no check on language skills of migrants.
- b) No.
- c) We are not aware of any serious doubts about language skills.

19. *Are there any considerable cost implications for the migrant? Please specify the fees involved with establishment and the fees involved with temporary services.*

For registration in the Dutch Architects Register an entrance fee of € 59 has to be paid. The yearly contribution for registration amounts (anno 2010) € 55 per year. There is no tariff differentiation between migrants who wish to establish or to provide temporary services. Due to the fact that the fees are relatively modest, there is little need for migrants to apply for registration on a temporary basis.

20. *What is your experience with training provided by franchising universities?*

We have no experience with training provided by franchising universities.

21. *Have you encountered particular problems with non-EU nationals with listed qualifications listed in Annex V being treated differently to EU nationals with the same listed qualifications?*

It sometimes occurs that a Member State does not provide information about whether a diploma, obtained by a non-EU national in that Member State, complies with the criteria of Article 46 of the Directive. The reason for this seems to be that the provisions of the Directive are according to the national legislation in that Member State not applicable to non-EU nationals.

22. (a) *What are the experiences of (outgoing) architects from your country who (would like to) practice in another Member State? (b) Are there in particular problems if the profession of an architect is not regulated in your country? (c) What feedback do you have from incoming migrants on the assistance they have been given by their home Competent Authority? (a general response without naming any Competent Authority in particular is expected)*

a) In general the outgoing Dutch architects do not face serious problems when they wish to work in other Member States. They sometimes complain about the bureaucracy and the number of documents they have to present to the competent authority in a host Member State. Architects often think there is an automatic recognition of registrations in the EU and they might get disappointed experiencing that Directive 2005/36/EC is dealing with the recognition of professional qualifications.

b) The architects' profession is regulated in the Netherlands in so far as the use of the title architect is limited to persons who hold a professional qualification that meets the criteria of Article 46 of the Directive and who are registered in the Architects Register. For registration no professional experience is required. As a result, persons holding a professional qualification and who are registered in the Architects Register, are as such "fully qualified architects" in the NL. According to the Directive the competent authority of a host Member State shall have to recognise the professional qualification of the Dutch architect for access to and pursuit of the profession in the host Member State, even if in that Member State nationals have to undergo a period of professional experience before being "fully qualified". This may cause problems, but until now no complaints of Dutch architects have been received.

It should be noted that according to the Act of 4 March 2010 amending the Architects Title Act, two years of professional experience after finishing the studies will be required for registration as an architect in the NL. The main reasons for introducing this requirement is that a period of professional training complementary to the academic study has proved to be indispensable to the autonomous practice of the profession of architect and that the Dutch legislation keeps pace with that of most other EU Member States. This new Dutch legislation will be in force in a few years time (probably as of 1 January 2015).

c) In general the incoming migrants have no serious complaints on the assistance they received by their home Competent Authority.





**Evaluating the Professional Qualifications Directive**  
**Experience reports from competent authorities**  
**(ARCHITECTS)**

*This questionnaire does not need to be answered in full, and respondents are welcome to address topics not included in the questions. The purpose of the questionnaire is to prompt the experience reports which are a key part of the fact-finding phase of the evaluation.*

Austrian answers by the Federal Chamber of Architects and Chartered Engineering Consultants (contact: [cornelia.hammerschlag@arching.at](mailto:cornelia.hammerschlag@arching.at)) and the Competent Authority for Architects – Federal Ministry of Economy, Family and Youth - Sektion/Abteilung: I/3 (contact: [franz.einfalt@bmwfj.gv.at](mailto:franz.einfalt@bmwfj.gv.at))

**A. RECOGNITION PROCEDURE IN CASE OF MIGRATION ON A PERMANENT BASIS**

1. (a) Do you accept applications from EU citizens for the recognition of foreign diplomas sent by email or requests made on line? (b) Under which conditions can they send documents and declarations electronically? (c) What are your experiences in this respect?
2. What is the yearly number of applications for recognition from 2000 to 2009? Please submit specific data for applications for automatic recognition based on diplomas, automatic recognition based on acquired rights (as from 2005), and recognition based on the general system<sup>1</sup>. Please verify first the data in the Regulated Professions Database.

data not available

3. (a) To what extent have the system of automatic recognition and the general system been a success?

See below

*(b) How do you see the costs and benefits? Specify in particular whether automatic recognition based on diploma, Annex V and the current notification system represent an efficient way to facilitate automatic recognition. Please submit comments for:*

- *automatic recognition based on diploma*

The system of automatic recognition definitely makes professional recognition easier and faster, which is positive.

In practise it can be a problem that the scope of the profession differs very much in the different European Countries. In Austria it is very wide and many tasks that are part of the architectural profession in Austria are not part of it in other European countries. This leads to the situation that Architects from other European countries with a smaller scope of the profession in practice do things in Austria for which they are not experienced.

<sup>1</sup> Please provide this information unless it has already been provided to the Commission in the Database or the implementation reports.

For an evaluation of the automatic recognition system it is important to compare the relation of efforts and benefits of this system and to realise that even though it makes professional recognition easier it does not automatically provide market access. There are a lot of additional barriers which undermine the professional recognition making it practically impossible to use the recognition due to national regulations e.g. in building laws. This happens also very much in countries with no regulated professional recognition.

- *automatic recognition based on acquired rights (Art. 49 – Annex VI)*
- *recognition based on the general system.*

The system of automatic recognition does not make sense if it is undermined due to the application of the general system in all cases in which the requirements for automatic recognition are not fulfilled. This has led to cases in which persons with no University degree got registered as architects in other than their Member states of origin via the general recognition system. This is mainly due to the interpretation of Art. 13 of the Professional Qualifications Directive, allowing a level of professional qualification prior to the level which is allowed in the host Member state. Implementation measures are essential for such cases but are of course not able to compensate missing University degrees. The principle of automatic recognition is the trust that architects from any European country are well educated and trained according to their system and therefore have the ability to provide their services in any other European countries. This trust is/was not easy to achieve and relates to **architects** only – so the situation that non-architects in the country of origin can become architects in another country via the general system of recognition is against the basic principle of automatic recognition and does not at all help to enforce mobility and mutual trust.

4. (a) *Is the general system applied in your country each time the conditions for automatic recognition are not met?*

yes

(b) *What are in your view "specific and exceptional reasons" as provided in Art. 10 (1)?*

???

(c) *Are there major difficulties in the recognition procedure under the general system (e. g. burden of proof)? Please include any comments you may have on the implementation of compensation measures.*

5. *What is your experience with the recognition procedure for EU citizens with professional qualifications obtained in a third country and already recognised in a first Member State (see Articles 2(2) and 3(3))?*

no experience

6. *Please describe the government structure of the competent authority or authorities in charge of the recognition.*

A formal procedure is only foreseen in cases of establishment (for temporary mobility see question 7.): Competent Authority for the professional recognition of Architects is the Federal Ministry of Economy, Family and Youth (Sektion/Abteilung: I/3). The professional authorization is awarded by the Minister. The Chambers of Architects and Chartered Engineering Consultants - which are public bodies - have a legal right to be heard in the authorization process but also play an important practical role in the procedure. EU Architects who want to apply for the professional authorization have to file their application with the necessary enclosures directly at one of the four regional Chambers of Architects and Chartered Engineering consultants. The Chamber assesses the application, gives an expertise on it and forwards both to the Minister who decides on the application.

**B. TEMPORARY MOBILITY (OF A SELF-EMPLOYED OR AN EMPLOYED WORKER)**

7. *Are EU citizens interested in using the provisions for exercising their professional activities on a temporary and occasional basis in your Member State? How many citizens used this new system in 2008 and 2009 (per month, per year)<sup>2</sup>?*

Yes, the Chambers of Architects and Chartered Engineering Consultants get a lot of requests from EU Architects who want to apply temporary services. The Austrian system has been changed in 2008. For temporary services a registration with the Chambers of Architects and Chartered Engineering Consultants is no longer necessary. The EU Architect only has to inform the client about his/her registration in the Member state of origin, about his/her competent authority, the professional organisations in which he/she, his/her professional insurance, VAT number and professional qualification/title. Due to this system no data is available on how many citizens have used the system in 2008 and 2009. The citizens who use the systems do not have to get in contact with the Chambers of Architects and Chartered Engineering Consultants or the Ministry any more so there is no assessment or requirement check.

8. *How are the provisions of Directive 2005/36/EC concerning temporary mobility applied by the competent authorities in practice taking into account the relevant provisions of the Code of Conduct? For instance:*

see above question 7 – there is no assessment or requirement check

- *How is the "legal establishment" criteria foreseen by Article 5(1) (a) interpreted in practice? What conditions does a migrant need to fulfil in his home Member State in order to be able to provide services?*

See above – no assessment

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<sup>2</sup> Please provide this information unless it has already been provided to the Commission in the Database on Regulated Professions

- *How are the “temporary and occasional basis” criteria foreseen by Article 5.2 interpreted in practice? Do Member States assess duration, frequency, regularity and continuity of an activity and if so according to which criteria?*

See above – no assessment

9. (a) *Do you have a prior declaration system?*

No, see Question 7

*(b) If so, please indicate why it is necessary? (c) What do competent authorities do with the information received? (d) Are other possibilities conceivable?*

### C MINIMUM TRAINING REQUIREMENTS

10. *To what extent are the common minimum requirements for training set out in Title III Chapter III of Directive 2005/36/EC in line with scientific progress and professional needs in the last ten years? Are the knowledge and skills outlined in Article 46 still relevant and up to date? Please specify.*

Yes, they are still in line with scientific progress and professional needs. In point (i) the aspect of sustainability could be added.

11. (a) *How long is the duration of the training for architects under your national law? (b) In how many years do you cover all 11 items as listed in Article 46?*

The minimum education requirement in Austria is 5 years, additionally 3 years of professional practice and a professional examination are necessary to become an Architect in Austria.

Coverage of the 11 items 5 years.

12. *The Directive is based on mutual trust between Member States. (a) To what extent is such trust actually achieved? (b) Are training programmes accredited by external bodies in your country? (c) Does accreditation of a training program in another Member State enhance trust or is it not relevant?*

The trust between Member states in view to architectural University educations is achieved in a high degree. More problematic is the trust in polytechnics/technical colleges providing architectural education – the quality of such educations is in many cases not seen as equivalent to the University educations or is at least very difficult to look through as there are more and more training programs are “emerging”. Another problem in view to trust is the Bachelor /Master System, which can make the assessment of the quality of an education more difficult (the combinations are not easy to look through, the system gives a high pressure to students who have to study almost the same amount of knowledge in a shorter time, ...).

It is doubtful if these problems of trust can be completely overcome by an accreditation system.

Universities in Austria are independent in creating the training programmes.

Altogether it has to be noted that the fact, that Austrian Architects still have experienced problems in the recognition procedure seems to show that the trust has not been completely achieved until now.

13. (a) *To what extent are the existing Directive provisions (see recital 39 and Article 22(b) on continuous professional development (continuous training) adequate? (b) Is continuous training mandatory in your country and what are the exact conditions?*

Professional practice of three years after the degree and a professional examination are mandatory in Austria.

Further continuous training is mandatory but there are no exact conditions given (similar to Art. 22 (b) – seems to be adequate).

#### **D. ADMINISTRATIVE COOPERATION**

14. *To which extent does administrative cooperation, as outlined in Articles 8, 50, and 56 of the Directive, simplify procedures for the migrant professionals?*

Does not/hardly take place

15. (a) *Is the competent authority in your country registered with IMI? (b) Under which circumstances does your competent authority use IMI? (c) What are your experiences? (d) If not registered, why not and what would be the conditions for changing this situation?*

Yes, the competent authority and the Federal Chamber of Architects and Chartered Engineering Consultants are registered in IMI. The Federal Chamber – with the four regional Chambers - is meant to handle the requests. It was active in the pilot project of the Services directive but at the moment is not (yet) allowed to use the IMI in the real system. The reason for this is that it seems to be necessary to have a legal provision in the Austrian professional law to allow the participation of the Chamber in IMI (and according to some legal opinions it is also necessary to inform the data protection committee about which sort of dates are exchanged and await their agreement). This amendment of the law was not implemented yet.

The IMI could be a helpful tool if it would be used more widely. For complicated questions the system is too inflexible. Nevertheless the system makes clear whom to contact in order to clarify questions beyond the IMI systems, which is also helpful.

16. (a) *How could a professional card (see Recital 32 of the Directive) facilitate recognition of professional qualifications and provision of temporary services? (b) Under which conditions could it be issued by professional associations?*

A professional card could create problems of trust and misuse. To clients such a card could give the false impression that the card holder is professionally recognised.

17. *How do you share information about suspensions/restrictions with competent authorities in other Member States?*

**E. OTHER OBSERVATIONS**

18. *(a) How and when are the necessary language skills of migrants checked after recognition of the professional qualifications? (b) Are you aware of any complaints (especially from patients/clients/employers) about insufficient language skills of migrants? (c) If serious doubts about language skills have arisen which action do competent authorities undertake towards the migrant?*

There are no language checks.

We have no information about complaints about insufficient language skills.

19. *Are there any considerable cost implications for the migrant? Please specify the fees involved with establishment and the fees involved with temporary services.*

There are no fees for temporary services in Austria.

For establishment in Austria: All architects in Austria have to be member of a Chamber of Architects and Chartered Engineering Consultants (four regional Chambers) and have to pay membership fee - there are different fee systems in the regional Chambers  
<http://www.arching.at/baik/laenderkammern/content.html>

20. *What is your experience with training provided by franchising universities?*  
no experience

21. *Have you encountered particular problems with non-EU nationals with qualifications listed in Annex V being treated differently to EU nationals with the same listed qualifications?*

22. *(a) What are the experiences of (outgoing) architects from your country who (would like to) practice in another Member State? (b) Are there in particular problems if the profession of an architect is not regulated in your country? (c) What feedback do you have from incoming migrants on the assistance they have been given by their home Competent Authority? (a general response without naming any Competent Authority in particular is expected)*

The experience of outgoing Austrian Architects is very different from country to country.

A main and common problem is to get information – the relevant information about temporary provision of services / establishment in certain other countries (contact persons, registrations procedures, requirements, costs, duration...) is normally not available from any information points or competent authorities in Austria. The Chambers of Architects and Chartered Engineering Consultants try to provide this information through their contacts with other Chambers and professional organisations.

If there are no such contacts or if the competent authority for professional recognition is not the Chamber but a Ministry it is very difficult also for the Chambers to get the necessary information.

The experience until now also shows that the single points of contact also are not yet able to provide this information.

A database with the requirements / procedures / contact persons for professional recognition would be extremely helpful.

The experience also shows that in many countries there are still problems with the correct implementation of the Directive. In many cases the requirements are more extensive than it is allowed according to the Users Guide of the Professional Qualifications Directive and the Code of Conduct for competent authorities.

Language requirements are an extremely important barrier to mobility and are still used in many countries. In our view they should be abolished. It is of course necessary to be able to provide good communications, but it should be sufficient to provide it through other persons, e.g. covered an employee.

Another problem is the fact that there are still countries in which the architect who wants to provide temporary services has to become member of the professional organisation in the host country and/or has to pay normal membership fees.

One of the main problems – which was already mentioned in question 3b - is that professional recognition does not automatically gives market access. There are a lot of additional barriers which undermine the professional recognition making it practically impossible to use the recognition and work as an architect due to national regulations e.g. in building laws. This “occupational ban” happens also very much in countries with no regulated professional recognition.

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**Evaluating the Professional Qualifications Directive**  
**Experience reports from competent authorities**  
**(ARCHITECTS)**

This questionnaire does not need to be answered in full, and respondents are welcome to address topics not included in the questions. The purpose of the questionnaire is to prompt the experience reports which are a key part of the fact-finding phase of the evaluation.

**POSSIBLE QUESTIONNAIRE FOR EACH SECTORAL PROFESSION**

**A. RECOGNITION PROCEDURE IN CASE OF MIGRATION ON A PERMANENT BASIS**

1. Do you accept applications from EU citizens for the recognition of foreign diplomas sent by email or requests made on line? (b) Under which conditions can they send documents and declarations electronically? (c) What are your experiences in this respect?
  - a. Yes, we accept applications for the recognition of foreign diplomas of EU citizens sent by e-mail.
  - b. Applicants should submit copies of the documents to the National Chamber of Polish Architects together with the sworn translation into Polish (excluding documents confirming identity or citizenship of the applicants).
  - c. We have no particular problems, applicants usually submit relevant information.
  
2. What is the yearly number of applications for recognition from 2000 to 2009? Please submit specific data for applications for automatic recognition based on diplomas, automatic recognition based on acquired rights (as from 2005), and recognition based on the general system<sup>1</sup>. Please verify first the data in the Regulated Professions Database.

