



## **ACE POSITION PAPER**

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Version of December 2004

### **Services in the Internal Market (SIM Directive) Proposal for a Directive of the European Parliament and of the Council COM(2004)002 final**

#### **0.0 Summary**

This paper outlines the position of the Architects' Council of Europe in relation to the proposal of the European Commission for a framework directive on Services on the Internal Market. Its position can be summarised by the following central points:

0.1 The ACE, being supportive of the objectives set down in the Lisbon Agenda (as supplemented by the Gothenburg Declaration) acknowledges the reasons for which the Commission has made the proposal for a directive on Services in the internal Market (SIM).

0.2 However the ACE believes that there is a need to take some distance from the proposed provisions of the directive, carry out new, adequate impact assessments and then consider how best to proceed. While certain matters may best be treated in a horizontal manner, the ACE believes that, at least for the architectural and other regulated professions, a clustered approach, where services of a similar nature are grouped, would be more appropriate.

It should be noted that the architectural profession is regulated for general interest and consumer protection reasons and that these regulations underpin the quality of service provided by the profession and they do not interfere with the provision of architectural services across borders.

0.3 It seems to the ACE that further detailed consideration of the extensive impacts of the provisions of Article 15 (Requirements to be Evaluated) needs to be undertaken and that it may be necessary to review it in light of any results that arise from the study of its impact.

0.4 The ACE questions the downstream impact of the requirements of Article 15, particularly as it may mean the repeal or revision of much national legislation and regulation, a process which would not necessarily result in an improvement of the situation for consumers nor, in the case of architectural services, for the quality of the living environment.

0.5 In the provision of architectural services, there is a significant asymmetry in the information held by the provider and by the recipient. There is, therefore, a need to ensure that adequate pricing systems are in place that empower the provider to deliver the required services and to enable the recipient to make an informed choice of which provider to use.

0.6 The ACE does not support the "Country of Origin" principle and it believes that this principle should only apply to those services that are already significantly harmonised at EU level. Architectural services would therefore not be covered.

0.7 The ACE calls on the Commission to clarify the derogation that is proposed in relation to the proposed Qualifications Directive, singularly for architectural services. Moreover, the

Commission should clarify whether such derogations are intended to be of a transitional or permanent nature.

- 0.8 In the opinion of the ACE further consideration of the impact of Article 26 (Information on Providers and Their Services) is required and its relationship to the requirement of Articles 6 (Single Points of Contact) and 33 (Information on the Good Repute of Providers) must be better set out.
- 0.9 The ACE is willing to discuss the possibility that a mandatory requirement for Professional Indemnity Insurance would apply to it. However many factors that currently surround the issue represent real barriers to the freedom to provide services in other countries, particularly the near-monopoly enjoyed by re-insurers. It seems to the ACE that this last point is the first one that should be addressed by the Commission in order to progress its aims on the subject of Professional Indemnity Insurance.
- 0.10 The ACE is ready, willing and able to play a role as a co-ordinator in ensuring that the adoption of the principles set down in this Chapter IV of the directive (Quality of Services) occurs in the profession, in line with the principles of Co-regulation and Self-regulation
- 0.11 All ACE Member Organisations have already signed up to a Code of Conduct at the international level in the context of Recommended International Standards of Professional Practice adopted by the International Union of Architects (UIA) at Beijing in 1999.
- 0.12 The ACE believes that the opportunity provided by this proposed directive to ensure that appropriate, modern regulation is put in place for the market in services should be pursued, but in a deliberate, well-informed and appropriate way.

The detailed arguments that support the summary given above are set out in the following pages and an annexe to the paper sets out a brief overview of the nature of architectural services in order to inform the reader of those aspects that define architectural services and that gives them their special character.

## 1.0 Background

- 1.1 The Architects' Council of Europe (ACE)<sup>1</sup> has noted that the European Commission has been placing an increased emphasis on the topic of services in the internal market over recent years. This has been evident in several actions by the Commission, including its proposal for a directive on the recognition of professional qualifications (COM(2002)317 final), its communication on competition in professional services (COM(2004)083 final) and its proposal for a SIM Directive (COM(2004)002 final).
- 1.2 Furthermore the recent decision by the President of the Commission, Mr. Barroso, to specifically refer to services by changing the portfolio of the DG "Internal Market" to "Internal Market and Services" is another clear indication that the topic will be taken more seriously by the new Commission. This change is coherent with Mr. Barroso's objective of giving the Lisbon Strategy more prominence in the work of the Commission.
- 1.3 This paper concentrates solely on the Commission proposal for the SIM Directive and it sets down the views of the architectural profession to this significant initiative by the Commission.

