

Question for written answer E-000673/2012 to the European Commission

Rule 117 **Marian Harkin (ALDE)**

**Subject: Registration of the title 'architect' resulting from the introduction of the Irish Building Control Act 2007**

With the introduction of the Irish Building Control Act 2007, registration of the professional title of 'architect' became compulsory. In order to be registered, architects are required to pass a technical assessment examination which is set at a high bar (with compulsory academic achievement). The effect of this is to discriminate against self-taught architects, many of whom have decades of practical experience which have yielded high quality and unblemished service.

A bill amending this act, known as the Building Control (Amendment) Bill 2010, has been introduced in Dáil Éireann by John O'Donoghue. This bill, if passed into law, will effectively provide for a 'grandfather clause' in the Building Control Act, and allow anyone who can prove that they have been making their living as an architect for seven years or more to be entered in the Register of Architects automatically. The bill provides an equitable basis for resolving this entire matter.

**Is the proposed Irish Amendment Bill 2010, allowing for a 'grandfather clause' in the Building Control Act (2007), lawful under European Union law in the context of Directive 2005/36/EC?**

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Question for written answer E-012450/2011 to the European Commission

Rule 117 **Nessa Childers (S&D)**

**Subject: EU Directive 2005/36/EC**

The Architects' Alliance of Ireland has recently been in touch regarding differing interpretations of EU Directive 2005/36/EC. The Royal Institute of the Architects of Ireland (RIAI) has claimed that an amendment to the Building Control Act (BCA) 2007 introduced by John O'Donoghue in 2010 (which permitted the introduction of a Grandfather clause) would be unlawful, and contrary to the said Directive.

The Architects' Alliance of Ireland maintains that the bill was indeed lawful as regards European law.

The Royal Institute's view is based on a widely circulated legal Opinion that it acquired. However that Opinion is actually contradicted by its subsequent action in creating an "Ireland only" class of membership within their own ranks (the making of such a class is inconceivable according to its own legal Opinion). In fact, the new MRIAI(IRL) class facilitates an indisputably European-compliant Grandfather Clause Amendment to the BCA 2007 – quite apart from the argument presented in a legal Opinion prepared for the Alliance.

The Alliance view is also supported by correspondence from the European Commission, but a specific answer is what we need – ideally given formally by Europe to a government party MEP. John O'Donoghue's bill expired with the last government and, instead, the making of a better drafted bill, albeit with the same purpose, is anticipated.

However, the discussion over introducing a Grandfather Clause to Part 3 of the BCA 2007 is being successfully undermined by the pretence that John O'Donoghue's bill was in conflict with the Directive.

Clarification is urgently sought on the following question:

**Was John O'Donoghue's bill lawful as regards European Law, especially Directive 2005/36/EC?**

Joint Answer (02/21.2.2012) given by  
**Mr. Barnier, on behalf of the Commission**

The Commission cannot take a position on the conformity with Union law of legislation not yet adopted by Member States.

The response to the Honourable Member's question must, therefore, be limited to general observations on the applicable Union law and in particular relevant provisions of Directive 2005/36/EC on the recognition of professional qualifications.

Directive 2005/36/EC facilitates the free movement of architects in the single market by establishing rules according to which Member States which limit access to the profession of architect to holders of particular qualifications must recognise qualifications which were obtained in another Member State.

Article 46 of the Directive defines minimum training requirements for architects.

Qualifications which meet these requirements are listed in Annex V of the Directive.

Their holders can benefit from automatic recognition when they move to another Member State.

The minimum training requirements referred to in Article 46 are not binding on Member States.

**In other words, the Directive does not prohibit Member States from granting access to the profession of architect on their own territory to persons whose qualifications do not meet the Article 46 requirements, including any persons whose qualifications would be subject to a grandfathering clause.**

However, these persons would not be able to benefit from the automatic recognition of their qualifications in another Member State.

They would be subject to the General System of recognition, in accordance with Article 10 of the Directive, which entails the comparison of their qualifications with those required in the host Member State.