The following data concerns the period from 2004 to 2009:

The number of applicants for recognition- 251

The number of positive decisions- 221

The number of negative decisions- 16

The number of appeals- 15

3. To what extent have the system of automatic recognition and the general system been a success? (b) How do you see the costs and benefits? Specify in particular whether automatic recognition based on diploma, Annex V and the current notification system represent an efficient way to facilitate automatic recognition. Please submit comments for:

- automatic recognition based on diploma
- automatic recognition based on acquired rights (Art. 49 – Annex VI)

The automatic recognition based on diploma as well as on acquired rights have been successfully implemented.

The problem appeared with the applicants from countries where the profession is not regulated. We consider that apart from architecture education system, the system of minimum professional practical experience of 3 years should be introduced.

<sup>1</sup> Please provide this information unless it has already been provided to the Commission in the Database or the implementation reports.

- recognition based on the general system.

There have not been any applications for recognition based on the general system yet. However both systems - automatic and general were implemented according to Directive 2005/36/EC conditions by *the resolution of the National Council of the Chamber of Architects No. O-13-2009 of 1<sup>st</sup> April 2009 on regulations governing proceedings concerning recognition of architectural qualifications of EU member states' citizens, citizens of the Swiss Confederation and EFTA – i.e. parties to the agreement on the Economic European Area, who acquired architectural qualifications in these states – outside of the Republic of Poland (see Attachment 1 to this report).*

4. Is the general system applied in your country each time the conditions for automatic recognition are not met? (b) What are in your view "specific and exceptional reasons" as provided in Art. 10 (1)? (c) Are there major difficulties in the recognition procedure under the general system (e. g. burden of proof)? Please include any comments you may have on the implementation of compensation measures.

There have not been submitted any application forms for recognition based on the general system yet.

5. What is your experience with the recognition procedure for EU citizens with professional qualifications obtained in a third country and already recognised in a first Member State (see Articles 2(2) and 3(3))?

There were several applications according to this case with no specific problems.

6. Please describe the government structure of the competent authority or authorities in charge of the recognition.

According to the law (*the Act of 15 December 2000 on vocational self-governments of architects, construction engineers and urban planners*) the National Chamber of Polish Architects is the responsible authority for recognition of the professional qualifications of the architects.

#### B. TEMPORARY MOBILITY (OF A SELF-EMPLOYED OR AN EMPLOYED WORKER)

7. Are EU citizens interested in using the provisions for exercising their professional activities on a temporary and occasional basis in your Member State? How many citizens used this new system in 2008 and 2009 (per month, per year)<sup>2</sup>?

The interest is not very notable. So far, from 2008 we have received 8 statements on migrants' intention to provide cross-border services (including 1 statement extending the duration of providing services).

8. How are the provisions of Directive 2005/36/EC concerning temporary mobility applied by the competent authorities in practice taking into account the relevant provisions of the Code of Conduct? For instance:

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<sup>2</sup> Please provide this information unless it has already been provided to the Commission in the Database on Regulated Professions

- How is the "legal establishment" criteria foreseen by Article 5(1) (a) interpreted in practice? What conditions does a migrant need to fulfil in his home Member State in order to be able to provide services?

In order to be able to provide cross-border services a migrant should submit the statement on his/her intention to provide cross-border services and attach the following documents:

1. original<sup>3</sup> and photocopy of document confirming citizenship;
2. document issued by appropriate authority in member state, certifying that the service provider conducts legally registered architectural professional activity in the member state, and that at the date thereof he/she is not permanently or even temporarily banned from the profession;
3. original and a photocopy or a notarised copy of documents confirming service provider's professional qualifications;
4. service provider's statement consenting for district council to process his/her personal particulars for purposes involving proceedings related to provision of cross-border services and granting of temporary membership in district council – in accordance with specimen attached as appendix to these instructions.

The abovementioned statement, letters and documents concerning the proceedings must be submitted in Polish language versions or accompanied by sworn translations into Polish, with the exception of documents confirming identity and citizenship of service provider.

A service provider who intends to provide cross-border services in the future after he/she has been temporarily granted membership of district council shall be required to present the statement once a year, and in the event of any significant change in the situation, a service provider shall be required to again submit the documents.

Proceedings relating to provision of cross-border services are free of charge.

- How are the "temporary and occasional basis" criteria foreseen by Article 5.2 interpreted in practice? Do Member States assess duration, frequency, regularity and continuity of an activity and if so according to which criteria?

The procedure has been implemented according to directive conditions. In this case the National Chamber of Polish Architects also took a *Resolution No. O – 10 – II - 2009 of 1st April 2009 on instructions concerning proceedings relating to cross-border services provided by EU member Swiss Confederation and member states of the European Free Trade Agreement (EFTA) – i.e. European Economic Area, who hold professional architectural qualifications in accordance with the than the Republic of Poland*. This regulation is available on the website of the National Chamber of Polish Architects (see **Attachment 2** to this report). According to this regulation temporary and occasional working in the architectural profession mean working in the architectural profession in the Republic of Poland for as long as it is necessary to complete a single project and supervise its implementation. In practice, usually this kind of services is for specific project based on contract.

9. (a) Do you have a prior declaration system? (b) If so, please indicate why it is necessary? (c) What do competent authorities do with the information received? (d) Are other possibilities conceivable?

There are no criteria. The competent authorities didn't establish duration for temporary services (neither minimum nor maximum)

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<sup>3</sup> original documents must be presented for viewing only

## C MINIMUM TRAINING REQUIREMENTS

10. To what extent are the common minimum requirements for training set out in Title III Chapter III of Directive 2005/36/EC in line with scientific progress and professional needs in the last ten years? Are the knowledge and skills outlined in Article 46 still relevant and up to date? Please specify.

The requirements outlined in Article 46 are presently insufficient. Due to the fact that there is a growing and thus becoming more stronger need to ensure a good representation and protection of the interests of clients and architecture users and to guarantee realization of public interest, the requirements outlined in Article 46 should be completed with the necessity of carrying out at least 2 years of professional practice after completion of studies.

11. (a) How long is the duration of the training for architects under your national law? (b) In how many years do you cover all 11 items as listed in Article 46?

a) , b) The duration of education for the degree of master of architecture in Poland is minimum 5 years of full-time study. According to the Order of the Ministry of Science and Higher Education, the minimum duration of bachelor studies amounts to 3,5 years and the master's degree studies – 1,5 years.

12. The Directive is based on mutual trust between Member States. (a) To what extent is such trust actually achieved? (b) Are training programmes accredited by external bodies in your country? (c) Does accreditation of a training program in another Member State enhance trust or is it not relevant?

The training programs are accredited by the Commission which answers to the Ministry of Education. According to the law the National Chamber of Architects in Poland is authorized to give opinions about minimums of training programs. There are examples of another Member State organization accreditation – e.g. accreditation of RIBA given to Faculty of Architecture of Technical University in Krakow.

13. To what extent are the existing Directive provisions (see recital 39 and Article 22(b) on continuous professional development (continuous training) adequate? (b) Is continuous training mandatory in your country and what are the exact conditions?

The National Chamber of Polish Architects is now working on CPD. The continuous professional development will be established in one year period and will be a legal obligation to all members of the Chamber.

## D. ADMINISTRATIVE COOPERATION

14. To which extent does administrative cooperation, as outlined in Articles 8, 50, and 56 of the Directive, simplify procedures for the migrant professionals?

We have a good cooperation with competent organizations in other countries in Europe. The information is useful during procedures.

15. (a) Is the competent authority in your country registered with IMI? (b) Under which circumstances does your competent authority use IMI? (c) What are your experiences? (d) If not registered, why not and what would be the conditions for changing this situation?

(a) The National Chamber of Polish Architects is registered with IMI system.

(b) , (c) So far we have received only one request for information.

16. (a) How could a professional card (see Recital 32 of the Directive) facilitate recognition of professional qualifications and provision of temporary services? (b) Under which conditions could it be issued by professional associations?

The professional card is not introduced in Poland. It could simplify the procedure by approving some necessary documents for services (e.g. insurances). In our opinion introducing professional card should be followed by European registration system of architects.

17. How do you share information about suspensions/restrictions with competent authorities in other Member States?

If it is necessary by e-mails and telephone conversations.

#### E. OTHER OBSERVATIONS

18. (a) How and when are the necessary language skills of migrants checked after recognition of the professional qualifications? (b) Are you aware of any complaints (especially from patients/clients/employers) about insufficient language skills of migrants? (c) If serious doubts about language skills have arisen which action do competent authorities undertake towards the migrant?

(a) After recognition of architectural qualifications by the National Council of the Chamber of Architects, appropriate district chamber registers the candidate as a member, provided that the applicant has sufficient Polish language oral and written skills, as necessary to work in the architectural profession.

(b) No, we have never received any complaints about insufficient language skills of migrants.

19. Are there any considerable cost implications for the migrant? Please specify the fees involved with establishment and the fees involved with temporary services.

As far as fees involved with establishment are concerned, there is a fee for proceedings aimed at recognition of professional qualifications which amounts to 2 943 PLN. Also migrants (as well as Polish architects) should pay membership fees which amount to 70 PLN per month. As for fees involved with temporary services, there are no charges at all.

20. What is your experience with training provided by franchising universities? No experience.

21. Have you encountered particular problems with non-EU nationals with qualifications listed in Annex V being treated differently to EU nationals with the same listed qualifications?

No, we have not.

22. What are the experiences of (outgoing) architects from your country who (would like to) practice in another Member State? (b) Are there in particular problems if the profession of an architect is not regulated in your country? (c) What feedback do you have from incoming migrants on the assistance they have been given by their home Competent Authority? (a general response without naming any Competent Authority in particular is expected)

We have not received any official information from our members regarding such problems.

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Appendix to resolution of the National Council of the Chamber of Architects no. O – 13 – II - 2009 of 1<sup>st</sup> April 2009 on regulations governing proceedings concerning recognition of architectural qualifications of EU member states' citizens, citizens of the Swiss Confederation and EFTA – i.e. parties to the agreement on the European Economic Area – hereinafter referred to as the "member states", who acquired architectural qualifications in these states – outside of the Republic of Poland

## REGULATIONS

**governing proceedings concerning recognition of architectural qualifications of EU member states' citizens, citizens of the Swiss Confederation and EFTA – i.e. parties to the agreement on the European Economic Area – hereinafter referred to as the "member states", who acquired architectural qualifications in these states – outside of the Republic of Poland**

### SECTION I

#### GENERAL PROVISIONS

##### § 1

These Regulations specify the proceedings to be followed with respect to recognition of architectural qualifications of EU member states' citizens, citizens of the Swiss Confederation and EFTA – i.e. parties to the agreement on the European Economic Area – hereinafter referred to as the "member states", who acquired architectural qualifications in these states – outside of the Republic of Poland.

##### § 2

Whenever any of the following terms are used throughout these regulations they shall have the following meanings:

- 1) National Council or KRIA – National Council of the Chamber of Architects;
- 2) National Qualification Commission or KKK - National Qualification Commission of the National Council of the Chamber of Architects;
- 3) member state – member state of the EU, Swiss Confederation or EFTA – parties to the agreement on European Economic Area;
- 4) member state citizens – citizens of member states as defined in § 2 item 3) of these regulations, as well as members of their families as defined in the act of law of 14<sup>th</sup> July 2006 on entry into the Republic of Poland, stay and exit from territory of the Republic of Poland of EU member state citizens and heir families (Journal of Laws No. 144, item 1043 and of 2007 No. 120, item 818) as well as citizens of third countries holding permission for long term residence issued to residents of the European Communities – as defined in the act of law of 13<sup>th</sup> June 2003 on foreigners (Journal of Laws of 2006 r. No. 234, item 1694, of 2007 r. No. 120, item 818 and No. 165, item 1170 and Journal of Laws of 2008 No. 70, item 416 and No. 180, item 1112);

- 5) applicants – citizens of member states, who intend to work as architects in the Republic of Poland, who applied for recognition of their architectural qualifications;
  - 6) proceedings aimed at recognition of qualifications – the proceedings specified in items 7 and 8;
  - 7) automatic (sectoral) system proceedings aimed at recognition of qualifications – proceedings aimed at recognition of qualifications of a member state citizen, who intends to work as an architect in the Republic of Poland, held pursuant to the regulations under article 33a-33c of the act of 15<sup>th</sup> December 2000 on professional associations of architects, construction engineers and urban planners, implemented pursuant to the act of 7<sup>th</sup> November 2008 amending the act on professional associations of architects, construction engineers and urban planners – Construction Law;
  - 8) general system proceedings aimed at recognition of qualifications - proceedings aimed at recognition of qualifications of a citizen referred to in § 1, who intends to work as an architect in the Republic of Poland, held pursuant to the regulations under article 33d of the act of 15<sup>th</sup> December 2000 on professional associations of architects, construction engineers and urban planners, implemented pursuant to the act of 7<sup>th</sup> November 2008 amending the act on professional associations of architects, construction engineers and urban planners – Construction Law;
  - 9) adaptation internship – period of training preparing for independent work in a regulated profession, completed as a part of employment or under a civil law contract and under supervision of a qualified professional working in the concerned regulated profession;
  - 10) skills test – test based on requirements of the regulated profession, intended to verify the extent and level of the applicant's knowledge, required to work in the concerned profession;
  - 11) act on professional associations – act of 15<sup>th</sup> December 2000 on professional associations of architects, construction engineers and urban planners, implemented pursuant to the act of 7<sup>th</sup> November 2008 amending the act on professional associations of architects, construction engineers and urban planners – Construction Law;
  - 12) resolution on determination of fee payable for the proceedings aimed at recognition of architectural qualifications – resolution No. 4 IV of the Extraordinary Convention of the Chamber of Architects, held on 6<sup>th</sup> December 2008 on determination of fee payable for the proceedings aimed at recognition of architectural qualifications of member states citizens – as defined in the act of 7<sup>th</sup> November 2008 amending the act on professional associations of architects, construction engineers and urban planners and in the act on construction law, as well as principles governing determination of that fee.
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### § 3

1. Proceedings aimed at recognition of qualifications shall be held on the basis of the following acts of law:

- 1) act of 15<sup>th</sup> December 2000 on professional associations of architects, construction engineers and urban planners (Journal of Laws. of 2001 No. 5, item 42, as amended) and act of 7<sup>th</sup> November 2008 amending the act on professional associations of architects, construction engineers and urban planners – Construction Law (Journal of Laws. of 2008 r. No. 210, item 1321);
- 2) act of 18 March 2008 on principles governing recognition of professional qualifications acquired in EU members states (Journal of Laws. of 2008, No. 63, item 394);
- 3) act of 14<sup>th</sup> June 1960 – Code of Administrative Procedure (uniform text: Journal of Laws of 2000 r. No. 98, item 1071, as amended);
- 4) act of 7<sup>th</sup> July 1994 – Construction Law (uniform text: Journal of Laws of 2006 No. 156, item 1118 as amended);
- 5) regulation enacted by Minister for Transport and Construction on 28<sup>th</sup> April 2006 on independent technical positions in the construction industry (Journal of Laws of 2006 r. No. 83, item 578, as amended);
- 6) regulation enacted by Minister for Science and Higher Education on 9<sup>th</sup> October 2008 determining layout and contents of application forms for initiation of proceedings aimed at recognition of professional qualifications (Journal of Laws. of 2008 r. No. 187, item 1151);
- 7) act of 16<sup>th</sup> November 2006 on stamp duty fees (Journal of Laws of 2006, No. 225, item 1635 as amended);
- 8) regulation enacted by Prime Minister on 17<sup>th</sup> October 2008 setting out scope and deadlines for submission of information on amendment of requirements concerning regulated professions and decisions on recognition of professional qualifications (Journal of Laws. of 2008 r. No. 185, item 1147);
- 9) resolution No. 5 I of the National Convention of the Chamber of Architects held on 19 January 2002 on Regulations of the National Council of the Chamber of Architects (uniform text dated 15<sup>th</sup> January 2006).

2. Proceedings aimed at recognition of qualifications shall be held bearing in mind the goals specified in the Directive of the European Parliament and Council 2005/36/EC of 7<sup>th</sup> September 2005 on recognition of professional qualifications (Official Journal of the EU L 255 of 30.09.2005, page 22, as amended).

### § 4

1. Proceedings aimed at recognition of qualifications shall be held by the National Council of the Chamber of Architects.

2. Save for the regulation under the act on professional associations and the regulation under the act of 18<sup>th</sup> March 2008 on principles governing recognition of professional

qualifications acquired in EU member states – proceedings aimed at recognition of qualifications shall be governed by regulations specified in the act of 14<sup>th</sup> June 1960 – Code of Administrative Procedure.

3. Proceedings aimed at recognition of qualifications shall be held based on automatic (sectoral) system, and if a candidate does not meet the requirements specified in articles 33a-c of the act on professional association, the proceedings shall be held based on the general system.