## 2.0 The SIM Directive – General Remarks

- 2.1 The stated objective of the Commission's proposal for a SIM Directive is to *"...provide a legal framework that will eliminate the obstacles to the freedom of establishment for service providers and the free movement of services between the Member States, giving both the providers and recipients of services the legal certainty they need in order to exercise these two fundamental freedoms enshrined in the Treaty."*<sup>2</sup>
- 2.2 The ACE is aware that the definition of "services" in the meaning of the SIM Directive is very widely drawn as the text defines "service" as being *"...any self-employed economic activity, as referred to in Article 50 of the Treaty, consisting in the provision of a service for consideration."*<sup>3</sup> This definition clearly includes the provision of architectural services and the proposed SIM Directive is therefore of concern to the profession.
- 2.3 A further definition, given at Article 4(13) of the proposed SIM Directive, directly affects the architectural profession. It is the definition of "regulated profession" and it reads: *"...a professional activity or group of professional activities, access to which or pursuit of which, or one of the modes of pursuing which, is conditional, directly or indirectly, upon possession of specific professional qualifications, pursuant to laws, regulations or administrative provisions."*
- 2.4 In order to broaden the debate on appropriate definitions, the ACE would like to draw attention to the definition of "liberal profession" that was used by the European Court of Justice in its decision in the "Adam" Case C-267/99: *"...The liberal professions mentioned ... are activities which, inter alia, are of a marked intellectual character, require a high-level qualifications and are usually subject to clear and strict professional regulation. In the exercise of such an activity, the personal element is of special importance and such exercise always involves a large measure of independence in the accomplishment of the professional activities."*

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<sup>1</sup> The Architects Council of Europe (ACE) is an organisation, based in Brussels, whose Membership consists of the professional representative organisations of all twenty-five European Union (EU) Member States and all Accession States as well as Switzerland and Norway. As such it is an organisation that represents the interests of over 450,000 Architects from Europe. The ACE was founded in 1990 and its principal function is to monitor and influence developments at EU level highlighting those areas of EU Policy that have a direct impact on architectural practice, policy and the built environment

<sup>2</sup> Extract from paragraph 2 of the Summary, page 3, of the Communication from the Commission COM(2004)002 final

<sup>3</sup> Extract from Article 4(1) of the proposed SIM Directive

This is a definition that the ACE believes is more appropriate for the architectural profession and one that should be referred to in the deliberations on the impact of the proposed directive on its activities.

- 2.5 Furthermore the ACE is concerned that the recent concentration of the Commission services on the liberal professions has been marked by a fundamental flaw in its approach. Having successfully dealt with the matter of the free circulation of goods and their trading across borders in the EU, the Commission has demonstrated, by its proposals, that it believes that services can be treated in the same manner. This is simply not the case and a significant shift in the Commissions understanding of the nature of services is required if the current proposal is to find favour – at least among the liberal professions and the architectural profession in particular.  
(Refer to the Annexe of this paper for a brief overview of the specific nature of architectural services)

### 3.0 The Position of the ACE

The ACE, having widely consulted its Member Organisations, having considered the potential impact of the proposed SIM Directive on the profession and having consulted the Commission Services on several occasions, sets down below its position on the proposal of the Commission:

#### FIRST REMARKS:

- 3.1 The ACE, being supportive of the objectives set down in the **Lisbon Agenda** (as supplemented by the **Gothenburg Declaration**), acknowledges the reasons for which the Commission has made the proposal for a directive on Services in the internal Market (SIM). However, it wishes to point out that architectural services, which are extensively regulated in many Member States of the EU, are already circulating very efficiently within the internal market. The architectural profession is, therefore, a demonstration that regulation is not, of itself, a barrier to cross-border trade. In fact the architectural profession is already one of the most mobile of the liberal professions when it comes to cross-border provision of services.
- 3.2 The ACE also notes the way in which the proposed directive has been structured with distinctions being drawn between the elements of the directive which are prohibited, those which require evaluation and those to which derogations apply. The Commission clearly hopes that this should permit the Member States and those affected to properly and swiftly undertake the actions that will be required by the directive.
- 3.3 However, it seems to the ACE that the Commission is going well beyond the measures that are strictly required to achieve an improvement in the functioning of the internal market for services. The provisions have been set down and presented by the Commission before an adequate and in-depth study of their impact has been carried out and without sufficient consideration for the extensive burden it places on national authorities and on professional bodies. Furthermore the time-scale proposed for the implementation of these measures is highly unrealistic when it is considered that it took 20 years to improve the internal market for goods and products – a market that is, arguably, less complex.
- 3.4 **The ACE therefore states that it believes there is a need to take some distance from the proposed provisions of the directive, carry out new, adequate impact assessments and then consider how best to proceed.** It is possible that the framework approach being adopted by the current proposal is wholly inappropriate to the general objectives of the directive and that consideration to the adoption of an approach where services are clustered according to their fundamental nature and methods of delivery should be considered. **The ACE believes that, at least for the architectural and other regulated professions, this clustered approach would be more appropriate** and it recalls that this is, in effect, the approach adopted in the proposed Qualifications Directive currently entering its Second Reading in Parliament.

