

Proportionate Regulation



ARCHITECTS' COUNCIL OF EUROPE
CONSEIL DES ARCHITECTES D'EUROPE

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ACE General Assembly 2 December 2016



What is a Profession?

- ✓ It renders a specialised service based upon advanced knowledge and skill, addressing problems primarily on an intellectual plane rather than on a physical plane.
- ✓ It involves a confidential relationship between a practitioner and a client or an employer.
- ✓ It is charged with a substantial degree of public obligation by virtue of its profession of specialised knowledge.
- ✓ It has a common heritage of knowledge, skill and status, to the cumulative store of which professionals contribute through their individual and collective efforts.
- ✓ It performs its services to a substantial degree in the public interest, receiving its compensation through fees rather than through direct profit.
- ✓ It is bound by a distinctive ethical code in its relationships with clients, colleagues, and the public.

See MacDonald, Keith M.; *The Sociology of the Professions*; London; Sage; 1995.

Ref. JOINT COMMITTEE ON ENVIRONMENT, CULTURE AND THE GAELTACHT 31ST DÁIL ÉIREANN / 24TH SEANAD ÉIREANN REPORT OF THE COMMITTEE ON THE TITLE OF ARCHITECT. JULY 2013



Why regulate the profession of Architect?

- ✓ Consumer Protection
- ✓ Quality in the Built Environment

“The impact of defective buildings on human life is an issue that is constant, current, and central to construction. The axiom “prevention is better than cure” is obvious.”

- Trade Hall roof collapse in Poland - Katowice, 28 January 2006: 66 fatalities, 150 injured
 - Garment factory in Bangladesh - Rana Plaza, 24 April 2013: 1130 fatalities, 2438 injured
 - Hotel New World, Singapore - 15 March 1986: 33 fatalities, 17 injured
 - Stardust night club, Ireland - 14 February 1981: 48 fatalities, 214 injured
 - Charles de Gaulle Airport, France - 3 May 2004: 4 fatalities, 3 injured
 - Berkeley balcony collapse USA - California, 16 June 2015; 6 fatalities, 7 injured
- combined total loss of life = 1,287 and 2,829 injured

Unpublished Master's dissertation © Centre of Construction Law & Dispute Resolution, King's College London and Orla Fitz.Gerald FRIAI FCI Arb, 2016



Systems of regulation

“If a builder has built a house for a man and his work is not strong, and if the house he has built falls in and kills the householder, that builder shall be slain.”








Code of Hammurabi, s229 [circa 3000 BC].