4. The National Council of the Chamber of Architects shall initiate proceedings aimed at recognition of professional qualifications upon request of a member state citizen.

5. Proceedings aimed at recognition of professional qualifications shall be held upon payment of a fee.

6. Proceedings aimed at recognition of professional qualifications should result in issuing of final decision by the National Council of the Chamber of Architects within no longer than three months since the date of applicant's submission of all required documents, however in the proceedings aimed at recognition of professional qualifications held under the general system, deadline for final decision may be extended by one month.

#### § 5

1. Application for initiation of proceedings aimed at recognition of professional qualifications shall be made in Polish. Application form is attached to these regulations as **appendix no. 1**.

Application form as well as other appendices to these regulations can be downloaded from the website of the Chamber of Architects - [www.izbaarchitektow.pl](http://www.izbaarchitektow.pl).

2. Any letters or documents filed in the course of the proceedings aimed at recognition of professional qualifications shall be submitted in originals<sup>1</sup> and accompanied by photocopy or notarised copy, in Polish or accompanied by sworn translation into Polish, excluding documents confirming identity or citizenship of the applicant.

3. Apart from the documents specified in § 11 and § 12 of these regulations, the following shall be attached to the application:

a) proof of payment of stamp duty fee for decision on recognition of qualifications – PLN 523.00 – legal basis – article 1 clause 1 item 1 act of 16<sup>th</sup> November 2006 on stamp duty fees (Journal of Laws. No. 225, item 1635);

b) proof of payment of application fee for the proceedings aimed at recognition of professional qualifications as specified in the resolution of the National Convention of the Chamber of Architects<sup>2</sup>;

c) applicant's statement consenting for the National Council of the Chamber of Architects to process his/her personal particulars for purposes of the proceedings aimed

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<sup>1</sup> original document must be presented for viewing only

<sup>2</sup> resolution no. 4 IV of the Extraordinary Convention of the Chamber of Architects held on 6<sup>th</sup> December 2008.

at recognition of professional qualifications – specimen of that statement is attached as **appendix no. 2** to these regulations.

4. Failure to pay the stamp duty fee for decision on recognition of qualifications shall result in application being incomplete and shall be deemed to constitute taxation arrears, with the fact thereof being notified to appropriate taxation authority.
5. The National Council of the Chamber of Architects shall notify the applicant of its having received the application, within one month since the receipt thereof. Such a notification shall include date of receipt and file number.
6. If an application is incomplete, such a notification issued by the National Council of the Chamber of Architects shall also include a request for submission of the missing documents, and in the case of failure to comply with the request the application shall not be processed. Any such request shall be prepared in accordance with the specimen provided in **appendix No. 3** to these regulations.
7. Deadline for submission of missing contents of application shall be 7 days. Deadline for submission of any of the missing documents or fees shall be set by the National Council of the Chamber of Architects, however it shall not be any shorter than 14 days. If the missing contents or documents are not provided by the deadline, the National Council of the Chamber of Architects shall not process the application, with the fact thereof being notified to the applicant. Specimen of such a notification is provided in **appendix no. 4** to these regulations.

## § 6

1. Proceedings aimed at recognition of professional qualifications shall be held in two stages.
  2. As part of stage one of the proceedings aimed at recognition of professional qualifications, upon completion of the activities specified in § 5 of these regulations and initial analysis of the applications, secretary of the National Council of the Chamber of Architects shall immediately hand it over (in the form of an order) to the National Qualifications Commission for assessment of the following criteria:
    - a) the applicant's compliance with the requirements specified in the act on professional associations, allowing for issuing of decision on automatic recognition of his/her qualifications to work as an architect, or
    - b) the applicant's compliance with the requirements for recognition of his/her qualifications to work as an architect under the general system.
  3. Chairperson of the National Qualification Commission acting together with President of the National Council of the Chamber of Architects shall nominate a 3 member assessment team comprising of members of the National Qualification Commission, which shall analyse the application, prepare a report of completed activities in accordance with specimen provided in **appendix no. 5** to these regulations, and within 14 days since the date of receipt thereof by the National Qualification Commission (save for the provisions under § 6
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clause 4) the report together with the case files shall be handed over to the National Council of the Chamber of Architects.

4. If the application is found to be incomplete, prior to issuing of an opinion the assessing member of the National Qualification Commission team shall prepare a report for the National Council of the Chamber of Architects, calling upon the applicant to provide the missing contents or documents, with any such report to be executed in accordance with the specimen presented in **appendix no. 3** to these regulations. Once all missing content or documents have been submitted the National Qualification Commission assessment team shall issue the opinion referred to in clause 3, and present it to the National Council of the Chamber of Architects.

5. The second stage of the proceedings aimed at recognition of professional qualifications shall involve the National Council of the Chamber of Architects' thorough analysis of the assessment issued by the National Qualification Commission, analysis of the application and documents and decision of the National Council of the Chamber of Architects on automatic or general system recognition of qualifications or otherwise refusal to recognise qualifications. However in order to issue decision on recognition of qualifications pursuant to the general system the National Council of the Chamber of Architects may require applicant to complete an adaptation internship or taking of a skills test.

Specimens of the above mentioned decisions can be found in **appendices 6 and 7** to these regulations.

6. Stage two of the proceedings aimed at recognition of professional qualifications should be held at the next session the National Council of the Chamber of Architects following its receipt of the assessment referred to in clause 3.

7. Applicants shall be entitled to appeal against decisions of the National Council of the Chamber of Architects to the Minister for Infrastructure. Appeals shall be filed with the National Council of the Chamber of Architects within 14 days since the date of receipt of the refusal.

#### § 7

Entire documentation concerning proceedings aimed at recognition of professional qualifications shall be stored by the National Council of the Chamber of Architects in appropriate manner and under terms and conditions for storage of personal documentation, bearing in mind the regulations specifies in the act on protection of personal particulars. Documents shall be stored in the office of the National Council of the Chamber of Architects.

#### § 8

1. Upon recognition of architectural qualifications the National Council of the Chamber of Architects shall instruct appropriate district chamber to register the candidate as a member, provided that the applicant has sufficient Polish language oral and written skills, as necessary to work in the architectural profession.

2. The National Council of the Chamber of Architects shall notify appropriate district chamber upon decision on recognition of architectural qualifications becoming final and effective.

#### § 9

1. Presentation of documents relating to recognition of architectural qualifications and membership with district chamber of architects shall take place in the same manner as it is in the case of Polish citizens – i.e. at a special open meeting if district chamber of architects with participation of invited guests.

2. The nature and celebratory procedures of the meeting shall be subject to specification by the chairperson of the district chamber of architects. Such meetings shall be organised by the office of the district chamber of architects.

#### § 10

The National Council of the Chamber of Architects shall provide appropriate minister in charge of higher education or person appointed to act as coordinator, with information on its decisions recognising architectural qualifications. Such notifications shall be issued pursuant to the terms and conditions specified in § 3 clause 1 item 8 of these regulations.

### **SECTION II**

#### **PROCEEDINGS AIMED AT AUTOMATIC RECOGNITION OF PROFESSIONAL QUALIFICATIONS**

#### § 11

1. First and foremost during the course of proceedings aimed at automatic recognition of professional qualifications, regulations under the act on professional associations shall be applied. However to the extent that any issue is not provided for in the above mentioned regulations, provisions under the act on recognition of qualifications as well as the Code of Administrative Procedure shall apply.

2. During the course of proceedings aimed at automatic recognition of professional qualifications, applicants shall be required to present the following documents:

- 1) document confirming citizenship of the applicant;
- 2) documents confirming professional qualifications required to work as an architect, and documents confirming professional experience of the applicant, if required;
- 3) certificate issued by appropriate authority of concerned member state, confirming that the applicant's right to work as an architect had not been suspended, issued no more than 3 months prior the date of filing thereof.

3. Documents deemed by the National Council of the Chamber of Architects appropriate for automatic recognition of architectural qualifications shall include diplomas and other documents notified with the European Commission – listed in announcement of appropriate minister in charge of construction, urban and housing management and in the appendices to

directive 2005/36/EC – appendix No. V item 5.7.1.) or appendix no. No. VI item 6 as well as the documents referred to in article 49 of this directive (acquired rights).

4. If appropriate authority of concerned member state does not issue the certificate referred to in clause 1 item 3), it may be substituted by a statutory declaration submitted to the National Council of the Chamber of Architects by the applicant under pain of criminal liability specified in article 233 of the Criminal Code. Specimen of such a statutory declaration can be found in **appendix no. 8** to these regulations.

5. In the case of any reasonable doubts as to authenticity of documents conforming the applicant's qualifications to work as an architect issued by appropriate authorities of a member state other than the Republic of Poland or in the case of any reasonable doubts as to the applicant's meeting of the educational requirements, specified in EU regulations, the National Council of the Chamber of Architects shall be entitled to request these authorities to confirm authenticity of these documents or otherwise confirm that a document actually certifies that the applicant meets the educational requirements.

6. If upon completion of the activities specified in § 5 clauses 2 the National Council of the Chamber of Architects finds that the applicant does not meet the requirements specified in the act on professional associations, it shall process the application for recognition of professional qualification under the general system, respectively applying the regulations under the act on recognition of qualifications, and in the case of an issue not being provided for in the aforementioned act of law, regulation under the Code of Administrative Procedure shall apply.

### **SECTION III**

#### **PROCEEDINGS AIMED AT RECOGNITION OF PROFESSIONAL QUALIFICATIONS UNDER THE GENERAL SYSTEM**

##### **§ 12**

1. During the course of proceedings aimed at recognition of qualifications under the general system, applicants shall be required to present the following documents:

- 1) photocopy of a valid identity document;
- 2) originals accompanied by photocopies of or notarised official copies of:
  - a) diplomas,
  - b) certificates and other documents confirming completed education,
  - c) certificates and other documents confirming completed training courses and other forms of training,
  - d) certificates and other documents confirming completed professional experience, showing information on period of employment, type of legal relationship between the applicant and employer/customer,
  - e) certificate showing the applicant's qualifications to work in a regulated profession, issued by an authorised institution in the applicant's country of origin,

- f) document from the applicant's country of origin, issued by an authorised institution, confirming the applicant's rights to work in the concerned profession – provided that such documents are issued in the applicant's country of origin ex officio or upon request of applicants,

- all of the above listed documents must be accompanied by sworn translations into Polish;

- 3) sworn translation (into Polish) of the name of the profession;
- 4) copy of certificate issued by appropriate authority of concerned member state, confirming that the applicant's right to work as an architect had not been suspended, that the applicant had not been prevented from working as an architect as a result of serious malpractice, filed no more than 3 months since the date of issue thereof, and if appropriate authority does not issue such documents, the applicant shall be required to file a statutory declaration under pain of criminal liability specified in article 233 of the Criminal Code. Specimen of such a declaration can be found in **appendix no. 8.**

2. In case of any doubts whatsoever the National Council of the Chamber of Architects shall be entitled to apply to the Office for Recognition of Qualifications and International Exchange for opinion, if the course of higher education completed by the applicant can be deemed to be equivalent to the Polish education in this respect.

### § 13

1. In the case of proceedings aimed at recognition of professional qualifications under the general system the National Council of the Chamber of Architects, prior to issuing of decision on recognition of qualifications, may require the applicant to complete adaptation internship or to take a skills test. These measures shall be applied in the following cases:

- 1) if the period of education or training completed in the applicant's country of origin is at least one year shorter from that required under the regulations;
- 2) if there is a significant difference in education or training;
- 3) if the scope of professional practice in the applicant's country of origin is vastly different from that in the Republic of Poland, and the difference refers to the concerned education or training in the Republic of Poland.

2. Selection of completing either an adaptation internship or completing a skills test shall be up to the applicant. The applicant shall cover the costs of adaptation internship and skills test.

3. Adaptation training shall not exceed 3 years.

4. The National Council of the Chamber of Architects shall decide upon the necessity to complete an adaptation training or a skills test in the form of a decision.

5. Specimen of the decision, referred to in clause 3 can be found in **appendix no. 9** to the regulations.

§ 14

If the applicant undertakes an adaptation internship or takes a skills test, the deadline referred to in § 4 clause 6, shall be suspended until the National Council of the Chamber of Architects obtains assessment of skills acquired during the course of adaptation training or skills demonstrated in the test.

**SECTION IV**  
**FINAL PROVISIONS**

§ 15

1. Amendments and laws or regulations referred to herein – in the form applicable on the date of approval of these regulations, shall not require amendment of these regulations, provided that they do not affect the provisions specified herein.
2. Appendices 1 to 9 constitute integral parts of these regulations.



to Regulations governing proceedings concerning recognition of architectural qualifications of EU member states' citizens, citizens of the Swiss Confederation and EFTA – i.e. parties to the agreement on the European Economic Area – hereinafter referred to as the "Member States", who acquired architectural qualifications in these states – outside of the Republic of Poland

**SPECIMEN OF APPLICATION FOR INITIATION OF PROCEEDINGS AIMED AT RECOGNITION OF ARCHITECTURAL QUALIFICATIONS**

**APPLICATION FOR INITIATION OF PROCEEDINGS AIMED AT RECOGNITION OF ARCHITECTURAL QUALIFICATIONS**

**I. PERSONAL INFORMATION**

Mr/Ms (*cross out the inappropriate*)

1.	Current surname	
2.	Name(s)	
3.	Original surname	
4.	Surname used on the date shown on documents certifying applicant's qualifications	
5.	Date of birth	
6.	Country of birth	
7.	Place of birth	
8.	Father's and mother's name	
9.	Citizenship	
10.	Countries where applicant obtained his/her qualifications to work in the regulated profession	
11.	Mailing address during the proceedings aimed at recognition of professional qualifications <i>(any change of address shall be immediately notified in writing to appropriate authorities)</i>	Mailing address
		E-mail address
		Telephone number                      Fax number
12.	Chosen regional chamber	

## II. SPECIFICATION OF REGULATED PROFESSION

Pursuant to article 7 clause 1 of the 1 act of 18<sup>th</sup> March 2008 on principles governing recognition of professional qualifications acquired in EU member states (Journal of Laws No. 63, item 394) I do hereby request recognition of my qualifications to work in the regulated profession:

1. Description of regulated profession, in which qualification are to be recognised	
2. Details of specialisation or position, if possible etc.	

## III. PROFESSIONAL QUALIFICATIONS

### 1. Education

School/faculty/course/specialisation completed	
Document confirming completion of education	
Degree <i>(in Polish and in original language)</i>	
Date and place where this document was issued	
Period of education as specified in curriculum	
Comments	

### 2. Completed training/courses

Training/course	
Organising institution	
Place (city, country)	
Type of training/course	
Duration or number of teaching hours	
Document confirming completion of training/course, date and place of issue	

### 3. Professional experience in regulated profession

Place of employment, city, country	
Length of employment	
Type of employment/legal relationship	
Full time/part time	
Profession/position <i>(in Polish and in original)</i>	

**4. Confirmation of entitlement to work in the profession in the applicant's country**

Profession and institution which confirmed the entitlement to work in the profession <i>(in Polish and in original)</i>	Country	City	Date

**5. Information on recognition of qualifications to work in the regulated profession in other member states**

Authority which recognised qualifications to work in the profession	Country	City	Date of recognition

**IV. SUPPLEMENTARY INFORMATION**

- 1) Have you ever been convicted of any crime, including intentional fiscal crimes? YES  NO
- 2) Do you confirm that you meet the prerequisite of appropriate ethical stance? YES  NO
- 3) Do you confirm that you have never declared bankruptcy? YES  NO
- 4) Has any of the following ever taken place pursuant to a court ruling or disciplinary proceedings:
  - a) have you even been prevented from working in the profession? YES  NO
  - b) has your entitlement to work in the profession ever been suspended? YES  NO
  - c) has your name ever been removed from the list of people entitled to work in the profession? YES  NO
- 5) Is your health condition appropriate to work in the profession? YES  NO
- 6) Do you confirm that you meet the prerequisite of financial standing? YES  NO
- 7) Do you hold a civil liability insurance policy? YES  NO

V. THE FOLLOWING DOCUMENTS ARE ATTACHED TO THE APPLICATION:

- 1) .....
- 2) .....
- 3) .....
- 4) .....
- 5) .....
- 6) .....
- 7) .....
- 8) .....

VI. APPLICANT'S DECLARATION

I do hereby declare and represent that all information stated in this application is true and correct.