## SINGLE POINTS OF CONTACT – ARTICLE 6

- 3.5 The proposals in the SIM Directive call for the establishment of single points of contact in each Member State so as to ensure that a service provider can complete the necessary procedures and formalities for access to and practice of his or her service activities. These single points of contact already exist in many Member States for the architectural profession; however it is necessary to clarify how the provisions of the directive interact with and diverge from national rules.
- 3.6 There is a need to clarify exactly what the role of these single points of contact will be and what the relationship of these will be to the proposed “contact points” of the proposed Qualifications Directive. This is particularly important where statutory public registration (and in some cases, licensing) of certain professions (the architectural profession being a case in point) is already a requirement and is administered by an existing competent authority. Once again the relationship between the two bodies will have to be carefully considered and the sharing of liability for the provision of accurate information addressed.
- 3.7 For the provision of architectural services there is a crucial link between the recognition of a qualification or a title and the exercise of the profession. The ACE believes that the Single Points of Contact should not be considered simply as information centres or repositories of lists, but that they should reflect the cultural context in which the relevant profession is exercised. The objective should therefore be to supply all of the information required by a service provider to permit access to the market and to offer fully transparent information to both the consumer and the provider on the detail of the types of service that are offered by the relevant profession in the host country.

## REQUIREMENTS TO BE EVALUATED – ARTICLE 15

- 3.8 The ACE notes that the directive places a burden of proof on the Member States to examine whether or not their legal systems contain provisions that are discriminatory to access to a service activity or to the exercise of any such activity on their territory. The implication of this provision is that the listed items are considered by the Commission to be discriminatory and the ACE objects to this assumption. Regulation generally exists in the Member States for very good reasons usually linked to the protection of the public interest. The European Consumer Association has stated that, in its opinion, not all “barriers” are bad, particularly those that provide a measure of protection for consumers. Therefore the blanket approach being adopted by the Commission is too blunt for the reality faced by service providers and consumers in the marketplace. It is the Commission that is responsible to ensure respect of the Treaty provisions and it should remain a duty of the Commission to identify any infringements that are caused by national laws. Furthermore, it is important to recognise that cultural differences exist between countries and that the sharing and exchange of these differences is a particular treasure for the European Union. Therefore it is important to ensure that these differences are not used to create barriers to cross border provision of services in the EU.
- 3.9 Furthermore the reversal of the burden of proof would impact on the role of professional bodies as they would, in a majority of cases, be directly involved in any evaluation of the list of items that are included in Article 15. It is not clear that the resources and information exists to permit the adoption of such a role by professional bodies. **It seems to the ACE that further detailed consideration of the extensive impacts of the provisions of this Article needs to be undertaken and that it may be necessary to review it in light of any results that arise from the study of its impact.**
- 3.10 Finally this aspect of the directive has clear implications on the long-established principle of subsidiarity through which Member States retain the right to legislate for matters that have a significant impact on their cultural and social affairs. **The ACE questions the downstream impact of the requirements of Article 15, particularly as it may mean the repeal or revision of much national legislation and regulation, a process which would not necessarily result in an improvement of the situation for consumers nor, in the case of**

**architectural services, for the quality of the living environment.** Do these provisions accord with the subsidiarity principle?

