

THE LEGAL POSITION OF ARCHITECTS IN THE EUROPEAN UNION

Frits Meijer and Henk Visscher¹

*OTB Research Institute for Housing, Urban and Mobility Studies, Delft University of Technology,
Thijssseweg 11, 2629 JA Delft, The Netherlands*

Since 1985, EU Directive EEC 85/384, also known as the European Architects Directive, has regulated the legal position of architects in the European Union. The directive's greatest asset is its provision for the mutual recognition of qualifications in architecture in EU Member States. The purpose of this provision is twofold: to safeguard the freedom of movement of architects within the EU, and to guarantee that architects from the different member states have the same basic skills and competences.

The present study examines whether current European regulations are indeed sufficient to ensure competent, competitive and consumer-friendly practices in the architectural profession throughout Europe's (growing) internal market – both now and in the future. In addressing this question, we analysed the implementation of the directive under the regulations of the different Member States.

The findings of our analyses indicate that the educational requirements at the European level are insufficient, as many countries impose additional (legal) requirements concerning the quality of architectural services. We also encountered a wide variety of regulatory systems. The study at the focus of this paper was conducted in 2003/2004 in the fifteen Member States comprising the EU at the time. The regulations in the (northern and eastern) European countries that joined the EU in 2004 were not analysed. The EU's expansion has given rise to an even greater need for more harmonised and updated European legislation aimed at establishing a basic level of competence for graduating architects. Regulations that focus solely on educational qualifications are not sufficient to ensure consumer protection and the quality of the built environment. This is especially true given the EU principle that allows architects (and other professionals) to register and practise in any EU Member State. To guarantee consumers and users uniform quality, additional requirements are needed regarding the practical experience of recently certified architects, continued education for architects throughout their careers, a professional code of conduct and indemnity insurance.

Keywords: architecture, regulation of professions, education, European Union.

INTRODUCTION

In 2000, we evaluated the functioning of the Architects' Register and the implementation of the Dutch act governing the use of the title, 'architect' (Priemus et al 2001). Since then, we have continued to study the position of architects in the Netherlands and other EU Member States (e.g., Meijer 2004; Visscher and Meijer 2005). To date, our research has focused on the EU's 'original' fifteen Member States. Regulations in the (northern and eastern) European countries that joined the EU in 2004 have not yet been examined.

¹ f.m.meijer@tudelft.nl; h.j.visscher@tudelft.nl

The Dutch evaluation and successive projects have brought a number of interesting findings to light at the international (i.e. European) level. To place our findings about the Netherlands in perspective, we studied the regulatory systems of the different EU Member States. Although the European Architects Directive provides a common basis for the mutual recognition of diplomas and certificates from certain educational institutions, we encountered wide variations in the requirements regulating the (quality of the) architectural profession in different Member States. (See, for example, Orbasli and Worthington 1995; European Commission 1997; Dankelman; 1999; and Priemus et al 2001).

In examining these findings, this paper focuses in on the following questions. How is the current European Architects Directive implemented in the Member States? And is this regulatory system for architects actually necessary at the European level? If so, how should it be further developed? In addressing these questions, it is important to take into account that the development of a Europe with no borders and a single internal market is well underway and will continue down its current path.

Section I opens with a look at the EU Architects Directive, which aims at promoting free trade for architects, and more indirectly, at assuring the standards and quality of professionalism in architecture. As explained below, the right to use the title of architect and to practice this profession in other EU countries is restricted to graduates of specially accredited educational institutions. First the regulation of these rights in the different EU Member States is presented. The findings of our analyses indicate that the educational requirements laid down in the directive are insufficient, as many countries impose additional (legal) requirements concerning the quality of architectural services. Also a comparative overview is given of the similarities and differences between the 15 Member States in this study. Finally, the paper closes with a number of concluding remarks.

THE EU ARCHITECTS DIRECTIVE

The preparations that paved the way for the EU Architects Directive spanned over two decades. Discussions about harmonising educational requirements and diplomas began in 1961 and continued for the next 24 years. The proceedings advanced at a snail's pace, bogged down by widely diverging interests and national regulations, as well as a lack of knowledge about standards and practices in the different national professional groups (Priemus et al, 2001).