.....  
(place and date) (name and surname) (legible signature of applicant)

Explanations

I. Specification of documents <sup>1)</sup> to be attached to application:

- 1) photocopy of a valid identity document;
  - 2) photocopies of:
    - a) diplomas,
    - b) certificates and other documents confirming completed education,
    - c) certificates and other documents confirming completed training courses and other forms of training,
    - d) certificates and other documents confirming completed professional experience, showing information on period of employment, type of legal relationship between the applicant and employer/customer,
    - e) certificate showing the applicant's qualifications to work in a regulated profession, issued by an authorised institution in the applicants country of origin,
    - f) document from the applicant's country of origin, issued by an authorised institution, confirming the applicant's rights to work in the concerned profession – provided that such documents are issued in the applicant's country of origin ex officio or upon request of applicants,
- all of the above listed documents must be accompanied by sworn translations into Polish;
- 3) sworn translation (into Polish) of the name of the profession;

II. Instruction on how to complete this form

This form is to be completed in Polish (unless otherwise indicated). Please complete it legibly (e.g. print), in black or blue pen.

1. Part III:

- 1) In item 1 please state the name of school, document, degree, date and place when the document was issued; please also list other documents confirming completion of regulated education (in the "comments" column, please stated letter "R" next to the document confirming completion of regulated education); if possible please attach information on curriculum;
- 2) in item 2 please enter completed training/courses, including specialist courses, which in the "type of training/course" column must be marked with "S", as well as courses confirming completion of regulated education, "R", dates of completion; If possible please attach information on curriculum of the training/course;

<sup>1</sup> Originals of documents listed in items 1 and 2 are to be presented to appropriate authority for viewing only

- 3) in item 3 please enter places of employment, lengths of employment, type of legal relationship between the applicant and his/her employer/customer, information on full time/part time work and positions held;
  - 4) in item 4 please enter the name of institution, which confirmed the applicant's entitlement to work in the profession in his/her country of origin. Please state country and date – this part is to be completed if relevant documents are issued in the applicant's country ex officio or upon request of applicant;
  - 5) in item 5 please state names of appropriate authorities, which recognised qualifications to work in the regulated profession in other member states. Please state countries, cities and dates of recognition.
2. Part IV is to be completed if regulatory rules or other regulations require candidate for the regulated profession to have no criminal record, appropriate ethical stance, no bankruptcy record, no official ban or suspension imposed on working in the profession or delisting imposed pursuant to court ruling or disciplinary proceedings, appropriate health condition, financial standing or civil liability insurance. This part is to be completed in full or in part, depending on requirements specified in regulatory rules. Please enter "X" next to appropriate answer. Please attach copies of appropriate documents issued in the applicant's country of origin or another country, where the applicant worked in the profession. Please also attach sworn translation of these documents. Documents must have been issued no longer than three months prior to the date of filing thereof. If the documents referred to in questions 1-4 are not issued in the applicant's country of origin, the applicant shall be required to make a statutory declaration in the form and manner specified in that country's regulations.
3. In part V please list documents attached to the application.

**Information on recognition of professional qualifications in the Republic of Poland can be obtained from:**

**OFFICE FOR RECOGNITION OF QUALIFICATIONS AND INTERNATIONAL EXCHANGE**

**ul. Smolna 13, 00-375 Warsaw,  
telephone (+ 48 22) 826-74-34, fax: (+ 48 22) 826-28-23,  
e-mail: [biuro@buwilm.edu.pl](mailto:biuro@buwilm.edu.pl)  
website: <http://www.buwilm.edu.pl>**

**Appendix No. 2**

to Regulations governing proceedings concerning recognition of architectural qualifications of EU member states' citizens, citizens of the Swiss Confederation and EFTA – i.e. parties to the agreement on the European Economic Area – hereinafter referred to as the "Member States", who acquired architectural qualifications in these states – outside of the Republic of Poland

**SPECIMEN OF APPLICANT'S STATEMENT CONSENTING FOR THE NATIONAL COUNCIL OF THE CHAMBER OF ARCHITECTS TO PROCESS HIS/HER PERSONAL PARTICULARS FOR PURPOSES OF THE PROCEEDINGS AIMED AT RECOGNITION OF ARCHITECTURAL QUALIFICATIONS**

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**APPLICANT'S STATEMENT CONSENTING FOR THE NATIONAL COUNCIL OF THE CHAMBER OF ARCHITECTS TO PROCESS HIS/HER PERSONAL PARTICULARS FOR PURPOSES OF THE PROCEEDINGS AIMED AT RECOGNITION OF ARCHITECTURAL QUALIFICATIONS**

....., date .....  
(name(s) and surname including original surname) (parents' names) (place and date)

I do hereby consent for my personal particulars to be entered into database and processed by the National Council of the Chamber of Architects (in accordance with the act on protection of personal particulars of 29<sup>th</sup> August 1997 – uniform text in Journal of Laws of 2002, No. 101, item 926 as amended) for purposes related to the proceedings aimed at recognition of professional qualifications.

.....  
(handwritten signature)

**Appendix No. 8**

to Regulations governing proceedings concerning recognition of architectural qualifications of EU member states' citizens, citizens of the Swiss Confederation and EFTA – i.e. parties to the agreement on the European Economic Area – hereinafter referred to as the "Member States", who acquired architectural qualifications in these states – outside of the Republic of Poland

**SPECIMEN OF APPLICANT'S STATUTORY DECLARATION CERTIFYING THAT APPLICANT HAS NOT BEEN SUSPENDED OR BANNED FROM WORKING IN THE ARCHITECTURAL PROFESSION**

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**APPLICANT'S STATUTORY DECLARATION CERTIFYING THAT APPLICANT HAS NOT BEEN SUSPENDED OR BANNED FROM WORKING IN THE ARCHITECTURAL PROFESSION**

.....  
(name(s) and surname including original surname)

.....  
(parents' names)

I do hereby declare and represent that I am fully entitled to work as an architect in \_\_\_\_\_  
– I have not been banned from working as an architect, my professional entitlements have not been suspended and there are no proceedings pending against me, with respect to banning me from the profession or suspension of my professional entitlements.

.....  
(place and date)

.....  
(handwritten signature)

I am making this declaration being fully aware of the criminal responsibility under article 233 § 1 of the Criminal Code – "Any person who makes false testimony or withholds the truth in court proceedings or any other proceedings conducted under law, shall be liable to imprisonment of up to 3 years " - Journal of Laws. of 1997, No. 88, item 553 as amended)

.....  
(handwritten signature)

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Appendix to resolution of the National Council of the Chamber of Architects No. O – 10 – II - 2009 of 1<sup>st</sup> April 2009 on instructions concerning proceedings relating to cross-border services provided by EU member states' citizens, citizens of the Swiss Confederation and member states of the European Free Trade Agreement (EFTA) – i.e. parties to the agreement on the European Economic Area, who hold professional architectural qualifications in accordance with the law in member states other than the Republic of Poland

## INSTRUCTIONS CONCERNING PROCEEDINGS RELATING TO PROVISION OF CROSS-BORDER SERVICES

### § 1

These instructions provided for the manner of simplified registration of temporary members based on regulations governing the proceedings relating to provision of cross-border services by citizens of members states, who conduct legally registered architectural business activity in members states other than the Republic of Poland, and are entitled to temporarily and occasionally work in this profession in the Republic of Poland.

### § 2

Whenever any of the following terms are used throughout these instructions they shall have the following meanings:

- 1) district council – District Council of the Chamber of Architects of jurisdiction appropriate to the place, where cross-border services are to be provided;
- 2) member state – member state of the EU, Swiss Confederation or EFTA (European free Trade Agreement) – parties to the agreement on European Economic Area;
- 3) member state citizens – citizens of member states as defined in § 2 item 2) of these instructions, as well as members of their families as defined in the act of law of 14th July 2006 on entry into the Republic of Poland, stay and exit from territory of the Republic of Poland of EU member state citizens and heir families (Journal of Laws No. 144, item 1043 as amended) as well as citizens of third countries holding permission for long term residence issued to residents of the European Communities – as defined in the act of law of 13th June 2003 on foreigners (Journal of Laws of 2006 No. 234, item 1694, as amended);
- 4) proceedings relating to provision of cross-border services – regulations governing reporting and documenting of the intention to provide cross-border services and granting temporary membership in the chamber of architects to members states citizens - as defined in 2 item 3) of the instructions, who conduct legally registered architectural business activity in member states other than the Republic of Poland,

and are entitled to temporarily and occasionally work in this profession in the Republic of Poland;

- 5) provision of cross-border services – temporary and occasional work in the architectural profession performed in the Republic of Poland by a citizen of a member state as defined in § 2 item 3) of the instructions, who is entitled to work conduct business activity in this profession in a member state other than the Republic of Poland;
- 6) temporary and occasional working in the architectural profession – working in the architectural profession in the Republic of Poland for as long as it is necessary to complete a single project and supervise its implementation;
- 7) service providers – citizens of member states in the meaning defined in §2 item 3) of these instructions, who conduct legally registered architectural business activity in member states other than the Republic of Poland, are entitled to temporarily and occasionally work in this profession in the Republic of Poland and intend to provide or already provide cross-border services;
- 8) act on professional associations – act of 15<sup>th</sup> December 2000 on professional associations of architects, construction engineers and urban planners, implemented pursuant to the act of 7<sup>th</sup> November 2008 amending the act on professional associations of architects, construction engineers and urban planners – Construction Law.

### § 3

1. Proceedings relating to provision of cross-border services shall be held on the basis of the following acts of law:
  - 1) act of 15<sup>th</sup> December 2000 on professional associations of architects, construction engineers and urban planners (Journal of Laws. of 2001 No. 5, item 42, as amended) and act of 7<sup>th</sup> November 2008 amending the act on professional associations of architects, construction engineers and urban planners – Construction Law,
  - 2) act of 18 March 2008 on principles governing recognition of professional qualifications acquired in EU member states (Journal of Laws. of 2008, No. 63, item 394),
  - 3) act of 14<sup>th</sup> June 1960 – Code of Administrative Procedure (uniform text: Journal of Laws of 2000 r. No. 98, item 1071, as amended),
  - 4) act of 7<sup>th</sup> July 1994 – Construction Law (uniform text: Journal of Laws of 2006 No. 156, item 1118 as amended),

- 5) regulation enacted by Minister for Transport and Construction on 28<sup>th</sup> April 2006 on independent technical positions in the construction industry (Journal of Laws of 2006 No. 83, item 578, as amended),
- 6) regulation enacted by Prime Minister on 17<sup>th</sup> October 2008 setting out scope and deadlines for submission of information on amendment of requirements concerning regulated professions and decisions on recognition of professional qualifications (Journal of Laws. of 2008 r. No. 185, item 1147),

#### § 4

1. Proceedings relating to provision of cross-border services shall be conducted by district council of jurisdiction appropriate to the place of performance of the concerned services. District council shall appoint 3 member verification teams.
2. Save for the regulation under the act on professional associations and the regulation under the act of 18<sup>th</sup> March 2008 on principles governing recognition of professional qualifications acquired in EU member states – proceedings aimed at recognition of qualifications shall be governed by regulations specified in the act of 14<sup>th</sup> June 1960 – Code of Administrative Procedure.
3. Proceedings relating to provision of cross-border services shall be initiated by district council upon written request of service provider stating that he/she intends to provide a cross-border service – specimen of statement form is attached as appendix no. 1 to these instructions.
4. Proceedings relating to provision of cross-border services are free of charge.
5. Proceedings relating to provision of cross-border services should result in district council adopting a resolution on granting temporary membership in the chamber of architects or refusal thereof – under the terms and conditions specified in article 19 clause 2 – of the act on professional associations; however resolution on granting of membership should take place immediately, and in any case no later than by the deadline specified in article 35 § 3 of the Code of Administrative Procedure.

#### § 5

1. Service provider's statement on his/her intention to provide cross-border services should include the following information:
  - 1) type of professional activities to be performed as well as the place and approximate time of commencement thereof, if possible;
  - 2) details of insurance policy held or otherwise other means of individual or collective professional indemnity insurance.

2. If cross-border services are to be provided for the first time the service provider shall be under obligation to attach the following documents to the statement referred to in clause 1:
  - 1) original<sup>1</sup> and photocopy of document confirming citizenship;
  - 2) document issued by appropriate authority in member state, certifying that the service provider conducts legally registered architectural professional activity in the member state, and that at the date thereof he/she is not permanently or even temporarily banned from the profession
  - 3) original and a photocopy or a notarised copy of documents confirming service provider's professional qualifications;
  - 4) Service provider's statement consenting for district council to process his/her personal particulars for purposes involving proceedings related to provision of cross-border services and granting of temporary membership in district council – in accordance with specimen attached as appendix to these instructions.
3. The abovementioned statement, letters and documents concerning the proceedings must be submitted in Polish language versions or accompanied by sworn translations into Polish, with the exception of documents confirming identity and citizenship of service provider.
4. A service provider who intends to provide cross-border services in the future after he/she has been temporarily granted membership of district council shall be required to present the statement referred to in clause 1 once a year, and in the event of any significant change in the situation confirmed by the documents specified in § 5 clause 2 items 1-3) of these instructions, service provider shall be required to again submit the documents referred to therein.

## § 6

1. Upon receipt of written statement and documents referred to in § 5 of the instructions, district council's verification team shall have 14 days to:
  - 1) assess documents attached to the statement with respect to their completeness and authenticity;
  - 2) individually assess services that the service provider intends to provide with respect to the duration, frequency and continuity thereof, in order to determine if these services are of temporary and occasional nature;
  - 3) prepare report of its activities and immediately present to district council.
2. If the statement or the attached documents are found to be incomplete, district council shall call upon service provider to provide the missing documents within 7 days since the date of receipt of demand to this effect, and if the missing documents are not provided

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<sup>1</sup> original documents must be presented for viewing only

by the deadline, the district council shall discontinue processing of the application. Specimen of demand for additional documents is attached to these instructions as appendix no. 3.

3. If service provider fails to provide the missing documents by the deadline specified in the demand referred to in clause 2, district council shall notify the service provider that processing of his/her application had been discontinued. Specimen of such notification is attached to these instructions as appendix no. 4.
4. If service provider does provide the missing documents specified in the demand referred to in clause 2, the district council shall once again carry out the assessment stipulated in clause 1 items 1) and 2), and then:
  - 1) upon finding that the documents submitted by the service provider are complete, and their authenticity arises no suspicions whatsoever, and finding that the services that the service provider intends to provide are of temporary and occasional nature – district council shall grant temporary membership in the district council of Architects to the service provider, and if
  - 2) it is found that that the services to be provided by the service provider are not of temporary and occasional nature – district council shall refuse to grant temporary membership in the district council of Architects to the service provider. Any such resolution may be appealed against to the National Council of the Chamber within 30 days since the date of serving thereof.
  - 3) resolution is to be served upon service provider. Resolution refusing to grant membership must be delivered to service provider together with justification.
5. Granting of temporary membership in district council of Architects to service provider shall take place within 3 days since the date of resolution to this effect. District council shall notify service provider in writing of the granting of membership, indicating that for the duration of the service provision, he/she shall be bound by laws applicable in the Republic of Poland, including provision under Construction Law and the act on professional associations. District council shall also call upon service provider to pay the membership fee stipulated in relevant resolution of the National Convention of the Chamber of Architects.
6. The resolution on granting of membership stipulated in § 4 clause 5 of the instructions and the temporary registration effected based thereon shall include information on when the registration shall become valid and expired. Current and publicly available (Internet) list of members of the chamber should contain information placed next to service provider's name that the registration is temporary.
7. Upon expiry of the temporary membership in appropriate district council of architects or as a result of failure to submit within next year the statement stipulated in § 5 clause 4 of these instructions, district council shall ex officio cancel the membership.

§ 7

1. District council shall be entitled to request appropriate authorities of concerned member states for presentation of information confirming that service provider conducts legally registered professional architectural activity in appropriate manner, and that he/she is not subject to any disciplinary punishments or sanctions relating to the aforesaid professional activity.
2. Upon request of appropriate state authority – district council shall provide the information stipulated in clause 1 as well as information necessary for processing of complaint filed by a customer against an architect.

§ 8

1. Amendments and laws or regulations referred to herein – in the form applicable on the date of approval of these regulations, shall not require amendment of these instructions, provided that they do not affect the provisions specified herein.
2. Appendices 1 to 4 constitute integral parts of these regulations.