#### COST INFORMATION SYSTEMS – ARTICLE 15(2)(G)

- 3.11 At Article 15(2)(g) the proposal refers to fixed minimum and/or maximum tariffs with which the service provider must comply as being a requirement that must be evaluated by the Member States. The ACE agrees with the need to ensure that such measures are proportionate, but it wishes to sound a word of caution on this sensitive topic. The ACE strongly agrees with the need to ensure that services provided to consumers are of the highest quality. This means that the appropriate resources must be put at the disposal of the service provider to ensure that quality exists throughout the chain of actions that constitute the provision of the service. Equally the consumer (recipient) of a service must be in a position to correctly judge the quality of service being offered and must be able to judge which provider is offering the best value. **In the provision of architectural services, there is a significant asymmetry in the information held by the provider and the recipient. There is, therefore a need to ensure that adequate pricing systems are in place that empower the provider to deliver the required services and to enable the recipient to make an informed choice of which provider to use.**
- 3.12 Furthermore, where the laws of a Member State require that a particular profession provides a particular service, it is reasonable to argue that a suitable charge should be permitted to be levied by the service provider for the execution of the defined tasks. In this circumstance there is a case to make for the setting down of minimum and/or maximum tariffs in the interests of consumer protection as it is a means to guarantee that the duties imposed by law, or custom, can be adequately fulfilled.

#### COUNTRY OF ORIGIN – ARTICLE 16

- 3.13 The proposed directive adopts the “*Country of Origin*” principle which states that a service provider who is fully and legally established in his or her own country to provide a set of services, should be permitted to provide those same services in any other country of the EU under the rules and conditions that apply in their country of origin. **The ACE does not support this provision.** Such a principle would be inoperable because of the difficulties that would arise in verifying adequate qualifications and standing on the part of the service provider and discriminatory because the recipient would, in the case of a problem with the provider, have to seek recourse under the laws and in the language of a country that is not their own and so entirely unfamiliar to them. The ACE believes that its use will lead to confusion among consumers and difficulties for architects, thus discouraging cross-border provision of architectural services.
- 3.14 The proposal to introduce the country of origin principle is pre-mature as it can only function in a market that is significantly harmonised. Unless such harmonisation exists in a particular field, the effect of applying the principle will be to induce Member States into a form of regulatory competition where the objective will be to become the least regulated country and therefore attractive for establishment by service providers. In such a competition the risk is that it will be those countries with the lowest level of regulation that will attract the highest number of service providers to establish on its territory and the low level of regulation will result in detrimental effects on consumer protection, the environment and social cohesion – all matters directly opposite to the objectives of the EU as a whole. **The ACE therefore believes that this principle should only apply to those services that are already significantly harmonised at EU level. Architectural services would therefore not be covered.**

#### DEROGATIONS – ARTICLE 17

- 3.15 The ACE notes that the architectural profession will enjoy a derogation from the country of origin principle by virtue of the derogation for the Qualifications Directive. However, as this derogation is not clearly set out in the proposed text, the ACE calls on the Commission **to clarify the derogation, singularly for architectural services. Moreover, the Commission**

**should clarify whether such derogations are intended to be of a transitional or permanent nature.**

#### INFORMATION ON PROVIDERS AND THEIR SERVICES – ARTICLE 26

- 3.16 The provisions of this Article appear to be burdensome and will entail a significant amount of effort on the part of professional bodies. It raises questions as to how Member States are to manage the information requirements set down. **In the opinion of the ACE further consideration of the impact of this Article is required and its relationship to the requirement of Articles 6 and 33 must be better set out.**

#### PROFESSIONAL INDEMNITY INSURANCE – ARTICLE 29

- 3.17 In relation to the need for Professional Indemnity Insurance, the ACE is seeking clarification on whether or not the architectural profession will fall into the category where such insurance will be made mandatory. It is the view of the profession itself that it provides a service that has a significant impact on health and safety issues and **it is therefore willing to discuss the possibility that a mandatory requirement for Professional Indemnity Insurance would apply to it.** However there are several factors that must be considered in any such discussion, including the need to ensure that all actors in the realisation of a construction project carry appropriate liability for their input, that insurance is available at an acceptable cost, that there is real competition in the insurance market, that persons can provide services in other countries under the terms of the insurance they have purchased in their home country and that persons can purchase insurance in countries other than the country in which they are established. **Many of these factors currently represent real barriers to the freedom to provide services in other countries, particularly the near-monopoly enjoyed by re-insurers. It seems to the ACE that this last point is the first one that should be addressed by the Commission in order to progress its aims on the subject of Professional Indemnity Insurance.**