The task of demarcating the architectural profession was also monumental, and one that involved the highly complex process of establishing minimum requirements for EU architectural degree programmes. (Incidentally, similar difficulties were encountered in the domain of building, where substantial economic interests are involved).

Two developments finally made it possible to establish the European Architects Directive. The first of these was the establishment of an agreement about guidelines for medical practitioners. Then, in 1974, the European Court of Justice issued two landmark rulings in the cases of Reyners and Van Binsbergen (Borchardt, 2000). The Reyners ruling restricted exclusion from a profession on the grounds of nationality to cases in which public authority was exercised in professional practice. In the Van Binsbergen case, the Court ruled that a person who, whether temporarily or not, provided services in another Member State, should be able to do so under the same conditions that a Member State would impose on its own citizens. Based on those

rulings, the European Commission withdrew the proposals for guidelines regarding the free and independent establishment and provision of architectural services and the co-ordination of the legal and administrative measures involved. From that time on, all discussions concentrated on the proposal for European-wide recognition of architectural diplomas. On 10 June 1985, those discussions finally culminated in the establishment of the European Architects Directive.

The directive provides for the mutual recognition of diplomas, certificates and other evidence of formal qualifications in architecture. It includes regulations that facilitate the exercise of the right to independent establishment and freedom to provide independent services. Under the directive, education and training leading to diplomas, certificates and other evidence of formal qualifications must be provided through courses of studies at university level concerned principally with architecture. These studies must also be balanced between the theoretical and practical aspects of architectural training. In terms of competence, the directive requires knowledge of and skills in architectural design, the (historical, societal) context of architecture, the constructional, technological, planning and aesthetical aspects of architecture, as well as professional and communication skills. Article 3 of the directive lays down, in general terms, eleven fundamental skills and aptitudes necessary for the maintenance of the quality of education for architects. The directive does not include any detailed requirements. It makes no stipulations about how those skills should be developed, or about the mutual relationship between skills. On the one hand, this gives Member States the freedom to determine the contents and (maximum) duration of their educational programmes. On the other hand, the directive poses a risk: in practice, its requirements could come to be seen as mere formalities, and monitoring of developments in the different Member States could become a very remote process.

It was left to the discretion of individual Member States to select the educational institutions (and degree programmes) to be accredited based on these criteria. Disagreements about the minimum duration of degree programmes dominated the decision-making process. While the Member States recognised each other's right to structure these programmes differently, the prospect of the quality of professional practices deteriorating due to (overly) lax European standards created apprehension. The German system fuelled the disagreements, as it offered a three-year degree course, followed by a few years of mandatory practical experience. A compromise was reached in 1985. All architectural degree courses of four or more years were recognised. An exceptional provision was introduced for the German academies: graduates of degree programmes under four years can become recognised as architects on obtaining four additional years of practical experience.

The guidelines do not operate directly, but must first be incorporated in the national legislation of the member states. At the European level, a Consultative Committee advises the European Commission about architectural courses and of any likely amendments to the list of recognised courses. In the considerations leading to the Architects Directive, the Council of the European Communities stated that it realised further regulations and demands concerning architects varied among the member states and hoped that provisions would be made for the progressive alignment of education and training.

Discussions are still continuing in various countries about the different educational systems. In England, for instance, there have been efforts to bring design education more in line with the needs of a professional practice (see Nicol and Pilling, 2000). In the Netherlands debates are ongoing about the (inadequate) provisions for practical

experience. The Dutch Title of Architects Act will probably be extended to include a clause requiring that architects who have completed a university course of study must have a minimum period of two years of postgraduate practical experience before they may use the title 'architect'. Also being considered are requirements about a code of conduct, professional indemnity insurance, and rights for consumers to complain (see also the paper by Visscher and Meijer 2005).