Systems of regulation

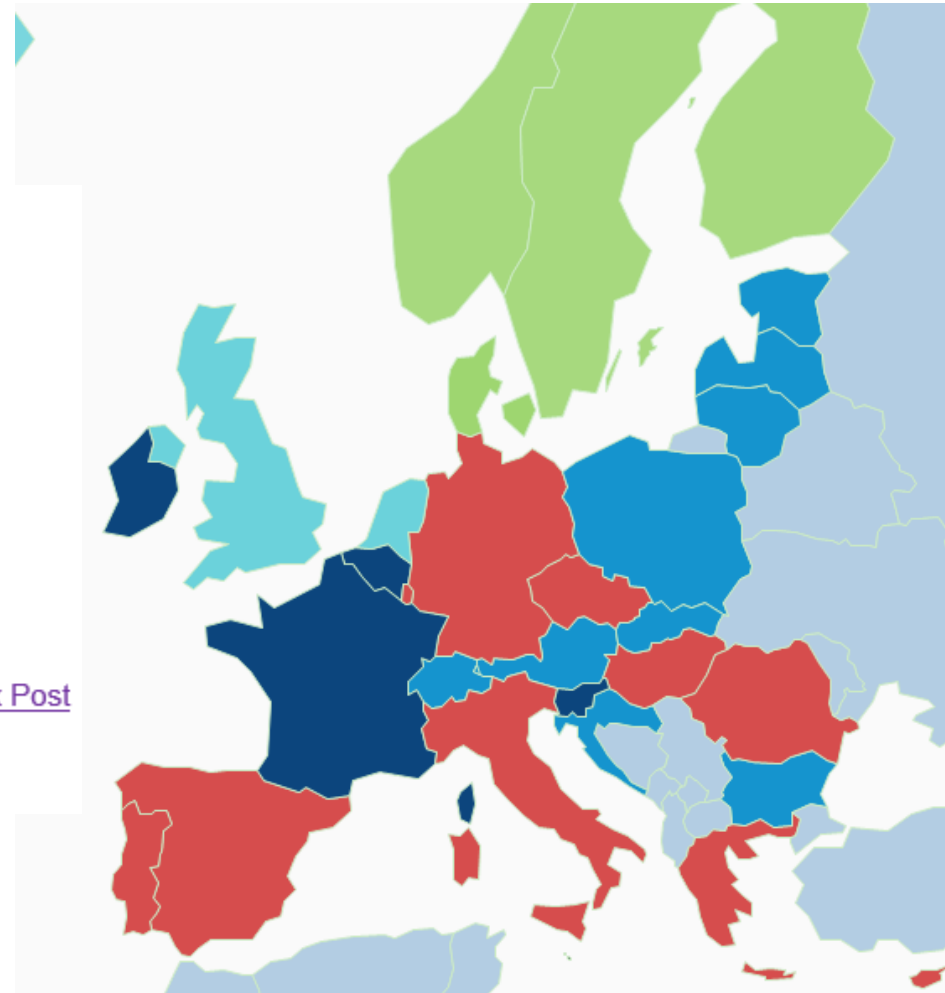
Source: EU Regulated Professions database

Legend

-  Reserves of activities and protected title:
-  Reserves of activities:
-  Protected title (without reserves of activities):