Appendix No. 1 to resolution of the National Council of the Chamber of Architects of 1<sup>st</sup> April 2009

**Appendix No. 1**

to regulations governing the proceedings relating to provision of cross-border services by citizens of EU members states, citizens of the Swiss Confederation and member states of the European Free Trade Agreement (EFTA) – i.e. parties to the agreement on the European Economic Area who conduct legally registered architectural business activity in members states other than the Republic of Poland, and are entitled to temporarily and occasionally work in this profession in the Republic of Poland

***SPECIMEN OF STATEMENT FORM ON INTENTION TO PROVIDE CROSS-BORDER SERVICES IN THE SCOPE OF PROVIDING INDEPENDENT TECHNICAL FUNCTIONS IN CONSTRUCTION IN THE FIELD OF ARCHITECTURE WITHOUT ANY RESTRICTIONS***

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**STATEMENT FORM ON INTENTION TO PROVIDE CROSS-BORDER SERVICES IN THE SCOPE OF PROVIDING INDEPENDENT TECHNICAL FUNCTIONS IN CONSTRUCTION IN THE FIELD OF ARCHITECTURE WITHOUT ANY RESTRICTIONS**

**I. PERSONAL INFORMATION**

Mr/Ms (cross out the inappropriate)

1.	Current surname
2.	Name(s)
3.	Original surname
4.	Surname used on the date shown on documents certifying applicant's qualifications
5.	Date of birth
6.	Country of birth
7.	Place of birth
8.	Citizenship
9.	Countries where applicant obtained his/her qualifications to work in the regulated profession

10. Mailing address during the proceedings aimed at recognition of professional qualifications  (any change of address shall be immediately notified in writing to appropriate authorities)	Mailing address
	e-mail address
	Telephone number                      Fax number

**II. APPLICANT'S DECLARATION**

I do hereby declare that I intend to provide cross-border services in the scope of providing independent technical functions in construction in the field of architecture without any restrictions in the Republic of Poland.

.....  
(legible signature of applicant)

**III. SUPPLEMENTARY INFORMATION**

1. Type of professional activities to be performed	
2. Alternatively, detailed description of the specialization, position etc.	
3. Place and approximate time of commencement and finishing of intended activities (if possible to determine)	
4. Frequency and continuity of intended services (if possible to determine)	
5. Information on insurance policy held or otherwise other means of individual or collective professional indemnity insurance	

I do hereby declare and represent that all information stated in this declaration is true and correct.

.....



*(place and date)*

*(name and surname)*

*(legible signature of applicant)*

Attachments<sup>2</sup>

- 5) notarised copy of document confirming citizenship,
- 6) document issued by appropriate authority in member state, certifying that the service provider conducts legally registered architectural professional activity in the member state, and that at the date thereof he/she is not permanently or even temporarily banned from the profession,
- 7) notarised copy of documents confirming service provider's professional qualifications,
- 8) service provider's statement consenting for district council to process his/her personal particulars for purposes involving proceedings related to provision of cross-border services and granting of temporary membership in district council.

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<sup>2</sup> Documents attached to the declaration if cross-border services are to be provided for the first time in the Republic of Poland and in the event of any significant change in the situation confirmed by the documents.

Appendix No. 2 to resolution of the National Council of the Chamber of Architects of 1<sup>st</sup> April 2009

**Appendix No. 2**

to regulations governing the proceedings relating to provision of cross-border services by citizens of EU members states, citizens of the Swiss Confederation and member states of the European Free Trade Agreement (EFTA) – i.e. parties to the agreement on the European Economic Area who conduct legally registered architectural business activity in members states other than the Republic of Poland, and are entitled to temporarily and occasionally work in this profession in the Republic of Poland

**SPECIMEN OF APPLICANT'S STATEMENT CONSENTING FOR THE DISTRICT CHAMBER OF ARCHITECTS TO PROCESS HIS/HER PERSONAL PARTICULARS FOR PURPOSES OF THE PROCEEDINGS RELATING TO PROVISION OF CROSS-BORDER SERVICES**

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**APPLICANT'S STATEMENT CONSENTING FOR THE DISTRICT CHAMBER OF ARCHITECTS TO PROCESS HIS/HER PERSONAL PARTICULARS FOR PURPOSES OF THE PROCEEDINGS RELATING TO PROVISION OF CROSS-BORDER SERVICES**

....., date .....

*(name(s) and surname including original surname)*      *(parents' names)*      *(place and date)*

I do hereby consent for my personal particulars to be entered into database and processed by appropriate District Chamber of Architects (in accordance with the act on protection of personal particulars of 29<sup>th</sup> August 1997 – uniform text in Journal of Laws of 2002, No. 101, item 926 as amended) for purposes of the proceedings relating to provision of cross-border services.

.....

*(handwritten signature)*

## CONSELHO DIRECTIVO NACIONAL

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1249-003 Lisboa, Portugal  
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www.arquitectos.pt  
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PORTUGAL

### EVALUATING THE PROFESSIONAL QUALIFICATIONS DIRECTIVE

Experience reports from Competent Authorities

#### ARCHITECTS

Portugal

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#### A. RECOGNITION PROCEDURE - MIGRATION ON A PERMANENT BASIS

1. a) Do you accept applications from EU citizens for the recognition of foreign diplomas sent by email or requests made on line?  
*Yes.*
- b) Under which conditions can they send documents and declarations electronically?  
*If necessary the candidate must submit a certified copy of essential documents such as professional qualifications or the documents proving professional experience.*
- c) What are your experiences in this respect?  
*Sometimes it's necessary to contact directly the competent authority of the Member State in which the citizen is legally established.*
2. What is the yearly number of applications for recognition from 2000 to 2009? Please submit specific data for applications for automatic recognition based on diplomas, automatic recognition based on acquired rights (as from 2005), and recognition based on the general system. Please verify first the data in the Regulated Professions Database.  
*Registration for establishment in Portugal of European Union citizens based on the automatic recognition of qualifications:  
2002 – 12; 2003 – 05; 2004 – 12; 2005 – 18;  
2006 – 12; 2007 – 17; 2008 – 11; 2009 – 08.*

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3. a) To what extent have the system of automatic recognition and the general system been a success?

*The system of automatic recognition works very well when the diploma is listed in Annex V to Directive 2005/36/CE. The PQD has simplified recognition of qualifications for architects, but more work is needed to update Annex V.7, and in order to make national requirements more consistently transparent.*

- b) How do you see the costs and benefits? Specify in particular whether automatic recognition based on diploma, Annex V and the current notification system represent an efficient way to facilitate automatic recognition. Please submit comments for:

- automatic recognition based on diploma
- automatic recognition based on acquired rights (Art. 49 – Annex VI)
- recognition based on the general system.

*See 4.a)*

4. a) Is the general system applied in your country each time the conditions for automatic recognition are not met?

*No. Our Regulation of Registration (Regulamento de Inscrição) does not allow the general system.*

- b) What are in your view "specific and exceptional reasons" as provided in Art. 10 (1)?

- c) Are there major difficulties in the recognition procedure under the general system (e. g. burden of proof)? Please include any comments you may have on the implementation of compensation measures.

*See 4.a)*

5. What is your experience with the recognition procedure for EU citizens with professional qualifications obtained in a third country and already recognised in a first Member State (see Articles 2(2) and 3(3))?

*To become a member of the Order of Architects the applicant must submit: qualification obtained in Portugal, qualification benefiting from automatic recognition or qualification with the equivalency of a Portuguese university.*

6. Please describe the government structure of the competent authority or authorities in charge of the recognition.

*The Portuguese competent authority in charge of the recognition for the profession of architect is the "Ordem dos Arquitectos", as established in Law 09/2009, March 4. The national coordination of the Qualifications Directive is under Ministry of Labour and Social Solidarity - Directorate General of Employment and Workplace Relations.*

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### B. TEMPORARY MOBILITY (SELF-EMPLOYED OR EMPLOYED WORKER)

7. a) Are EU citizens interested in using the provisions for exercising their professional activities on a temporary and occasional basis in your Member State?

Yes.

b) How many citizens used this new system in 2008 and 2009 (per month, per year)?

2008 – 11; 2009 – 8.

c) How are the provisions of Directive 2005/36/EC concerning temporary mobility applied by the competent authorities in practice taking into account the relevant provisions of the Code of Conduct? For instance:

- How is the "legal establishment" criteria foreseen by Article 5(1) (a) interpreted in practice?

*When the profession is regulated in the Member State in which the applicant is legally established: attestation from the competent authority, from the competent professional body, copy of professional licence. If the profession is not regulated in the Member State in which the applicant is legally established: copy of professional licence, extract from the trade register, certificate from the professional association, certificate from employer accompanied by a social security document.*

- What conditions does a migrant need to fulfil in his home Member State in order to be able to provide services?

*To be legally established in the Member State of origin.*

- How are the "temporary and occasional basis" criteria foreseen by Article 5.2 interpreted in practice?

- Do Member States assess duration, frequency, regularity and continuity of an activity and if so according to which criteria?

*No.*

8. a) Do you have a prior declaration system?

*In Portugal, the profession is regulated: only members of the Order of Architects are allowed to practice the profession's own acts. (Law 31/2009, July 3).*

b) If so, please indicate why it is necessary?

-

c) What do competent authorities do with the information received?

*The registration of the applicants.*

d) Are other possibilities conceivable?

*No.*

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### C. MINIMUM TRAINING REQUIREMENTS

9. a) To what extent are the common minimum requirements for training set out in Title III Chapter III of Directive 2005/36/EC in line with scientific progress and professional needs in the last ten years?

*In our opinion, the minimum requirements needed to be revised and updated. For example: how to assess the requirement for a minimum period of 3 consecutive years of professional practice (Article 11) in Member States where the profession is not regulated? Some of the provisions of Articles 11 and 13 are not sufficiently transparent.*

- b) Are the knowledge and skills outlined in Article 46 still relevant and up to date? Please specify.

*The knowledge and skills outlined in Article 46 are still relevant but need to be updated, particularly in areas of sustainable design or cost management science. In our opinion is urgent to amend Article 46, 1, to generalize the five-year minimum duration of studies (masters level according Bologna).*

10. a) How long is the duration of the training for architects under your national law?

*Five year masters level (two cycles, 3 + 2, according Bologna system).*

- b) In how many years do you cover all 11 items as listed in Article 46?

*Five years.*

12. The Directive is based on mutual trust between Member States.

- a) To what extent is such trust actually achieved?

- b) Are training programmes accredited by external bodies in your country?

*Currently, a national agency for quality assurance in higher education - the Agency for Assessment and Accreditation of Higher Education (www.a3es.pt), an external and independent body internationally recognized - makes the evaluation and accreditation of national higher education institutions and their cycles.*

- c) Does accreditation of a training program in another Member State enhance trust or is it not relevant?

*There is confidence in the diplomas listed in Annex V to Directive 2005/36/CE. However, accreditation of a training program in another Member State strengthens this confidence.*

13. a) To what extent are the existing Directive provisions (see recital 39 and Article 22(b) on continuous professional development (continuous training) adequate?

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*The Chamber of Architects is developing a training program, and is ongoing a certification process as a training organization. Some universities offer graduate programs that work as continuous professional development.*

b) Is continuous training mandatory in your country and what are the exact conditions?

*Continuing professional development is not mandatory in Portugal.*

### D. ADMINISTRATIVE COOPERATION

14. To which extent does administrative cooperation, as outlined in Articles 8, 50, and 56 of the Directive, simplify procedures for the migrant professionals?

*We believe that the measures are appropriate, but may have wider application.*

15. a) Is the competent authority in your country registered with IMI?

*Yes.*

b) Under which circumstances does your competent authority use IMI?

*-*

c) What are your experiences?

*IMI has been used four times last year, with some operational problems that were resolved through direct contact with professional associations.*

d) If not registered, why not and what would be the conditions for changing this situation?

*-*

16. a) How could a professional card (see Recital 32 of the Directive) facilitate recognition of professional qualifications and provision of temporary services?

*We agree with the professional card as a way to make the procedure transparent to stakeholders, reducing bureaucracy and process costs.*

b) Under which conditions could it be issued by professional associations?

*Following a common model to all member states.*

17. How do you share information about suspensions/restrictions with competent authorities in other Member States?

*We don't share information about suspensions/restrictions. The certificate issued by the Ordem dos Arquitectos attests to the quality of the member, training and disciplinary record.*

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### E. OTHER OBSERVATIONS

18. a) How and when are the necessary language skills of migrants checked after recognition of the professional qualifications?

*Language skills are not checked.*

- b) Are you aware of any complaints (especially from clients, employers) about insufficient language skills of migrants?

*We are not aware of complaints.*

- c) If serious doubts about language skills have arisen which action do competent authorities undertake towards the migrant?

19. Are there any considerable cost implications for the migrant? Please specify the fees involved with establishment and the fees involved with temporary services.

*Currently, either the establishment or the service costs €285,00 in 1st year, and €190,00 in subsequent years (renewal).*

20. What is your experience with training provided by franchising universities?

*We don't have that experience.*

21. Have you encountered particular problems with non-EU nationals with qualifications listed in Annex V being treated differently to EU nationals with the same listed qualifications?

*No.*

22. a) What are the experiences of (outgoing) architects from your country who (would like to) practice in another Member State?

*Very positive, when their training program is listed in Annex V to Directive 2005/36/CE.*

- b) Are there in particular problems if the profession of an architect is not regulated in your country?

- c) What feedback do you have from incoming migrants on the assistance they have been given by their home Competent Authority? (a general response without naming any Competent Authority in particular is expected).



**Evaluating the Professional Qualifications Directive**  
**Experience reports from competent authorities**

**POSSIBLE QUESTIONNAIRE FOR EACH SECTORAL PROFESSION**

**A. RECOGNITION PROCEDURE IN CASE OF MIGRATION ON A PERMANENT BASIS**

1. (a) Do you accept applications from EU citizens for the recognition of foreign diplomas sent by email or requests made on line? (b) Under which conditions can they send documents and declarations electronically? (c) What are your experiences in this respect?

- (a) We have implemented the IMI System, but we had just one request so far.
- (b) The EU citizens can send their applications and accompanying papers by email, but not online.
- (c) The architects from the EU Member States generally prefer to send their application files on paper.

2. What is the yearly number of applications for recognition from 2000 to 2009? Please submit specific data for applications for automatic recognition based on diplomas, automatic recognition based on acquired rights (as from 2005), and recognition based on the general system<sup>1</sup>. Please verify first the data in the Regulated Professions Database.

As of 1<sup>st</sup> January 2007 to date, we have had a total number of 120 applications.

3. (a) To what extent have the system of automatic recognition and the general system been a success? (b) How do you see the costs and benefits? Specify in particular whether automatic recognition based on diploma, Annex V and the current notification system represent an efficient way to facilitate automatic recognition. Please submit comments for:

- automatic recognition based on diploma
- automatic recognition based on acquired rights (Art. 49 – Annex VI)
- recognition based on the general system.

The system of automatic recognition based on diploma is good and efficient, but we are currently unable to assess the success of the general system, taking into account the big differences existing between professional qualifications from various countries, as well as the difficult task incumbent to the competent authority to evaluate if a person meets the requirements to practice architecture. As to the automatic recognition based on acquired rights, we estimate it to be absolutely inadequate as long as it enables, for ex., hydraulic engineers to practice architecture.

<sup>1</sup> Please provide this information unless it has already been provided to the Commission in the Database or the implementation reports.

4. (a) Is the general system applied in your country each time the conditions for automatic recognition are not met? (b) What are in your view "specific and exceptional reasons" as provided in Art. 10 (1)? (c) Are there major difficulties in the recognition procedure under the general system (e. g. burden of proof)? Please include any comments you may have on the implementation of compensation measures.

- (a) We have not had such a situation.
- (b) We have not faced such exceptional cases.
- (c) Yes.

5. What is your experience with the recognition procedure for EU citizens with professional qualifications obtained in a third country and already recognised in a first Member State (see Articles 2(2) and 3(3))?

We had just 1 case, which was properly solved, according to the above-mentioned Directive provisions.

6. Please describe the governance structure of the competent authority or authorities in charge of the recognition.

The competent authority in charge of the recognition of the EU architects' qualifications is the Architects' Chamber of Romania (OAR), which is a professional organization with administrative attributions, among which the functioning of a special commission in charge of the recognition of professional qualifications.

OAR has good coordination relations with the European Affairs Department and the National Centre for the Recognition and Validation of Diplomas within Ministry of Education, Research, Youth and Sports, which is the National IMI Coordinator for Romania.

OAR aims at facilitating the free circulation of architects from the EU Member States and to solve their applications efficiently and rapidly.

#### **B. TEMPORARY MOBILITY (OF A SELF-EMPLOYED OR AN EMPLOYED WORKER)**

7. Are EU citizens interested in using the provisions for exercising their professional activities on a temporary and occasional basis in your Member State? How many citizens used this new system in 2008 and 2009 (per month, per year)<sup>2</sup>?

OAR had 2 applications during the period 2007 - 2010, one of them being non-finalised (due to the lack of declaration on the services that were supposed to be provided).

8. How are the provisions of Directive 2005/36/EC concerning temporary mobility applied by the competent authorities in practice taking into account the relevant provisions of the Code of Conduct? For instance:

- How is the "legal establishment" criteria foreseen by Article 5(1) (a) interpreted in practice? What conditions does a migrant need to fulfil in his home Member State in order to be able to provide services?

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<sup>2</sup> Please provide this information unless it has already been provided to the Commission in the Database on Regulated Professions

- How are the “temporary and occasional basis” criteria foreseen by Article 5.2 interpreted in practice? Do Member States assess duration, frequency, regularity and continuity of an activity and if so according to which criteria?

We believe that it is very difficult to assess the temporary nature of architectural services. For this reason, we grant the right to provide temporary architectural services for just one architectural project.