The EU is currently working on new directives that may influence the position of architects in member states, especially the directive on professional qualifications. In May 2005 the European Parliament, in its second reading of the co-decision process, voted favourably on the proposed directive on the Recognition of Professional Qualifications. This new directive (2002/0061COD) will combine the provisions of 15 existing sector directives in a single new framework directive. Among the sector directives to be abolished is the one dealing with the architectural professions. While the important provisions of the Architects Directive (automatic mutual recognition of qualifications) will remain the same, one new element is that member states should ensure that architects (through permanent education and retraining) keep abreast of developments in their profession. The proposed directive does not impose any further requirements on member states, making it appear more like a recommendation than a rigorous requirement. This professional qualifications directive does not really change the existing situation for architects working in Europe.

The proposed directive on the internal market may be quite different, however. The current ongoing debate on this directive deals with services for the internal market and tries to ensure free movement of services in the European Union. An important aspect is the 'country of origin' principle, which would require that a Dutch architect working abroad must comply with the Dutch architectural regulations and vice versa. This becomes problematic when an architect from a country where the profession is not protected practices in a country in which the profession is protected (see next section). If the above principle is put in practice, it would have far-reaching consequences for the architectural profession in member states and for the Architects Directive.

PROFESSIONAL REQUIREMENTS FOR ARCHITECTS IN MEMBER STATES

More than 350,000 architects are now active in the 15 member states, but their legal position varies greatly. The current directive requires that a professional architect has completed a course of study and obtained a degree from a specific type of educational establishment in order to operate across Europe. In this section we will see that some countries require considerably more than this. In most countries architects are (legally) obligated to join an architects' register. Other countries require additional insurance policies, a minimum period of practical experience, and a specific code of conduct. For example, in these countries only a registered architect is permitted to apply for a building permit in certain instances. We summarise the situation within the European Union in table 1. Table 2 contains more elaborate information; both tables contain information about legal requirements. Sometimes professional organisations of architects in various countries enforce specific conditions to become a member (e.g. a code of conduct or a liability insurance policy). Tables 1 and 2 do not provide any information about these aspects.

Table 1: Characteristics of the legal position of architects within the EU

	A				B		C			D		E			
	B	Gm	Lx	P	Sp	Fr	It	A	Uk	Gr	Nl	Ir	Dn	Sw	Fi
Protection of title	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y				
Protection of profession	Y	Y	Y	Y	Y	Y	Y								
Practical experience	Y	Y	Y	Y				Y	Y						
Disciplinary codes	Y	Y	Y	Y	Y	Y	Y	Y	Y						

The EU member states can be divided in five groups with regard to the legal position of architects (see table 1):

- A. A wide ranging regulatory system (Belgium, Germany, Luxembourg, and Portugal).
- B. Title and profession are protected, and there is a legal system of disciplinary codes/practical insurance (Spain, France, and Italy).
- C. Title is protected and practical experience and disciplinary codes are required, no (formal) protection of the profession (Austria and the United Kingdom).
- D. Title is protected, (possible), but other regulations are left to the professional organisations (Greece and the Netherlands).
- E. No legal regulations concerning architects (Denmark, Ireland, Sweden, and Finland).

A. Belgium, Germany, Luxembourg, and Portugal

In Belgium only an architect is permitted to submit a building permit for certain defined building projects. To become a registered architect requires five years of study and an additional two years of internship. The National Order of Architects issues the licence to practice, manages the architectural register, determines the duties and rights of architects, and is responsible for (the formulation and execution of) disciplinary rules. The obligation for professional insurance is laid down by (public) law. The Order has its own insurance company.

In Germany architects are registered by the State Chambers of Architects. Almost 90 per cent of the registered architects are building architects. The others are landscape architects, interior architects, and town planners. Architectural education can be obtained at universities or academies. After completing the educational requirement, a minimum internship period of two years is required before registering as an architect. Once registered the architect is subject to the professional and disciplinary rules of the chamber. In practice the profession is protected by the various building acts of the states. These acts dictate that for complex construction projects only a registered architect (or engineer) may submit applications for building permits.

In Luxembourg architects (and civil engineers) must register with the Order of Architecture and Consulting Engineers. To become registered, the aspiring architect must have a degree as defined in the EU Architects' Directive plus one year of practical training. Luxembourg does not have special educational institutions for architects. It is possible to register as an architectural office or as an individual architect in Luxembourg, but most individual architects are associated with a registered office. The register also includes a small number of interior and landscape architects and urban planners. Beginning architects are required to carry liability insurance for ten years after completing a building.