-  Multiple types of regulations:
-  Other:
-  No information submitted:
-  Profession not regulated:

?

 **Profession not regulated** = Not Regulated Ex Ante. Ex Post regulation exists





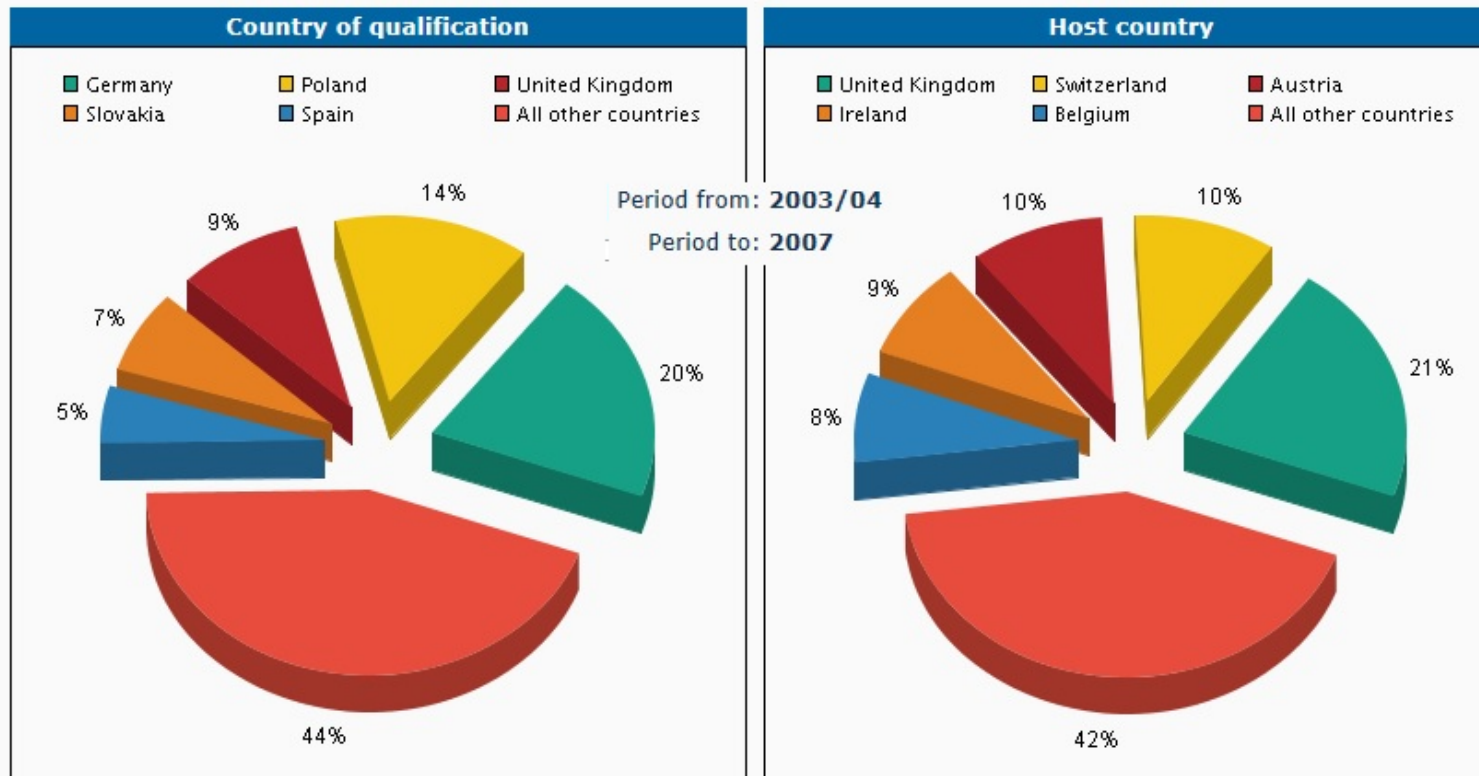
How do diverse systems work together?