#### QUALITY OF SERVICES – ARTICLE 31

- 3.18 Given the importance to the consumer of ensuring the delivery of a high quality service, the ACE agrees with the emphasis given to this matter in the proposal. The delivery of a high quality service by the architectural profession to its recipients has always been a matter of central importance to the Member Organisations of the ACE. Maintaining consumer confidence through the provision of quality services is central to the success of any architectural practice and it is in the interests of society at large which is constituted of the end-users of the constructed output of the profession. Indeed, the provisions of the Architects Directive on the mutual recognition of qualifications (EC/85/384) have been a cornerstone for ensuring that a comparably high level of qualification exists for the profession across all Member States of the EU. It has also served as a significant encouragement for cross-border trade in architectural services.
- 3.19 The maintenance of a quality service is one of the main areas in which the ACE believes that there is potential for improved co-operation between professional bodies and legislative bodies. **It is therefore ready, willing and able to play a role as a co-ordinator in ensuring the adoption of the principles set down in this section of the directive, in line with the principles of Co-regulation and Self-regulation** as set out in the inter-institutional document entitled *“European Parliament, Council and Commission Inter-institutional Agreement on Better Law-making – 2003/C321/01”*.

#### SETTLEMENT OF DISPUTES – ARTICLE 32

- 3.20 This is a topic of particular concern and importance to the professions and their representative bodies and one on which many such bodies expend significant time and effort. It is also a matter of great concern to consumer representative organisations as the availability of adequate, speedy and commensurate redress procedures are fundamental to the maintenance of consumer confidence. In the field of architectural services, it is important to ensure that alternative means of dispute resolution are available to recipients. This is because

of the complexity of the service provided and because of the fact that significant asymmetrical information on the nature of the architectural services exists between providers and recipients. **The ACE believes that further study of the impact of this Article should be undertaken during the co-decision process.**

#### CONVERGENCE PROGRAMMES – CHAPTER VI

- 3.21 Although not specifically mentioned in the proposal for a SIM Directive, the ACE is aware that a debate has been launched in the context of the proposal for the Qualifications Directive of the introduction of a “professional card”. Also the European Economic and Social Committee has proposed, in its 2<sup>nd</sup> Draft Preliminary Position Paper on the directive<sup>4</sup> the creation of a central independently administered register at European level that would record both cross-border activity and professional misconduct in the country of origin. **These complimentary proposals are suggestions to which the ACE is favourably disposed for a number of reasons that are pertinent to the SIM Directive.** Such an approach could greatly facilitate cross-border provision of services as the information on any such card, or in a central register, would be a means through which consumer confidence could be bolstered and it would be backed by the mutual recognition provisions of the proposed Qualifications Directive.

#### CODES OF CONDUCT – ARTICLE 39

- 3.22 At Article 39 of the proposal, the Commission calls for the establishment, at Community Level, of codes of conduct for the regulated professions. Specifically the proposal highlights the need for such codes to cover the issues of commercial communications and the rules of professional ethics and conduct of professionals. The ACE is fully supportive of this call and it declares that it has already commenced work on such a code. The current work builds on earlier work that led to the adoption of a “Code of Ethics” by the ACE in October 1997. This code can be accessed on the homepage of the ACE website at [www.ace-cae.org](http://www.ace-cae.org) **Moreover, all ACE Member Organisations have already signed up to a Code of Conduct at the international level in the context of Recommended International Standards of Professional Practice adopted by the International Union of Architects (UIA) at Beijing in 1999.** The ACE believes that the existence of such measures is firmly in the interests of the consumer and of society at large.
- 3.23 The current work of the ACE on this topic consists of the gathering together of all of the existing codes that are in use by our Members. When gathered they will be analysed so as to enable the ACE to put forward a proposal for a European Code of Conduct. If successful, this work would then be incorporated into all existing codes at national or regional level, or at least every code would be scanned to ensure that there are no conflicts between the two.

#### THE ROLE OF PROFESSIONAL ORGANISATIONS

- 3.24 The proposal for the SIM Directive does not directly address the role that professional bodies can play in ensuring that the internal market for services operates efficiently and effectively. It is the case that the professional representative bodies of the architectural profession are very well placed to assist the Commission and the Member States to achieve the overall objectives of this proposal and the ACE calls on the Commission to ensure that the new approach to governance that is being pursued at EU level be applied to this work also.
- 3.25 There are many areas where the work of professional bodies supports the aims that the Commission is pursuing by means of the proposed directive. These include consumer protection, provision of quality services to safeguard health and safety and dispute resolution. It is therefore clear that the directive will impact significantly on the role of professional bodies and the ACE urges the Commission to undertake early, detailed deliberations and consultations on this matter.