Table 2: Overview of the main characteristics of the legal position of building architects in the fifteen EU member states in the early 2000s (2003/2004))

	Austria	Belgium	Denmark	Finland	France	Ireland	Italy	Germany
Number (approx.)	2,400	10,500	6,500	3,500	25,000	2,300	94,000	102,000
Per 1 mill. inhabitants	279	1,014	1,207	672	452	667	1,640	1,236
Educational institutions:	6	19	2	3	22	2	18	72
- universities	5	5	-	3	22	2	14	15
- academies	1	14	2	-	-	-	4	57
Min. years of study	5	5	5	5	6	5	5+	4.5
Protection of title	■	■	-	-	■	-	■	■
Protection of profession	-	■	-	-	■	-	■	■
Obligatory registration	■	■	-	-	■	-	■	■
Internship required	3	2	-	-	-	2	-	2/3
Disciplinary code	■	■	-	-	■	-	■	■
Insurance required	■	■	-	-	■	-	■	■
	Greece	Luxembourg	Netherlands	Portugal	Spain	Sweden	UK	
Total number (approx.)	14,500	550	8,520	8,600	32,600	5,400	30,400	
Per 1 mill. inhabitants	1,315	1,227	526	826	705	603	512	
Educational institutions:	2	-	8	18	14	3	39	
- universities	2	-	2	14	14	3	18	
- academies	-	-	6	4	-	-	21	
Min. years of study	5	-	5	5	5	4.5	5	
Protection of title	■	■	■	■	■	-	■	
Protection of profession	-	■	-	-	■	-	-	
Obligatory registration	■	■	■	■	■	-	■	
Internship required	-	1	-	-	-	-	2	
Disciplinary code	-	■	-	■	■	-	■	
Insurance required	-	■	-	-	■	-	■	
■	yes							
-	no							

In Portugal the requirement to become a member of the Portuguese Association of Architects is a degree from a university of architecture as well as an additional period of two years practical training. Once registered a member has the right to practice architecture and to use the title of architect. According to the Civil Code, architects have a liability of five years. This period starts either after completing a building or after having been issued a permit for utilisation. It is not compulsory, however, to carry insurance against these risks. Portuguese architects are covered by the disciplinary code of the Association.

B. Spain, France, and Italy

In Spain a person is authorised to practise architecture by registering at a College of Architects. Each autonomous region has such a college, but in order to register, a candidate must already have a university diploma. Only registered architects may authorise and sign blueprints, and their signatures (or seals) are also registered. Practical experience (internship) is not required to register. Spanish law states that architects are liable for building defects for a period of ten years, but they are not required to carry insurance against such defects.

Architects in France must be registered at one of the regional Councils of Architects. After completing a course of study, no practical experience is needed to register. For

buildings with a floor area that exceeds a certain number of square meters architects are required. By public law all architectural, design and construction work is guaranteed for a period of ten years against errors in design or construction. Carrying insurance against these risks is compulsory in France.

In Italy architects register at one of the provincial rolls of architects, which are under the jurisdiction of the National Council of Architects. After completing a course of study, the candidate must pass a government qualifying exam, which is usually taken at least half a year after obtaining the degree. It is assumed that the candidate will obtain some practical experience in this period. It is up to the Council of the Provincial Register, the National Council of Architects, and the Italian Court of Appeal to decide about possible disciplinary actions against architects. Civil engineers are also required to register.

C. Austria and the United Kingdom

In Austria the title of 'architect' can only be used in certain specific circumstances: registration (at the federal Chamber of Architects and Consulting Engineers) is obligatory, and a minimum three-year internship is required (following five years of professional education). Furthermore, the regulations of the disciplinary code and professional insurance are mandatory.

In the UK it takes five years of academic study and two additional years of practical work to become registered. The Architects Registration Board (ARB) is responsible for registration and management of the Architect Register. The registered architects must comply with ARB standards of conduct and practice. This means that they must carry adequate professional indemnity insurance and that they must maintain their professional competence.