- Commonalities
- Different Methods to achieve the same goals
- Focus on consumer protection and quality in the built environment
- National bodies and authorities understand the interaction of diverse systems
- Clearly expressed standards and requirements
- Strong networks exist through ACE and ENACA to discuss emerging issues and best practice
- Use of core recognition principles for different types of regulation - ex ante and ex post



Mobility of Architects in the EU

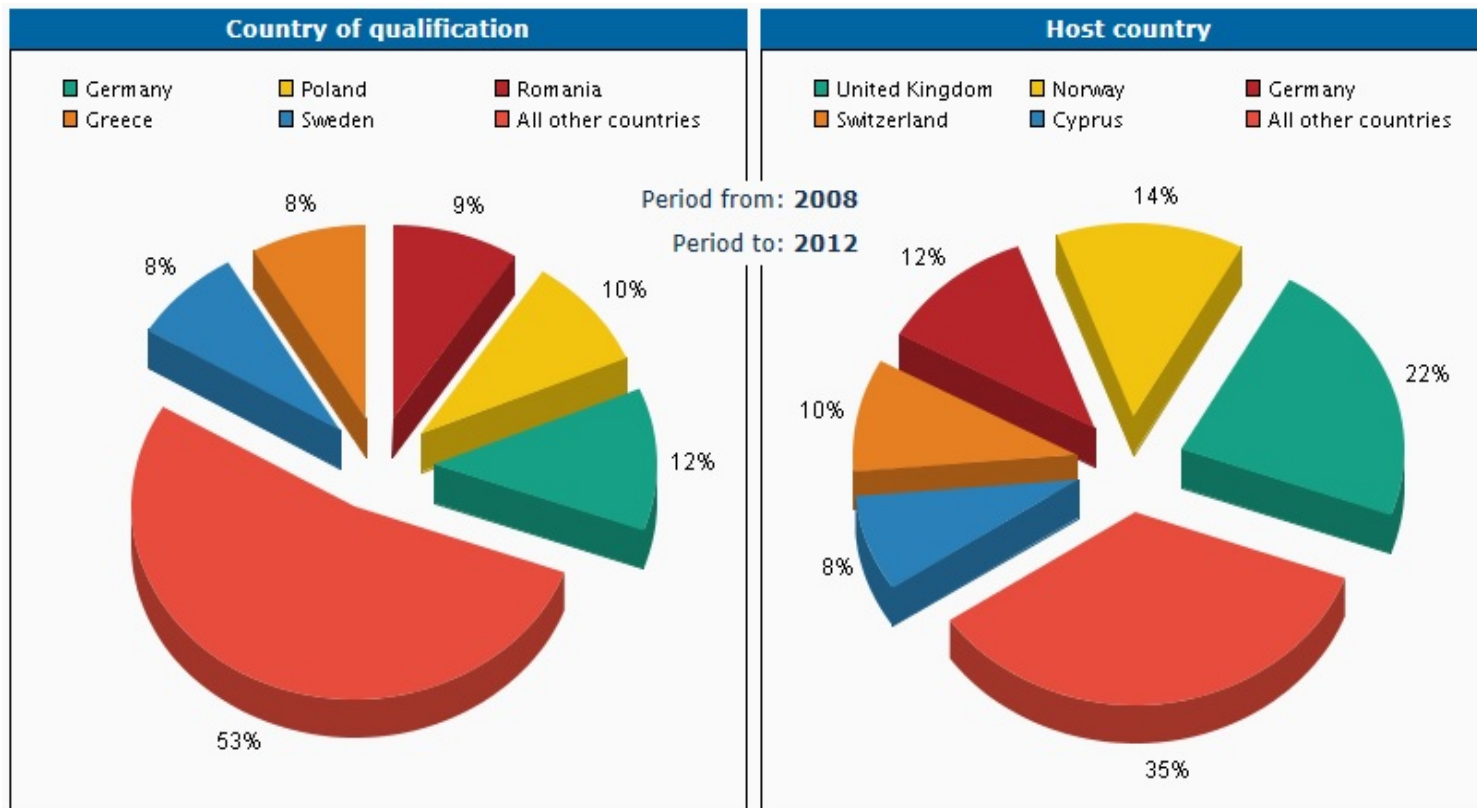
Mobility of Architects according to the EU Regulated professions database from 2003 to 2007 showing 'Home' country and 'Host' country.





Mobility of Architects in the EU

Mobility of Architects according to the EU Regulated professions database from 2008 to 2012 showing 'Home' country and 'Host' country.





Drivers of Mobility

The drivers of mobility are myriad, including:

- Experience, opportunities, learning, progression, culture
- Life – Relationships, Change, Family
- Economic – work availability, quality of life

The ‘barriers’ to mobility are similarly diverse, including:

- Experience, Opportunity, culture
- Life - Language, family ties, familiarity
- Economic Work availability, quality of life

Directive 2005/36/EC is a facilitator of mobility, not a driver



What is proportionate regulation?

- ✓ Regulatory regime reflects only the requirements needed to meet clear objectives
- ✓ Regulatory regime fits specific environment – not a one size fits all
- ✓ Regulatory regime evolves to respond to changes in the environment, market, requirements etc. (heuristic regulation)
- ✓ Regulatory regime is transparent and easily understood
- ✓ Avoidance of reliance on ‘one way’ to do things – optimal methods of recognition to standards etc.
- ✓ ‘Intelligent regulation’ not set in stone



Regulation and the Single Market

- Engage with and recognise the functions of regulation
- Consider consumer perspective: Regulation as a driver of consumer confidence nationally and across borders
- Regulation as a driver of added value and service quality
- Consider proportionate regulation as a means to balance
 - asymmetry of knowledge,
 - Public obligation,
 - Transparent competition,
 - Cost.
 - Diversity of service offering,
 - Quality.



Regulatory Systems for the Future

Example: Architecture and the collaborative economy [BIM]

Participants in a project can be assembled regardless of location so long as they can engage with the collaborative exercise.

- ✓ How do we address competence? – Professional regulation
- ✓ How does the consumer/client assess professionals from different fields and jurisdictions? Professional regulation
- ✓ How do we plan for the project to proceed smoothly without substandard input? Professional regulation

Thank you for your attention



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