9. (a) Do you have a prior declaration system? (b) If so, please indicate why it is necessary? (c) What do competent authorities do with the information received? (d) Are other possibilities conceivable?

- (a) Yes.
- (b) It is necessary to know exactly the project for which the recognition of the qualification is requested.
- (c) The information is used only in case the architect in question violated the Code of Conduct on the Romanian territory.

### C MINIMUM TRAINING REQUIREMENTS

10. To what extent are the common minimum requirements for training set out in Title III Chapter III of Directive 2005/36/EC in line with scientific progress and professional needs in the last ten years? Are the knowledge and skills outlined in Article 46 still relevant and up to date? Please specify.

Yes, the requirements are in line with scientific progress and professional needs and the knowledge and skills are updated.

11. (a) How long is the duration of the training for architects under your national law? (b) In how many years do you cover all 11 items as listed in Article 46? (c) Do you use ECTS when implementing the Directive? Does it pose any problems?

- (a) 6 years
- (b) 6 years, followed by 2 years of internship
- (c) Yes; No

12. The Directive is based on mutual trust between Member States. (a) To what extent is such trust actually achieved? (b) Are training programmes accredited by external bodies in your country? (c) Does accreditation of a training program in another Member State enhance trust or is it not relevant?

- (a) Yes, on known architectural schools
- (b) Yes
- (c) Yes

13. (a) To what extent are the existing Directive provisions (see recital 39 and Article 22(b) on continuous professional development (continuous training) adequate? (b) Is continuous training mandatory in your country and what are the exact conditions?

- (a) They are adequate.
- (b) No.

**D. ADMINISTRATIVE COOPERATION**

14. To which extent does administrative cooperation, as outlined in Articles 8, 50, and 56 of the Directive, simplify procedures for the migrant professionals?

Yes, administrative cooperation simplifies procedures, particularly after being used more frequently.

15. (a) Is the competent authority in your country registered with IMI? (b) Under which circumstances does your competent authority use IMI? (c) What are your experiences? (d) If not registered, why not and what would be the conditions for changing this situation?

(a) Yes.

(b) We use the IMI system in order to clarify cases we are not certain about.

(c) We did not use the IMI system to much so far, as only in 2 cases.

(d) -

16. (a) How could a professional card (see Recital 32 of the Directive) facilitate recognition of professional qualifications and provision of temporary services? (b) Under which conditions could it be issued by professional associations?

(a) We cannot estimate to what extent this professional card could be useful in the process of recognition of qualifications.

(b) We have not taken into account the issuance of a professional card for our members.

17. How do you share information about suspensions/restrictions with competent authorities in other Member States?

We have never had such a situation, but, in case of need, we would use the IMI System.

**E. OTHER OBSERVATIONS**

18. (a) How and when are the necessary language skills of migrants checked after recognition of the professional qualifications? (b) Are you aware of any complaints (especially from patients/clients/employers) about insufficient language skills of migrants? (c) If serious doubts about language skills have arisen which action do competent authorities undertake towards the migrant?

(a) We have not applied this requirement so far.

(b) No.

(c) -

19. Are there any considerable cost implications for the migrant?

No.

20. What is your experience with training provided by franchising universities? We have started schools in the country under universities coordination.

21. Have you encountered particular problems according to which EU nationals with third country qualifications do not enjoy equal treatment compared to third country nationals?

No.

(OPTIONAL) 22. (a) What are the experiences of (outgoing) architects from your country who (would like to) practice in another Member State? (b) Are there in particular problems if the profession of an architect is not regulated in your country? (c) What are the experiences of (incoming) architects from another Member State who (would like to) practice in your country, in particular about their competent authorities?

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**Evaluating the Professional Qualifications Directive**  
**Experience reports from competent authorities**  
**(ARCHITECTS)**

**COUNTRY: SLOVAKIA**

*This questionnaire does not need to be answered in full, and respondents are welcome to address topics not included in the questions. The purpose of the questionnaire is to prompt the experience reports which are a key part of the fact-finding phase of the evaluation.*

**POSSIBLE QUESTIONNAIRE FOR EACH SECTORAL PROFESSION**  
**(7 May 2010)**

**A. RECOGNITION PROCEDURE IN CASE OF MIGRATION ON A PERMANENT BASIS**

1. (a) Do you accept applications from EU citizens for the recognition of foreign diplomas sent by email or requests made on line?  
 (b) Under which conditions can they send documents and declarations electronically?  
 (c) What are your experiences in this respect?

a) We do accept the e-mail form of application; however, the legislation requires delivering the physical form of documents. We require the application to be made on particular prescribed forms;

b) For entry in the list / register a completed application form can also be submitted at a single point of contact which shall send it to the Slovak Chamber of Architects (hereinafter "Chamber") only in electronic form. Chamber shall also respond only in electronic form (this process does not apply to the recognition of qualifications). We do not have online submissions for now. This is the current state and a solution of this form is related to overall computerisation of government, which is planned for 2012.

c) We have no negative experiences with electronic mailing of documents.

2. What is the yearly number of applications for recognition from 2000 to 2009? Please submit specific data for applications for automatic recognition based on diplomas, automatic recognition based on acquired rights (as from 2005), and recognition based on the general system<sup>1</sup>. Please verify first the data in the Regulated Professions Database.

2004: 2	2008: 9
2005: 6	2009: 28
2006: 2	
2007: 18	

<sup>1</sup> Please provide this information unless it has already been provided to the Commission in the Database or the implementation reports.

3. (a) To what extent have the system of automatic recognition and the general system been a success?

(b) How do you see the costs and benefits? Specify in particular whether automatic recognition based on diploma, Annex V and the current notification system represent an efficient way to facilitate automatic recognition. Please submit comments for:

- automatic recognition based on diploma
- automatic recognition based on acquired rights (Art. 49 – Annex VI)
- recognition based on the general system.

a) Successful, we have no troubles with the automatic recognition.

General System – we have not had a lot of experiences. However, we have been able to solve all the cases without complaints or trials.

4. (a) Is the general system applied in your country each time the conditions for automatic recognition are not met?

(b) What are in your view "specific and exceptional reasons" as provided in Art. 10 (1)?

(c) Are there major difficulties in the recognition procedure under the general system (e.g. burden of proof)? Please include any comments you may have on the implementation of compensation measures.

a) Yes, in such a case, the individual recognition is applied then. The education is evaluated according to its length and content; structure of course, number of classes and qualification of lecturers. The evaluation is based on article 46.

Concerning experience – we examine whether it was executed under the supervision of an architect who is according to the local law authorized for the individual performance of profession. Complied to this condition, it may be carried out whenever, it just needs to be recorded in the logbook (a form issued by the Chamber) and it is certified by the supervising architect. If the education in some non- substantial points did not comply with the PQD article 46, or if the practical experience took less than 3 years the compensation measure would apply.

Up till now, the compensation measure has not been used.

5. What is your experience with the recognition procedure for EU citizens with professional qualifications obtained in a third country and already recognised in a first Member State (see Articles 2(2) and 3(3))?

We have one case of a Slovak citizen, who has had US formal qualification and Professional exam and recognition in Ireland. We have recognized him automatically, where we have examined only the base of Irish recognition and post – recognition practice in Ireland (three years). There where no problems as he has fulfilled all the requirements.

6. Please describe the government structure of the competent authority or authorities in charge of the recognition.



After receipt of application, when the competent officer has checked whether it is complete and decided whether it would be considered under the system of automatic or individual assessment, the different procedure would apply depending on the fact, whether it concerns recognition of qualification acquired abroad or whether it is a first Access to the profession.

When it concerns recognition of qualification acquired abroad, the complete file is assessed by the Authorization Committee.

If it concerns the first Access to the profession, which requires the proof of architectural education, supervised experience and successfully passed authorization exam, the application form together with the attachments (evidence of formal qualification, log book (evidence of Professional experience) and Portfolio) is presented to the Examination Body for the authorization exam. After the exam was successfully passed and the file was complete, it is presented to the Authorization Committee for the final decision making process. If the verdict was positive, the applicant would pass an oath.

If Authorization Committee decides, that the conditions for the inclusion to the list were fulfilled, the Office of the Chamber would provide the inclusion to the list and issue the Authorization Certificate and the Stamp.

Authorization Committee is body with five members established by the law. His members are appointed by the Executive Board of the Chamber. Members are as follows: two architects, two lawyers and one state officer – employee of Ministry of Education.

## **B. TEMPORARY MOBILITY (OF A SELF-EMPLOYED OR AN EMPLOYED WORKER)**

7. Are EU citizens interested in using the provisions for exercising their professional activities on a temporary and occasional basis in your Member State? How many citizens used this new system in 2008 and 2009 (per month, per year)<sup>2</sup>?

Yes, information is included in the table.

2008	9
2009	28

8. How are the provisions of Directive 2005/36/EC concerning temporary mobility applied by the competent authorities in practice taking into account the relevant provisions of the Code of Conduct? For instance:

- How is the "legal establishment" criteria foreseen by Article 5(1) (a) interpreted in practice? What conditions does a migrant need to fulfil in his home Member State in order to be able to provide services?

Registration begins on the date of submission of application for entry in the Register. The application must be submitted on the Application Form for entry in the Register of Visiting Architects / Landscape Architects, which can be obtained at the Chamber's Office, at the Chamber's website or at the Single Point of Contact. The application may be submitted in person at the Office of the Chamber, through a Single Point of Contact, or by mail.

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<sup>2</sup> Please provide this information unless it has already been provided to the Commission in the Database on Regulated Professions

In addition to personal data, the authority of the Member State in which the applicant has been established shall certify in the application form the authenticity of evidence of formal qualifications and that the applicant is in that Member State established as a practicing architect in accordance with a directive, that he is not a criminal, there are no disciplinary or legal proceedings in relation to him. Annexes to the application:

- The original of evidence of formal qualification which should be copied at the Chamber's office or a photocopy certified by notary,
  - Criminal record, if the first entry,
  - Proof of Professional liability insurance for the territory of the Slovak Republic.
- How are the "temporary and occasional basis" criteria foreseen by Article 5.2 interpreted in practice? Do Member States assess duration, frequency, regularity and continuity of an activity and if so according to which criteria?

Chamber as the Slovak Competent Authority does not establish any criteria which would regulate duration, frequency, regularity or continuity of the activity. The time duration of registration for a visiting architect is established for one year after which he can ask for a prolongation. The process of prolongation is compared to the first registration for the applicant lighter.

9. (a) Do you have a prior declaration system?  
(b) If so, please indicate why it is necessary?  
(c) What do competent authorities do with the information received?  
(d) Are other possibilities conceivable?
- a) Yes, we do.  
b) Yes, we think they are necessary. The aim is to check applicant's eligibility in order to protect the public interest.  
c) Information is included in the Register of Visiting Architects and part of them in accordance with the SIM Directive is published on web site of the Chamber.  
d) No.

## **C MINIMUM TRAINING REQUIREMENTS**

10. To what extent are the common minimum requirements for training set out in Title III Chapter III of Directive 2005/36/EC in line with scientific progress and professional needs in the last ten years? Are the knowledge and skills outlined in Article 46 still relevant and up to date? Please specify.

It seems, there is no necessity to change anything.

11. (a) How long is the duration of the training for architects under your national law?  
(b) In how many years do you cover all 11 items as listed in Article 46?
- a) Six years of study  
b) Six years of study, which are followed by three years of Professional experience, authorization exam and oath. However, in these the graduate does not gain any information contained in article 46.

12. The Directive is based on mutual trust between Member States.
- (a) To what extent is such trust actually achieved?
  - (b) Are training programmes accredited by external bodies in your country?
  - (c) Does accreditation of a training program in another Member State enhance trust or is it not relevant?

- a) Mutual trust is obvious in qualifications listed in Annex V and VI. In other cases the trust is reinforced by information Exchange among CAs. ENACA is an important facilitator.
- b) Accreditation belongs in the field of activity of Accreditation Commission, which is an Advisory Body of Slovak Government.

13. (a) To what extent are the existing Directive provisions (see recital 39 and Article 22(b) on continuous professional development (continuous training) adequate?
- (b) Is continuous training mandatory in your country and what are the exact conditions?

Chamber does not have a system of compulsory CPD. Its constitution on regular base (either compulsory or voluntary) is planned in near future.

#### **D. ADMINISTRATIVE COOPERATION**

14. To which extent does administrative cooperation, as outlined in Articles 8, 50, and 56 of the Directive, simplify procedures for the migrant professionals?

Cooperation among Competent Authorities is generally on good level; the situation is a bit more complicated when it concerns a country where a Ministry is a CA.

15. (a) Is the competent authority in your country registered with IMI?
- (b) Under which circumstances does your competent authority use IMI?
- (c) What are your experiences?
- (d) If not registered, why not and what would be the conditions for changing this situation?

- a) Chamber is registered with IMI.
- b) Chamber does not use IMI extensively, as it does not always offer communication the way we need it.

16. (a) How could a professional card (see Recital 32 of the Directive) facilitate recognition of professional qualifications and provision of temporary services?
- (b) Under which conditions could it be issued by professional associations?

17. How do you share information about suspensions/restrictions with competent authorities in other Member States?

Through Competent Authorities and Professional Bodies using electronic communication and telecommunication.

**E. OTHER OBSERVATIONS**

18. (a) How and when are the necessary language skills of migrants checked after recognition of the professional qualifications?  
(b) Are you aware of any complaints (especially from patients/clients/employers) about insufficient language skills of migrants?  
(c) If serious doubts about language skills have arisen which action do competent authorities undertake towards the migrant?
- a) We do not assess the language skills. However, if it concerns the first Access to the profession connected to the obligation to pass the Authorization Exam, the applicant would have to possess the language skills as the examination is in local language only.  
b) No, we are not;  
c) None; it is a matter of agreement between architect and his client.
19. Are there any considerable cost implications for the migrant? Please specify the fees involved with establishment and the fees involved with temporary services.

A visiting architect pays an administration fee for inclusion to the register of 85 EUR  
A compulsory membership in the Chamber is related to the legal establishment. Fee for examination is 165 EUR, fee for inclusion in the List of Authorized Architects is 85 EUR, a yearly membership fee is established by the Statutes of the Chamber.

20. What is your experience with training provided by franchising universities?
- We do not have any experience.
21. Have you encountered particular problems with non-EU nationals with qualifications listed in Annex V being treated differently to EU nationals with the same listed qualifications?
- No, we have not had.
22. (a) What are the experiences of (outgoing) architects from your country who (would like to) practice in another Member State?  
(b) Are there in particular problems if the profession of an architect is not regulated in your country?  
(c) What feedback do you have from incoming migrants on the assistance they have been given by their home Competent Authority? (a general response without naming any Competent Authority in particular is expected)

The architect's profession in Slovakia is regulated. Migrants leaving to other countries receive certificates that have been accepted.

(Version coordinated between ENACA and Mr. Jürgen Tiedje, EU-Commission)

**Evaluating the Professional Qualifications Directive**  
**Experience reports from competent authorities**  
**(ARCHITECTS)**

*This questionnaire does not need to be answered in full, and respondents are welcome to address topics not included in the questions. The purpose of the questionnaire is to prompt the experience reports which are a key part of the fact-finding phase of the evaluation.*

**POSSIBLE QUESTIONNAIRE FOR EACH SECTORAL PROFESSION**  
**(7 May 2010)**

*Profession is not regulated in Sweden. Only questions under point 22 are answered. Answers are inserted after each question.*

**A. RECOGNITION PROCEDURE IN CASE OF MIGRATION ON A PERMANENT BASIS**

1. (a) Do you accept applications from EU citizens for the recognition of foreign diplomas sent by email or requests made on line?  
 (b) Under which conditions can they send documents and declarations electronically?  
 (c) What are your experiences in this respect?
2. What is the yearly number of applications for recognition from 2000 to 2009? Please submit specific data for applications for automatic recognition based on diplomas, automatic recognition based on acquired rights (as from 2005), and recognition based on the general system<sup>1</sup>. Please verify first the data in the Regulated Professions Database.
3. (a) To what extent have the system of automatic recognition and the general system been a success?  
 (b) How do you see the costs and benefits? Specify in particular whether automatic recognition based on diploma, Annex V and the current notification system represent an efficient way to facilitate automatic recognition. Please submit comments for:
  - automatic recognition based on diploma
  - automatic recognition based on acquired rights (Art. 49 – Annex VI)
  - recognition based on the general system.
4. (a) Is the general system applied in your country each time the conditions for automatic recognition are not met?  
 (b) What are in your view "specific and exceptional reasons" as provided in Art. 10 (1)?  
 (c) Are there major difficulties in the recognition procedure under the general system (e.

<sup>1</sup> Please provide this information unless it has already been provided to the Commission in the Database or the implementation reports.

g. burden of proof)? Please include any comments you may have on the implementation of compensation measures.

