



EUROPEAN COMMISSION
Directorate General Internal Market and Services

SERVICES

MUTUAL EVALUATION FORESEEN BY THE SERVICES DIRECTIVE– STAKEHOLDERS' CONSULTATION

You are encouraged to consult the consultation paper and the specific privacy statement available on

http://ec.europa.eu/internal_market/consultations/2010/services_directive_en.htm
before you reply to this questionnaire.

All replies should be sent to: MARKT-SERVICES-CONSULTATION@ec.europa.eu

Deadline for replies: 13th of September 2010

Identification of the respondent (name, contact details)
Brian Montaut, (Spokesman for Architects' Alliance)
- Architects' Alliance ID number is 91708294194-42

Type of respondent:

- Individual
- Business/Company
- ASSOCIATION/ORGANISATION**
- Professional body
- Public authority
- Other (please indicate)

Respondent active at:

- Regional level
- NATIONAL LEVEL**
- European level

Please indicate the service sectors which interest you/those you represent
ARCHITECTS (IN IRELAND)

Commission is hereby inviting interested stakeholders to reply to the questions below against the backdrop of the consultation paper and the information provided for each Member State available on:

http://ec.europa.eu/internal_market/consultations/2010/services_directive_en.htm

In your answers, please always indicate the Member State(s) and the sector/service concerned as well as the specific requirement(s) you are referring to. Please also give reasons for your assessment, e.g. why you consider a requirement unnecessarily burdensome and/or discriminatory and/or name the alternative measures you would consider appropriate.

QUESTIONS ON REQUIREMENTS APPLICABLE TO THE ESTABLISHMENT OF SERVICE PROVIDERS

1. *Questions on national measures imposing an authorisation (Article 9 of the Services Directive)*

1.1. Are there authorisation schemes imposed on service providers which you consider to be contrary to the Services Directive because they are discriminatory, unjustified or disproportionate?

YES, Gold-plating issues about the Building Control Act 2007 [Ireland S.I. 21 of 2007] eg EU minimum academic standards are exceeded in the Act. The consequences include denial of both National and EU market access to Irish citizens who are otherwise permitted such access through the “Qualifications Directive” (Directive 2005/36/EC on the recognition of professional qualifications). Also, before this Act, the profession was non-regulated in the State. Up to 1,000 prior-established architects are automatically disenfranchised by the Act and in order to restore their hard-won status must submit to costly examination by their competitors. Whereas 2,700 other architects were automatically placed on the new Register solely because of their membership of the dominant representative body. All this was ‘justified’ by reference to a need to satisfy European standards.

1.2. Are there cases where, in your view, authorisation schemes could be replaced by a less restrictive measure (e.g. declarations, a posteriori inspections)?

YES, See the Irish Competition Authority’s Report on the Architectural Profession and the Building Control (Amendment) Bill 2010 [Ireland S.I. 41 of 2010]. Annual registration charges for architects should not, as they do, engross the annual subscription fee for membership of the largest professional representative body for architects in the State. Maximum harmonization should be provided by the adoption in the National Law of the minimum academic standards previously agreed by Ireland and set-out in the “Qualifications Directive”. It should be noted that the “Qualifications Directive” predates the Building Control Act 2007 and that the restrictive measures now in place serve, above all, the dominant representative body.

2. *Questions on national measures imposing certain types of requirements (Article 15 of the Services Directive)*

2.1. Are there any specific requirements of the type mentioned in Article 15 of the Services Directive which you consider to be contrary to the Services Directive because they are discriminatory, unjustified or disproportionate?

YES, The means of recognising Prior Establishment is discriminatory in the Act, it is designed to be non-inclusive and relies on referencing the “Qualifications Directive”. Under the Act, a single private organisation, the Royal Institute of the Architects of Ireland Limited has been appointed as a) the Registration Body for architects and b) the Competent Authority as regards European legislation whilst remaining c) a private limited company. There are no procedural requirements in place for identifying and maintaining any separation between these three functions. The consequences include shielding from action by both the Irish Competition Authority and the Ombudsman. Overall, the transposition of the “Qualifications Directive” has created a legally sanctioned Closed Shop. Also, common usage words should not be ‘protected’. Thus instead of restricting the use of the common usage word ‘architect’, protected titles should be construed. These might be State Registered Architect and European Registered Architect.

2.2. Are there cases where, in your view, these requirements could be made less stringent?
YES, See the Irish Competition Authority's Report on the Architectural Profession.

3. *Questions on national measures restricting multidisciplinary activities (Article 25 of the Services Directive)*

3.1. Are you aware of restrictions to multidisciplinary activities which are imposed on services other than regulated professions and services of certification, accreditation, technical monitoring, test or trial services?

3.2. In your view, are there any restrictions to multidisciplinary activities imposed on regulated professions or on certification/accreditation/technical monitoring, test/trial services which are not needed to ensure the independence and/or impartiality of the provider or could be replaced by less stringent requirements?

QUESTIONS ON REQUIREMENTS APPLICABLE TO THE CROSS BORDER PROVISION OF SERVICES

4. Are you aware of any specific requirement (mentioned or not in Article 16 (2) of the Services Directive) imposed on cross-border service provision which, in your view, is discriminatory, not justified for reasons of public policy, public security, public health or the protection of the environment or disproportionate?
YES, It is easier for a citizen from another EU State to become registered as an architect in Ireland than it is for an Irish citizen. The inclusion of Architects as a Sectoral Profession is impossible to understand, but it has been used in Ireland to support Gold-plating.

5. Are there cases where, in your view, some of the requirements imposed on cross border service provision could be replaced by less restrictive measures?