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<sup>4</sup> Document reference INT/228 - R/CESE 484/2004 rev.2 – 2004/0001(COD)



## **4.0 Conclusions**

- 4.1 The ACE is currently continuing its work on the analysis and assessment of the impact of the SIM Directive on the profession. It is expected that this work will lead, in due course, to the preparation of suggestions for amendments to the text of the proposed directive. These amendments will address the concerns that the ACE has in relation to the proposal and will make constructive suggestions on how to improve the text. In this way, the ACE hopes to assist in the achievement of the objectives of this directive in a manner that will be beneficial for all European citizens and consistent with the specific nature of the services that the architectural profession provides.
- 4.2 The ACE urges the Commission, in all of its deliberations, to take due account of the specific nature of certain categories of services, particularly of architectural services, which impact directly on the quality of life of the citizens of the EU both today and into the future. Specifically the ACE believes that the assessment of the quality of such services cannot rely purely on the economic reasoning that currently underpins the provisions of the text presented by the Commission to the Council and the European Parliament.

## **ANNEXE:**

### **To the Draft Position Paper of the Architects' Council of Europe on the proposed SIM Directive**

#### **A.0 The Nature of Architectural Services**

- A.1 Architectural services form an essential part of the professional services required by the construction sector in Europe (currently worth about €910 billion annually to the economies of the EU-15) in the conception and realisation of the projects that lead to the materialisation of the built environment. It is in this environment that the citizens of Europe work, rest and play. It is therefore essential to ensure that the quality of the built environment provides the best possible stage on which we can all live productive and happy lives. As part of this, the ACE firmly believes that, to achieve these goals of quality and consumer protection, the optimal conditions for the provision of high quality, appropriately regulated architectural services must be ensured.
- A.2 The architect is usually the first person that a developer will contact once the decision to construct a building is taken and the first task of the architect is often to advise on the feasibility of the intended project. Following this the architect devises a solution to the problem posed by the requirements of the developer and by the proposed location of the project. That solution is the design proposal and it will always be unique to the project and location.
- A.3 The resulting design is conceived to meet the requirements of the client and to satisfy the wider cultural and environmental impacts of the project. It will refer to history, the place, the local and regional culture and to the grand cultural references of the epoch and location. Then, having emerged from the mind of the architect, it is necessary to translate the design into reality. There are many steps and actors involved in this complex process and it is desirable to ensure that the clarity of the design solution is carried through to the final hand-over of the completed project. It is for this reason that the ACE believes that it is essential to ensure that the architect is intimately involved with all stages of a project.
- A.4 The outcome of such projects constitutes the built environment within which society functions. These projects carry the hopes and aspirations of society and create the principal physical heritage that will be passed down through the generations. This fact places a particular burden on the shoulders of those responsible for the conception and management of the built environment and it is therefore in the interests of society to ensure that these persons have gained a high level of education and training in their disciplines before they undertake these tasks. This fact has been recognised by the sectoral directives on the recognition of qualifications and these legislative acts have functioned particularly well in the context of the EU.
- A.5 A further matter of crucial importance is that the architect enjoys sufficient independence to permit him or her to devise the optimum solution to the problems posed by the project. This independence must, however, be tempered by the need to ensure that the requirements of the client are fulfilled. A socially responsible and ethically behaved architect will be able to find the best means to marry the individual requirements and ambitions of the client with the general interest of society at large. It is accepted that such independence comes at the price of individual responsibility and the profession believes that architects must be liable for the work they carry out. However this liability should not extend for an unreasonable amount of time and scope, nor should it be extended to cover the actions of others outside the control of the architect.
- A.6 In order to achieve these tasks, an architect in practice must be in a position to provide his or her client with a wide range of complex services and those services must be provided in a reliable and quality controlled manner. The Member States of the EU have extensively regulated the manner in which the outcome of these services must perform in relation to technical, legal, aesthetic and liability requirements and the approaches adopted have varied from region to region. However, the provision of architectural services is principally a person to person transaction covered by a private law contract and so the impact of the proposed directive on this relationship must be properly considered.
- A.7 The specific nature of the architectural profession outlined above must be taken into account in any legislative proposals that will impact on the profession. It is with these factors in mind that the ACE has considered the proposal of the Commission for the SIM Directive.

**End of paper**  
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