5. What is your experience with the recognition procedure for EU citizens with professional qualifications obtained in a third country and already recognised in a first Member State (see Articles 2(2) and 3(3))?
6. Please describe the government structure of the competent authority or authorities in charge of the recognition.

**B. TEMPORARY MOBILITY (OF A SELF-EMPLOYED OR AN EMPLOYED WORKER)**

7. Are EU citizens interested in using the provisions for exercising their professional activities on a temporary and occasional basis in your Member State? How many citizens used this new system in 2008 and 2009 (per month, per year)<sup>2</sup>?
8. How are the provisions of Directive 2005/36/EC concerning temporary mobility applied by the competent authorities in practice taking into account the relevant provisions of the Code of Conduct? For instance:
  - How is the "legal establishment" criteria foreseen by Article 5(1) (a) interpreted in practice? What conditions does a migrant need to fulfil in his home Member State in order to be able to provide services?
  - How are the "temporary and occasional basis" criteria foreseen by Article 5.2 interpreted in practice? Do Member States assess duration, frequency, regularity and continuity of an activity and if so according to which criteria?
9. (a) Do you have a prior declaration system?  
(b) If so, please indicate why it is necessary?  
(c) What do competent authorities do with the information received?  
(d) Are other possibilities conceivable?

**C. MINIMUM TRAINING REQUIREMENTS**

10. To what extent are the common minimum requirements for training set out in Title III Chapter III of Directive 2005/36/EC in line with scientific progress and professional needs in the last ten years? Are the knowledge and skills outlined in Article 46 still relevant and up to date? Please specify.
11. (a) How long is the duration of the training for architects under your national law?  
(b) In how many years do you cover all 11 items as listed in Article 46?
12. The Directive is based on mutual trust between Member States.
  - (a) To what extent is such trust actually achieved?
  - (b) Are training programmes accredited by external bodies in your country?

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<sup>2</sup> Please provide this information unless it has already been provided to the Commission in the Database on Regulated Professions

(c) Does accreditation of a training program in another Member State enhance trust or is it not relevant?

13. (a) To what extent are the existing Directive provisions (see recital 39 and Article 22(b) on continuous professional development (continuous training) adequate?  
(b) Is continuous training mandatory in your country and what are the exact conditions?

**D. ADMINISTRATIVE COOPERATION**

14. To which extent does administrative cooperation, as outlined in Articles 8, 50, and 56 of the Directive, simplify procedures for the migrant professionals?
15. (a) Is the competent authority in your country registered with IMI?  
(b) Under which circumstances does your competent authority use IMI?  
(c) What are your experiences?  
(d) If not registered, why not and what would be the conditions for changing this situation?
16. (a) How could a professional card (see Recital 32 of the Directive) facilitate recognition of professional qualifications and provision of temporary services?  
(b) Under which conditions could it be issued by professional associations?
17. How do you share information about suspensions/restrictions with competent authorities in other Member States?

**E. OTHER OBSERVATIONS**

18. (a) How and when are the necessary language skills of migrants checked after recognition of the professional qualifications?  
(b) Are you aware of any complaints (especially from patients/clients/employers) about insufficient language skills of migrants?  
(c) If serious doubts about language skills have arisen which action do competent authorities undertake towards the migrant?
19. Are there any considerable cost implications for the migrant? Please specify the fees involved with establishment and the fees involved with temporary services.
20. What is your experience with training provided by franchising universities?
21. Have you encountered particular problems with non-EU nationals with qualifications listed in Annex V being treated differently to EU nationals with the same listed qualifications?
22. (a) What are the experiences of (outgoing) architects from your country who (would like to) practice in another Member State?

*Neither our office nor the Swedish Association of Architects have received any complains from outgoing architects, which can be interpreted as positive experience regarding professional recognition. The number of Swedish architects who migrate on permanent basis is very limited.*

(b) Are there in particular problems if the profession of an architect is not regulated in your country?

*One of the receiving Member States requires that all Swedish architects provide certificate from the Swedish Agency for Higher Education verifying their access to profession in Sweden. Since the profession is not regulated we can only state that access is not restricted. If the fact that profession is not regulated was mentioned in, for example Annex V.5.7.1, no need for such certificates would exist.*

(c) What feedback do you have from incoming migrants on the assistance they have been given by their home Competent Authority? (a general response without naming any Competent Authority in particular is expected)

*N/A. Incoming migrants do not contact our office.*

(Version coordinated between ENACA and Mr. Jürgen Tiedje, EU-Commission)



**Evaluating the Professional Qualifications Directive  
Experience reports from competent authorities  
(ARCHITECTS)**

This questionnaire does not need to be answered in full, and respondents are welcome to address topics not included in the questions. The purpose of the questionnaire is to prompt the experience reports which are a key part of the fact-finding phase of the evaluation.

**Architects Registration Board response to the European Commission questionnaire on evaluating the Professional Qualifications Directive.**

The Architects Registration Board welcomes the opportunity to respond to the Experience Report questionnaire.

The Architects Registration Board (ARB) is the UK's statutory regulator of architects. ARB was established by Parliament in 1997 to regulate the architects' profession in the UK. ARB is an independent, public interest body and its work in regulating architects ensures that good standards within the profession are consistently maintained for the benefit of the public and architects alike. ARB is the UK's competent authority for architects under the Professional Qualifications Directive.

**A. RECOGNITION PROCEDURE IN CASE OF MIGRATION ON A PERMANENT BASIS**

1. (a) Do you accept applications from EU citizens for the recognition of foreign diplomas sent by email or requests made on line? (b) Under which conditions can they send documents and declarations electronically? (c) What are your experiences in this respect?

**ARB response:** ARB is able to accept all applications on line or by email. Online applications are currently accepted through a UK Government portal, the 'Electronic License Management System' and this has been in operation for a number of weeks now, see link below:

[http://www.ukwelcomes.businesslink.gov.uk/bdotg/action/piplink?agency\\_id=132006&service\\_id=12400010001&site=2000](http://www.ukwelcomes.businesslink.gov.uk/bdotg/action/piplink?agency_id=132006&service_id=12400010001&site=2000)

ARB is encouraged by the ease of use of the system, and although ARB experiences some technical problems, it is understood that these are in hand. Once the system is in its final form, it is anticipated that it will make processing applications more efficient for both ARB and the migrant.

ARB accepts applications in most common file formats and allows applications of all types to be made electronically. Our experience indicates that 'pdf' format applications are the preferred choice of most migrants.

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ARB's experience with electronic applications has been positive. ARB has found that adjusting its systems to enable electronic applications to be straightforward. ARB remains mindful that the use of uncertified electronic documents could in a minority of instances contribute to fraudulent applications, and ARB remains vigilant in this respect to ensure that the users of architects' services continue to have confidence in the value of the Register of Architects.

- 2. What is the yearly number of applications for recognition from 2000 to 2009? Please submit specific data for applications for automatic recognition based on diplomas, automatic recognition based on acquired rights (as from 2005), and recognition based on the general system<sup>1</sup>. Please verify first the data in the Regulated Professions Database.**

**ARB response:** See statistics in Annex 1 attached.

- 3. (a) To what extent have the system of automatic recognition and the general system been a success? (b) How do you see the costs and benefits? Specify in particular whether automatic recognition based on diploma, Annex V and the current notification system represent an efficient way to facilitate automatic recognition. Please submit comments for:**

- **automatic recognition based on diploma**

**ARB response:** In ARB's experience, the automatic recognition system based on diploma in Directive 2005/36/EC continues the success that was established by the earlier Architects' Directive 85/384/EEC but goes on to simplify access to market for fully-qualified migrants.

The UK welcomes the introduction of the formal, written procedures which the Commission has developed to deal with the notification of diploma level qualifications. Although relatively new, the process appears to be working well so far. The UK sees the introduction of specific deadlines within which Member States must respond regarding a notification, a mandatory two-month consultation period, and the use of a majority voting rule as a very positive step towards speeding up the notification and listing processes.

However, the UK would find it helpful if Annex V was fully updated and mechanisms were put in place to ensure that the Annex remains fully up to date. It would be useful if the Commission could produce consolidated versions of Annex V at more regular periods.

- **automatic recognition based on acquired rights (Art. 49 – Annex VI)**

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<sup>1</sup> Please provide this information unless it has already been provided to the Commission in the Database or the implementation reports.

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**ARB response:** In ARB's experience, the automatic recognition system based on acquired rights in Directive 2005/36/EC continues the success that was established by the earlier Architects' Directive 85/384/EEC but goes on to simplify access to market for fully-qualified migrants.

- **recognition based on the general system**

**ARB response:** ARB's experience of the General System has proven difficult. A number of formalities are not clear which make it difficult for both the migrant and the competent authority:

- ARB finds that it is extremely difficult to operate a system which is based on provisions whereby a migrant must be identified as having 'specific and exceptional' reasons to qualify to make use of the route.

- ARB also finds that, the majority of migrants do not qualify to be considered through the General System as they have not completed the necessary three years' experience on the territory of the Member State which initially recognised the migrant's qualifications.

- Migrants' expectations are difficult to manage. There is no guidance published by the Commission to indicate how or why a migrant qualifies or does not qualify to make use of the General System as there is no guidance published to demonstrate what 'specific or exceptional' reasons may be.

- The General System mirrors provisions which ARB has had in place for a number of years and therefore creates mandatory duplication without clarity. ARB's existing system, 'Prescribed Examination' offers a straightforward approach through which migrants may apply to be considered, underpinned by clear, unambiguous guidance on who does or who does not qualify as well as the nature of the evidence required.

In summary, the General System sets out a scheme which to ARB's experience is not fully formed. The administrative approach is not backed by clear guidelines, the 3-phase process described (i.e. consideration of information, test and compensation measures) is inherently costly to implement (costs are normally borne directly by migrants), and fettered by a lack of transparency for migrants.

**4. (a) Is the general system applied in your country each time the conditions for automatic recognition are not met? (b) What are in your view "specific and exceptional reasons" as provided in Art. 10 (1)? (c) Are there major difficulties in the recognition procedure under the general system (e. g. burden of proof)? Please include any comments you may have on the implementation of compensation measures.**

**(a) ARB response:** Each application ARB receives is judged on its merits to ensure that migrants circumstances are given due weight. Having been considered against each of ARB's routes to registration, the migrant will be advised on the most appropriate route – whether it is the General System or ARB's local UK route with equivalence

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**(b) ARB response:** Circumstances such as 'specific and exceptional reasons' cannot correspond to routine definition. ARB would however welcome guidance as to the range of circumstances that the Commission considers to be within the scope of the definition to ensure that ARB is able to exercise its statutory duty correctly.

**(c) ARB response:** Please see section 3 above for our initial findings on the General System. ARB notes however that the numbers of valid applications are not significant as most migrants do not meet the requirement for 3 years' establishment after recognition of qualifications has been completed.

**5. What is your experience with the recognition procedure for EU citizens with professional qualifications obtained in a third country and already recognised in a first Member State (see Articles 2(2) and 3(3))?**

**ARB response:** ARB finds the framework for this to be straightforward. ARB notes however that the majority of migrants do not have the necessary 3 years' establishment in the Member State which recognised the third country qualification. ARB finds it to be very helpful where other competent authorities are able to assist through the provision of statements to confirm equivalence to Art. 46 as well as any further details about access to market requirements. ARB notes further that it has had few applications falling into this category and therefore its experience may not yet be fully representative.

**6. Please describe the government structure of the competent authority or authorities in charge of the recognition.**

**ARB response:** The ARB is a statutory regulator in the UK. It was established under an Act of Parliament, the Architects Act 1997, which sets out the ARB's roles and responsibilities. ARB is also the UK's competent authority for Architects and is responsible for ensuring that the requirements of relevant sections of the Directive are being met. UK legislation requires the ARB to prescribe the qualifications and practical experience required for the purposes of entry onto the UK Register of Architects. As such, ARB is the only body within the UK that can determine what qualifications an individual must hold in order to be registered in the UK and to use the title 'architect'. The ARB is independent of the UK Government but has strong links with the Department of Communities and Local Government and the Department of Business Innovation and Skills in terms of dealing with the notification of qualifications to the European Commission.

**B. TEMPORARY MOBILITY (OF A SELF-EMPLOYED OR AN EMPLOYED WORKER)**

7. Are EU citizens interested in using the provisions for exercising their professional activities on a temporary and occasional basis in your Member State? How many citizens used this new system in 2008 and 2009 (per month, per year) <sup>2</sup>?

**ARB response:** ARB has had very limited interest from migrants who qualify to join the list of EEA architects providing temporary and occasional services. Currently, there is only one migrant included in that part of the Register of Architects.

Based upon the feedback that ARB has had from EEA migrants inquiring about registration, ARB's fees for permanent establishment are competitive and lower than many other Member States. Therefore ARB believes that most migrants prefer to be included in the main Register for the avoidance of any ambiguity about the title that they may qualify to use i.e. architect rather than their home state title.

The application for the temporary register is included in ARB's dedicated information section for EEA migrants and it sits alongside the application for Part 1 of the Register on our website.

8. How are the provisions of Directive 2005/36/EC concerning temporary mobility applied by the competent authorities in practice taking into account the relevant provisions of the Code of Conduct? For instance:

- How is the "legal establishment" criteria foreseen by Article 5(1) (a) interpreted in practice? What conditions does a migrant need to fulfil in his home Member State in order to be able to provide services?
- How are the "temporary and occasional basis" criteria foreseen by Article 5.2 interpreted in practice? Do Member States assess duration, frequency, regularity and continuity of an activity and if so according to which criteria?

**ARB response:** ARB finds the Commission's Code of Conduct to be very helpful in setting out how it should consider applications to join the Temporary Register. ARB ensures that all its processes comply with the Code and the majority of these meet best practice standards.

To facilitate migrants' easy application, ARB uses the form of declaration which was discussed at EU level and selected by the UK Government.

ARB will consider all of the above criteria before deciding about applications from migrants providing services. Should ARB find out that a migrant is in fact in the UK on a

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<sup>2</sup> Please provide this information unless it has already been provided to the Commission in the Database on Regulated Professions

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permanent basis, they will be asked to join the main Register of architects. All applications will be considered on a case-by-case basis.

By way of example, ARB would indicate that should a migrant spend less than 50% of any one year in practice in the UK, it would consider that migrant likely to be providing only temporary services. ARB would however welcome more formal guidance from the Commission on this matter.

**9. (a) Do you have a prior declaration system? (b) If so, please indicate why it is necessary? (c) What do competent authorities do with the information received? (d) Are other possibilities conceivable?**

**(a) ARB response:** ARB has a prior declaration system. It asks that a migrant provides information about proposed services, and corresponds with the Professional Qualifications Directive Code of Conduct.

**(b) ARB response:** ARB has a statutory remit for public protection. ARB feels that prior declaration provides the best protection for the users of architects' services and maintains public confidence in the architects' profession.

**(c) ARB response:** ARB forms a considered opinion from the information it receives. Information is treated confidentially and is only released where expressly permitted by law.

**(d) ARB response:** ARB would not rule out any alternative arrangements that might fall to be considered, however there is nothing at present to add.

**C MINIMUM TRAINING REQUIREMENTS**

**10. To what extent are the common minimum requirements for training set out in Title III Chapter III of Directive 2005/36/EC in line with scientific progress and professional needs in the last ten years? Are the knowledge and skills outlined in Article 46 still relevant and up to date? Please specify.**

**(a) ARB response:** This is an area where it is not possible for ARB to comment. There are other bodies such as the Schools of Architecture in the UK which may be better placed to respond.

**(b) ARB response:** ARB believes that Article 46 remains relevant and is sufficiently up to date. The UK uses Article 46 as a minimum upon which to basis its Criteria for the Prescription of Qualifications in Architecture up to Diploma (or second cycle) level.

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11. (a) How long is the duration of the training for architects under your national law? (b) In how many years do you cover all 11 items as listed in Article 46?

(a) **ARB response:** UK legislation requires the ARB to prescribe the qualifications and practical experience required for the purposes of entry onto the UK Register of Architects. As such, ARB is the only body within the UK that can determine what qualifications an individual must hold in order to be registered in the UK and to use the title 'architect'.

In the UK, individuals are typically required to hold the following 2 academic qualifications:

1.	BSc/BA – undergraduate level ("Part 1")	3 years, full-time (or part-time equivalent)
2.	Diploma/Masters ("Part 2") – postgraduate level	2 years, full-time (or part-time equivalent)

The Part 1 and Part 2 qualifications collectively meet the requirements as to training of architects set out in Article 46 of the Directive. An individual holding Part 1 and Part 2 will hold 2 of the 3 qualifications required for registration in the UK. In addition, individuals are required to hold the following Certificate:

Architects Registration Board Part 3 Certificate	A minimum of 24 months practical experience, followed by a Part 3 qualification (part-time/distance learning)	Requirement for registration in UK (Access to Market)
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The minimum time in which it is possible to gain access to the profession of architect the UK is therefore 7 years.