D. Greece and the Netherlands

In Greece the law requires that an individual have a license to practice architecture. Graduates of a five-year course of study from one of the two recognised universities of architecture are eligible for registration. The Technical Chamber of Greece (TEE) is responsible for licensing. Only the title is protected, not the profession. There are various private organisations of architects in Greece, mainly within individual cities.

In the Netherlands architects register at the Architects Registration Bureau. Architects are eligible for registration if they have a degree from one of the two recognised five-year universities of technology or one of the six four-year, part-time academies of architecture. These academies admit students only after four years of vocational training. There are no legal requirements for practical experience or vocational training. Some 75 per cent of the architects registered in the Netherlands are building architects.

E. Ireland, Denmark, Sweden, and Finland

In Ireland the Royal Institute of the Architects of Ireland (RIAI) is the representative body for professionally qualified architects. A member of the RIAI must have a degree from a recognised university, two years of approved practical experience, and pass an examination in professional practice. It is also possible to become an associate

member or an architectural technician member. Some 80 per cent of the qualified architects are members of the RIAI. Irish architects are liable for the projects they carry out, but professional insurance is not obligatory.

The Federation of Danish Architects is a private non-profit organisation of architects with qualifications that conform to the European Directive. Minimum length of study is five years. Student members are also admitted. The federation represents about 80 per cent of the Danish architects.

In Sweden the National Association of Swedish Architects (the SAR) is responsible for the quality of architects. To become a member, the candidate must have a diploma from one of the recognised architectural training centres (at least four and a half years of coursework) and one year of additional experience as an apprentice architect. Approximately 8 per cent of Swedish architects are members of the SAR (Sedig, 1995).

In Finland a degree in architecture (representing five years of study) from one of the three recognised universities is required to be permitted to use the title of architect. No professional experience is needed. Almost all of the building architects are members of the Finish Association of Architects.

Freedom to practice within Europe

One of the goals of the European Architects Directive was to improve mobility for architects in the EU member states. Reliable figures on this are lacking, but the Dutch Architects Registration Board (SBA) believes there is a great deal of 'free exchange of architects'. The Dutch experiences show that this process does not always run smoothly, however. Every year the SBA has to assist Dutch registered architects obtain their legitimate rights to practice elsewhere in Europe. And the Registration Board (SBA) believes these are not isolated incidents. The Architects Directive is interpreted very differently in different European countries. Although this variable interpretation has gradually improved, there are still some difficulties. Two examples can illustrate this point. Some years ago relatively many Austrian architects enrolled in the Dutch register. Austrian Law requires three years of practical experience before an Austrian architect can register. The market for architects is tight in Austria, so it is difficult to gain practical experience. Thus, Austrian architects are able to practice their profession in the Netherlands but not in their home country. As we have seen above, an Italian candidate architect is required to pass a government qualifying exam to register, which is recognised by the EU. This means that the qualifying exam determines access to the architectural profession in Italy. Nevertheless, Italian architects who have not passed the government exam but do have an educational degree from a recognised EU educational institution cannot register as architects in the Netherlands, even though they fulfil the Dutch requirements.

CONCLUSION

The answer to the question of whether there should be regulations that deal with the legal position of architects on a European level is 'yes'. As we have seen, however, the current directive does not require a uniform standard of education and quality for architects. It has flaws with respect to ensuring the quality of architects as well as for the free movement of these professionals. These flaws will become far more important

when the new directive on the internal market comes into effect. The aim is to require that an architect working in country other than his own should comply with the regulations of his country of origin. But the current patchwork of national regulations will undoubtedly make this very difficult, not only for architects, but also for the (quality of) the built environment and for consumers. The work of architects affects the daily life of many Europeans, a fact that is appreciated by the European Council (Council of the EU, 2001). Therefore, it is important to regulate this professional group with a certain consistency across the continent.

The member states need to decide which type or types of architect should be subject to the European regulations. In some countries the current rules apply to building architects, interior architects, landscape architects, and urban planners. In other countries the legislation is confined to building architects and civil engineers. The demands on the professional practice of building architects are not comparable to those of interior architects. We see no compelling reason to include all design professions in the first phase of harmonised regulations; attention should first be directed at regulations for architects responsible for designing buildings. The most pressing need is to look critically at the educational institutions and their respective degrees that are recognised in the EU member states (see also Teymur, 1992).

Although the member states have various educational systems, in general the title of architect can be obtained in one of two ways: either through a university course of study or attending a school of (higher) vocational education. University education contains only a relatively small component of practical experience, while schools of vocational education place a relatively strong emphasis on practical components. The directive should acknowledge this situation (as it now does), but should also look at the details of the curriculum in the various educational institutions. It is highly unlikely that a vocational education alone (four years following secondary education) can provide all the training required to develop highly skilled architects. The same is true of a five-year university education that includes only limited practical experience. The directive should sketch the paths that can lead to the title of architect. One suggestion for improving both paths might be to propose architectural training in the form of a five-year university education to be followed by an additional two-year period of practical experience. Another training path follows completion of secondary school, and is a four-year higher vocational education (or higher technical school, full-time) followed by four years of study in an Academy for Architecture (combining part-time education and practical experience). On average it will take seven to eight years to become a skilled recognised architect.

The member states should recognise the updated directive and include it in their legal system. States may set additional requirements, but these requirements must not go counter to the directive's 'spirit' or substance. We expect that some countries will continue to provide legal protection for the profession. Public regulations should ensure that the knowledge, skills, and experience of a registered architect maintain a certain standard, and that the quality of the built environment and the security of consumers are protected. Only registered architects should be permitted to use the title and freely practice architecture in all member states.

REFERENCES

Architects Registration Board (1997) *Applying for registration as an architect in the United Kingdom*. London, (July/August).

- Borchardt, K. (2000) *The ABC of Community Law*. European Commission (Directorate-General for Education and Culture), Brussels.
- Council of the European Union (2001) *Council resolution on architectural quality in urban and rural environments*. (2001/C 73/04), Brussels, (February).
- Dankelman, S. (1999) *Europa geschaakt! De Europese erkenning van architecten en ingenieurs (The abduction of Europe: Recognition of architects and engineers in Europe)*. Delft (Eburon).
- European Commission (1997) *Profession of architect; training, access to the profession and practice in the member states of the Community*. Ad hoc group of senior officials responsible for the free movement of architects, Brussels, (February).
- Meijer, F (2004) *Het Experiment: beroepservaring jonge architecten [The Experiment: professional experience for young architects]*. Delft
- Nicol, D. and Pilling S. (eds.) 2000 *Changing Architectural Education; towards a new professionalism*. London and New York, E&FN Spon Press.
- Orbasli, A. and Worthington, J. (1995) *Architecture and Town Planning Education in the Netherlands: A European Comparison*. York (Institute of Advanced Architectural Studies).
- PB EG (L 223) (1985) *Council Directive 85/384/EEC of June 1985 on mutual recognition of diplomas, certificates and other evidence of formal qualifications in architecture, including measures to facilitate exercise of the right of establishment and freedom to provide services*. Brussels.
- Priemus, H., Meijer, F., Visscher, H., Grouwstra, S., Boxum, J., Lubach D., and Winter, H. (2001) *Architect en Titelwet: Evaluatie en Toekomst (Architect and Title Act: Evaluation and the Future)*. 010 publishers, Rotterdam.
- Sedig, E. (1995). *Architekten in Schweden (Architects in Sweden)*. DAB October, pp. 1872-1874.
- Teymur, N. (1992) *Architectural education; issues in educational practice and policy*. Question Press, London.
- Visscher, H. and Meijer F. (2005) *Structured professional experience for young architects*. Paper for BEAR congress Hong Kong, 10-13-April.

Internet sources:

Austria	www.arching.at
Belgium:	www.ordredesarchitectes.be ; www.nav.be
Denmark	www.par.dk
Ireland	www.riai.ie
Italy	www.archiworld.it
Finland	www.safa.fi
France	www.architectes.org ; www.syndarch.com
Germany	www.bak.de ; www.bda-architekten.de
Greece	www.tee.gr ; www.sadas-pea.gr
Luxembourg	www.oai.lu
Netherlands	www.architectenregister.nl ; www.bna.nl
Portugal	www.oap.pt
Spain	www.arquinox.es
Sweden	www.sar.se
United Kingdom	www.arb.org.uk ; www.riba.org