(b) **ARB response:** In the UK, the Part 1 and Part 2 qualifications collectively meet the requirements as to training of architects set out in Article 46 of the Directive. The minimum time in which it is possible to gain both Part 1 and Part 2, and therefore meet the requirements of Article 46, is 5 years.

12. The Directive is based on mutual trust between Member States. (a) To what extent is such trust actually achieved? (b) Are training programmes accredited by external bodies in your country? (c) Does accreditation of a

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**training program in another Member State enhance trust or is it not relevant?**

**(a) ARB response:** ARB's view is that trust amongst Member States is improving and growing as more information is shared and clearer processes are developed. Forums such as the European Network of Architects Competent Authorities (ENACA) have been instrumental in establishing greater trust amongst Member States. The opportunity to actively participate in discussions regarding qualifications which have been notified to the Commission through the new consultation procedure and at the Architecture Sub-Group have also enabled good working relationships to begin to develop. In addition, both ENACA and the Architecture Sub-Group have enabled the UK to understand other Member States' requirements for registration more clearly.

**(b) ARB response:** Yes, qualifications in architecture which lead to registration in the UK must be prescribed by ARB. In order to ensure that qualifications in the UK are prescribed in a consistent and transparent way ARB has developed Criteria and Procedures for the Prescription of Qualifications.

ARB publishes Criteria which set out the levels of awareness, knowledge, understanding and ability that individuals must acquire at key stages in the process of qualifying as an architect. The underlying framework for ARB's Criteria is to be found in Article 46 of the Directive<sup>3</sup>. The Criteria are separated into three stages: Part 1 (BA/BSc); Part 2 (Diploma) and Part 3 (ARB Part 3). The Criteria at Part 1 and Part 2 levels collectively meet the requirements of the 11 points set out in Article 46 of the Directive. The Criteria set out the minimum standards which must be achieved at each level - [http://www.arb.org.uk/qualifications/arb\\_criteria/default.php](http://www.arb.org.uk/qualifications/arb_criteria/default.php)

ARB's Procedures for the Prescription of Qualifications (the "Procedures") set out what an institution must do in order to achieve prescription for the first time as well as to maintain (renew) the prescription of a qualification recognised by ARB. Refer to the following link for more details:  
[http://www.arb.org.uk/qualifications/prescription\\_of\\_qualifications/prescription\\_procedures/prescription\\_process.php](http://www.arb.org.uk/qualifications/prescription_of_qualifications/prescription_procedures/prescription_process.php)

Under ARB's Procedures, institutions that wish to gain or renew prescription of a qualification must notify ARB of their intention to do so and then submit documentary evidence which demonstrates that they are meeting the rigorous objectives set out in Sections 2.5.1 and 2.5.2 of the Procedures. The objectives clearly state that an institution, as well as the ARB, must be confident that all the objectives are being achieved/will continue to be achieved for period of prescription sought.

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<sup>3</sup> formerly Articles 3 and 4 of the European Council Directive 85/384/EEC, the Architects' Directive



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The objectives include that:

- Each qualification must have been designed with the clear aim of ensuring that all those who receive each qualification meet all the ARB Criteria and the relevant requirements of the Directive.
- The systems used by the institution must ensure that those awarded each qualification will meet all the Criteria and the relevant requirements of the Directive for the future period of prescription.
- The institution must have adequate resources to maintain and where appropriate increase the achievements of students in meeting the Criteria and the requirements of the Directive.

ARB relies on peer review evidence from a number of different sources and calls upon professional expertise before making a decision to prescribe or renew prescription of qualifications, for example, an institution may wish to choose to ask the Royal Institute of British Architects to additionally validate its qualifications in architecture.

ARB's process is also underpinned by the robust quality assurance mechanisms that institutions in the UK have in place. These include regular internal periodic review; annual monitoring arrangements and the engagement of external examiners for every qualification. In particular, External Examiners are typically required to ensure that students gaining the Part 1, Part 2 and Part 3 qualifications meet the requirements of ARB's Criteria at each of the three levels. Each institution's quality assurance mechanisms are audited by the Quality Assurance Agency (or equivalent) on a regular basis. Refer to the following link for more details: <http://www.qaa.ac.uk>

Once prescription has been granted, an institution must renew prescription of its qualification(s) every 4 years. However, during the 4 year period of prescription, the institution must make an annual monitoring submission to ARB so that ARB can continue to be reassured that the objectives set out in Sections 2.5.1 and 2.5.2 of ARB's Procedures are being met, and that the basis on which prescription was granted remains the same (or has improved).

**(c) ARB response:** The ARB believes that accreditation of training programmes in other Member States can assist in enhancing trust but that this will depend on how much is known about the accreditation process and whether it is independent and robust. The UK's representatives on the Architecture Sub-Group made a presentation to European colleagues to explain the UK's processes of accreditation. Similar presentations from other Member States, where accreditation exists, would continue to facilitate the building of trust between Member States' and their understanding of the position across Europe.

13. **(a) To what extent are the existing Directive provisions (see recital 39 and Article 22(b) on continuous professional development (continuous training) adequate? (b) Is continuous training mandatory in your country and what are the exact conditions?**

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**(a) ARB response:** As a body which has a role in protecting the users of architects' services, the ARB finds the references to continuous professional development in Recital 39 and Article 22b useful. However, ARB recognises that continuing professional development is only a small part of maintaining overall competence as a professional.

**(b) ARB response:** As the UK's registration body for architects, ARB strongly encourages architects to maintain their competence once they have been admitted to the register. ARB issues guidance for this purpose:

[http://www.arb.org.uk/qualifications/competence/maintaining\\_competence.php](http://www.arb.org.uk/qualifications/competence/maintaining_competence.php)

In addition the Architects Act 1997 requires ARB to issue a Code laying down the standards of professional conduct and practice expected of persons registered as architects under the Act. Any failure to comply with the provisions of the Code is not of itself to be taken as constituting unacceptable professional conduct or serious professional incompetence, but it shall be taken into account in any disciplinary proceedings before the Board's Professional Conduct Committee. Standard 2 of the Code deals with Competence and Member States that: Architects are expected to be competent to carry out the professional work that they undertake to do, and if they engage others to do that work they should ensure that they are competent and adequately supervised; Architects are expected to make appropriate arrangements for their professional work in the event of incapacity, death, absence from, or inability to, work; Architects are expected to ensure that the necessary communication skills and local knowledge are available to them to discharge their responsibilities; and Architects are expected to keep their knowledge and skills relevant to their professional work up to date and be aware of the content of any guidelines issued by the ARB from time to time.

**D. ADMINISTRATIVE COOPERATION**

**14. To which extent does administrative cooperation, as outlined in Articles 8, 50, and 56 of the Directive, simplify procedures for the migrant professionals?**

**ARB response:**

**Art 8** – ARB would respond to requests falling into this category and provide the information permitted by the legislation. ARB would provide contact and qualification information and the date of a license being granted. To date, ARB has not responded to any inquiries which are believed to be in this category.

**Art 50** – ARB frequently exchanges information with other competent authorities within the meaning of Article 50. ARB finds this provision of great value to ensure the integrity of the UK Register of Architects and to support UK migrants' dealings with other competent authorities. For ease of communication and speed of response, ARB often uses the IML system. Please see below for more details of our experience using IML.

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**Art 56 – 1, 2 & 3**, ARB provides information within the limits of the legislation. To date, ARB has issued one certificate to a migrant falling into this category. Details of ARB's disciplinary findings are publicly available.

UK Government has designated the Department of Business, Innovation and Skills (BIS) as coordinator for the Directive. ARB receives regular information, briefings and support from BIS.

Although not expressly covered in this point, ARB would like to suggest that a standard certificate template to cover migrants' qualifications, establishment and good standing be produced and circulated by the Commission. This would streamline the process of migrants' establishment and ensure that all relevant information is exchanged on a single suitable form. ARB would be pleased to provide copies of its declarations if they would assist in this process.

ARB also believes it would be useful if the Commission could enable a centralised list to be held, on which migrants subject to sanction, or whose certificates have been revoked might be included. This would ensure all Member States' access to valuable consumer-interest information.

**15. (a) Is the competent authority in your country registered with IMI? (b) Under which circumstances does your competent authority use IMI? (c) What are your experiences? (d) If not registered, why not and what would be the conditions for changing this situation?**

**(a) ARB response:** ARB is a registered competent authority user of IMI and a number of its staff are trained to use IMI.

**(b) ARB response:** ARB uses IMI to check establishment and authenticity of qualifications and the right for applicants to supply services. ARB also finds that the free text facility in IMI is of great help when requesting information which does not clearly fall into the predefined categories.

**(c) ARB response:** ARB finds IMI to be a fast and effective way of exchanging information, although ARB is disappointed that it is not used by all architects' competent authorities.

**(d) ARB response:** Going forward, ARB would like to see IMI become mandatory as this will ensure uniform provision of information across all Member States and support a more consistent experience for migrants. ARB would also like to see more Commission's monitoring of queries made through IMI, including intervention where necessary, to ensure that competent authorities' requests are followed through in a timely manner.

16. (a) How could a professional card (see Recital 32 of the Directive) facilitate recognition of professional qualifications and provision of temporary services? (b) Under which conditions could it be issued by professional associations?

**ARB response:** The purpose and value of introducing such a card facilitating recognition of professional qualifications and provision of temporary services are currently being explored by the Architects Council of Europe (ACE). The practicalities of issuing such a card may be administratively burdensome as well as potentially costly; however, as exploration continues, ARB will continue to feed its views into ACE.

17. How do you share information about suspensions/restrictions with competent authorities in other Member States?

ARB would respond on an individual basis to any inquiries made by other competent authorities. ARB is also able to include details of migrants' sanctions (if applicable) on our standard certificates for EU nationals.

#### **E. OTHER OBSERVATIONS**

18. (a) How and when are the necessary language skills of migrants checked after recognition of the professional qualifications? (b) Are you aware of any complaints (especially from patients/clients/employers) about insufficient language skills of migrants? (c) If serious doubts about language skills have arisen which action do competent authorities undertake towards the migrant?

**(a) ARB response:** ARB does not impose a mandatory test of language skills on EU migrants. However, all registrants are obliged to follow ARB's Code of Conduct. Standard 2 of the Code requires that architects are expected to ensure that the necessary communication skills and local knowledge are available to them to discharge their responsibilities. Should a migrant fail to meet the standards asked of them by the Code, ARB could consider disciplinary proceedings.

**(b) ARB response:** ARB has not received any complaints direct from employers or users of architects' services. ARB notes however that a number of migrants do not possess the linguistic skills to navigate the Registration process and often require extensive support from ARB and/or third parties (such as spouses, co-workers or careers services).

**(c) ARB response:** ARB has no direct experience of taking action where a migrant's English Language skills may be limited. ARB notes that English will not always be the preferred language of communication for employers or users of architects' services. For some other routes to registration which do not rely on EU legislation, ARB does impose a language requirement. It is our experience of those routes which leads ARB to believe that a certain standard of English Language competence is advantageous for migrants,

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especially where automatic recognition does not apply and more complex registration procedures must be followed.

ARB notes that the Commission's position with respect to language testing is evolving and that competent authorities are permitted to consider language skills after the checking of qualifications and other decisions to grant establishment are complete. ARB would welcome any updates in this area. ARB would not wish to impose a mandatory language test on migrants; but in the interests of equality, ARB would prefer to demonstrate that language testing could be implemented at the same point in each of its processes, which is not currently permitted.

**19. Are there any considerable cost implications for the migrant? Please specify the fees involved with establishment and the fees involved with temporary services.**

Fees charged by the ARB will always reflect the average cost of processing applications; the ARB's Board operates a cost-recovery policy. The automatic recognition route is charged the same as UK migrants (£86 in 2010), which will include a processing fee and a quarterly pro-rata registration fee for 2011. The temporary register reflects UK Government requirements and has no cost attached.

The complexity of the General System will require considerable resources to be dedicated to it which will be passed on to applicants.

**20. What is your experience with training provided by franchising universities?**

ARB does not currently prescribe any franchised qualifications.

**21. Have you encountered particular problems with non-EU nationals with qualifications listed in Annex V being treated differently to EU nationals with the same listed qualifications?**

Where non-EU applicants hold EU qualifications, UK legislation applies the Directive only to those who have enforceable EEA rights on which they may rely. ARB takes a pragmatic approach and uses its UK equivalence route to extend the same rights to non-EU nationals. These applications are considered on a case by case basis, and ARB would normally consider any migrant with listed EEA qualifications as meeting UK Part 1 and Part 2 requirements, based on the common platform of Article 46.

**22. (a) What are the experiences of (outgoing) architects from your country who (would like to) practice in another Member State? (b) Are there in particular problems if the profession of an architect is not regulated in your country? (c) What feedback do you have from incoming migrants on the assistance**

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**they have been given by their home Competent Authority? (a general response without naming any Competent Authority in particular is expected)**

**(a) ARB response:** ARB has had feedback from outgoing migrants who do not feel that they have been accorded their legitimate rights based on listed UK qualifications in Annex V. Some Member States illegally reconsider UK qualifications which come within the scope of Annex V or Annex VI which naturally, migrants find extremely frustrating.

**(b) ARB response:** This question is not applicable to ARB as the architects' profession is regulated in the UK.

**(c) ARB response:** There are a number of recurring problems which are encountered by ARB when dealing with incoming migrants. Some Member States routinely issue declarations based on local law rather than that permitted under Annex VII. Migrants are delayed and subject to further costs where re-issue of certificates is required. This can be even more problematic if certificates require translations.

ARB has also had experience with considering applications during which competent authority statements made in other Member States have had to be retracted due to inaccuracies. By way of example, certificates have confirmed qualifications were listed in Annexes to the directive, which upon careful checking were found not to be listed. ARB has also received confirmation of minimum periods of study purporting to reach the Article 46 standard, which on further investigation were found to be considerably short of that standard: some competent authorities appear to have relied upon universities to check minimum standards required under Article 46 had been achieved and universities do not always understand the importance of accurate declarations.

ARB has also noted that newly acceded Member States have confirmed information which they have later had to retract. ARB feels that more support from the Commission could be offered to these new Member States in understanding standards and obligations, although ARB has found it rewarding to assist new Member States' competent authorities.

### **Additional comments**

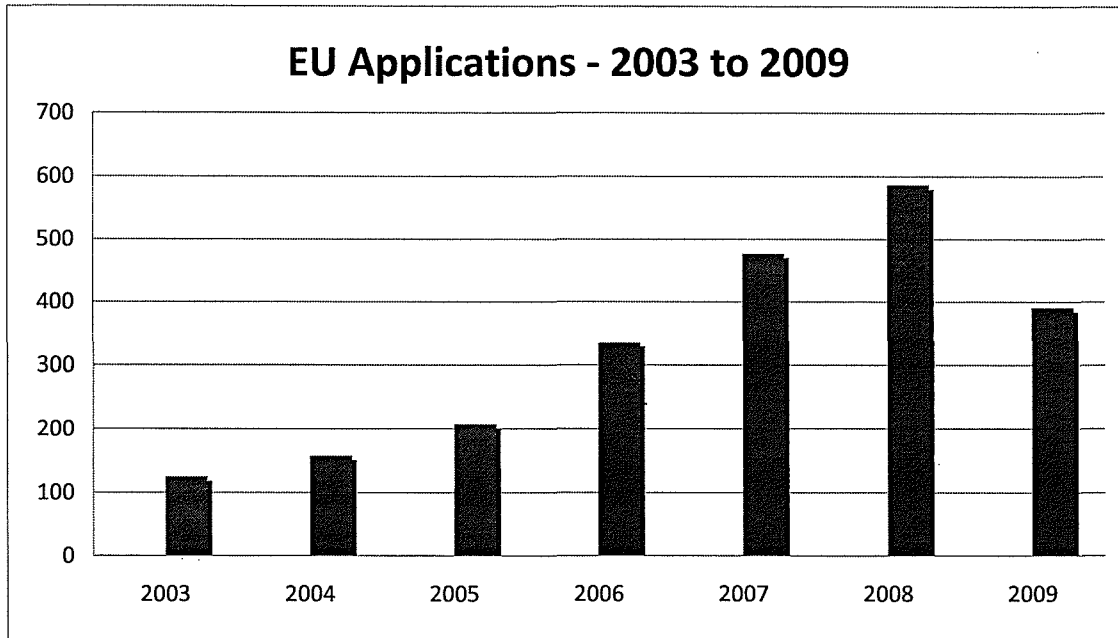
ARB is committed to delivering effectively its role as the UK's competent authority for architects under the Professional Qualifications Directive. ARB assists as much as possible the free movement of architects across Europe in order to actively contribute to the achievement of a genuine Internal Market in services.

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