

Developing a proposal for a Planning Services Directive



Manifesto for the EU institutions

Time to Act: for high-quality architecture and living environment for all



ACE key policy priorities for the EU institutions

Promoting high-quality architecture and living environment for all

- Recognising the value of architecture as a key lever for high-quality living spaces
- Embedding the values of the New European Bauhaus in EU legislation
- **Developing a proposal for a Planning Services Directive**

Advancing the highest standards in education and ensuring the upskilling of professionals

- Aligning with the International Standard of Training (5+2)
- Resolving the problem of mixed qualifications
- Ensuring the up-skilling of professionals

Establishing a SME-friendly regulatory framework

- Ensuring strict reciprocal application of the Government Procurement Agreement and International Procurement Instrument
- Revising the Public Procurement Directive

Favouring architectural and planning solutions in the built environment

- Tackling whole-life impact of the built environment and apply circular economy principles in the construction sector
- Promoting renovation, transformation and re-use of existing buildings over demolition and new builds
- Adapting living spaces to the effect of climate change through architectural and planning solutions

Challenge: How to support the work of European architects and promote high quality outcomes?

Solution: Develop a proposal for a Directive of the European Parliament and of the Council on the Quality of Planning Services in the Built & Natural Environment.

Preamble

A Directive on the Quality of Planning Services would protect, promote and help to disseminate the quality of planning services in the built and natural environment as an overriding reason of general interest. The EU has the competence (cf. Articles 53(1), 114 (1), 192 and 352 TFEU,) to issue a legal act on planning services placing certain requirements on the content of such services and the qualifications of their providers, in which context, certain reserved tasks could also be regulated - explicitly or implicitly.

Such a measure could also protect the climate and the environment, foster sustainability and “*baukultur*” and constitute a political link to the “New European Bauhaus”.

Rationale

1

The EU has taken measures to highlight the importance of planning the built environment as a key contribution to the quality of people’s lives and well-being, as well as the public interest -

- The 2001 EU Council Resolution,
- Recital 5 of Directive 85/384/EEC and Recital 27 of Directive 2005/36/EC,
- The 2008 Council Conclusions,
- para. 15 of the 2018 Davos Declaration,
- The 2019 ECJ ruling (on the German fee-scales) recognising the quality of planning services, consumer protection, environmental protection and building culture in connection with planning as overriding reasons in the general interest, and
- In 2021, with the NEB, the EU Commission placed political emphasis on the importance of planning for sustainability and climate protection, while linking it with the demand for aesthetics and inclusion.

2

As one of the main sources of GHG emissions the building sector must make a significant contribution to **reducing emissions and conserving finite resources**.

3

The focus of planning activities is shifting from one-off/ time-limited constructions to the creation of planned overall building and life cycle concepts. We must have regard for future resource conservation.

4

To satisfy built environment demands for functionality, sustainability, aesthetics, inclusiveness and climate resilience, it is necessary to create a legislative instrument to consolidate a new model of economic, energetic and ecological planning and to provide a binding framework, through a minimum harmonisation of requirements. Member States may impose more stringent requirements if they wish and will decide on the specific professions to which such a Directive would apply.

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Planning services should be recognised by public bodies as an asset of public interest and they should take exemplary public action to promote their protection, development and dissemination.

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This would demonstrate the crucial contribution that a quality built and urban environment makes to achieving a sustainable society, high quality of life, cultural diversity, individual and collective well-being, social justice and cohesion as well as economic efficiency.

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In its judgment of 4.7.2019 (C-377/17), the ECJ recognised the importance of quality assurance in planning services. Basic prerequisite: **those who provide planning services must have sufficient professional qualifications to do so**: the Directive would set out **minimum requirements**.

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NEB report P9_TA(2022)0319 of the European Parliament states that planning services play a key role in promoting R&I for sustainable development, a sustainable building culture and innovative, space-efficient solutions - in line with our green and digital transition. Poor planning / design in growth of urban sprawl have resulted in the loss of building quality across Europe. (Recitals F and K).



Study Pavilion, Campus of the Technical University of Braunschweig, Germany
Architectural office / Bureau d'architecture: Gustav Düsing and Max Hacke - Photo: © Iwan Baan

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Recital L of the European Parliament's NEB report confirms that building a better future starts with quality education and training; **high-quality built environment requires training skilled professionals**.

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Planning services are intellectual services. When using **artificial intelligence** systems, for example, to optimise floor plans or record existing dimensions, care must be taken to ensure they do not replace planning services to the extent that the planners themselves can no longer provide information relating to their decisions. They must be able to intervene, if needed to specify a different path indicated by their own competence. Otherwise their role would be reduced to merely applying planning decisions for which they are no longer personally responsible.





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“High building culture must be taken into account in the relevant legal norms. The central objective of high quality for the entire built environment (...) must be mandatory for any spatially effective activity. This quality requirement must be on an equal footing with economic or technical interests.”

Source: 2018 Davos Declaration Towards a High-quality Baukultur for Europe.



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A consistent high quality needs to be maintained for all planning services. Member States should therefore be obliged to undergo **continuous professional training** at national level.

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The ECJ has established that binding minimum fees, as part of a coherent QA system, can help ensure quality. **MS should be obliged to set reasonable/adequate minimum fees for planning services.**

13

Planners are responsible if their work results in financial damage. Especially for reasons of consumer protection, **they should be obliged to insure themselves sufficiently against liability claims.**

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Protecting the interests of sustainability, quality, baukultur, consumers and the integrity of taxonomically structured financial markets can only be achieved with high-quality planning. Therefore, **the predominant criteria for the award of Design services should be quality and competitive performance.**

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Regarding the integrity of taxonomically structured financial markets, the shift to “green loans”, “green funds”, etc. can only succeed in the building sector if climate protection-related valuations of the building portfolio, (in which market value is related to GHG emissions of a building) are carried out expertly by planners. Real estate valuers must master GHG balancing to a much greater extent than before - the real estate crisis in the USA has shown how much the stability of the financial market sector depends on reliable real estate valuation. This also shows the extent to which architects and engineers are assuming joint responsibility for this sector - as trustees of the sustainable value of an important asset class.

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European institutions and Member States are aware of the loss of quality in the built environment and the landscape all over Europe, the trivialisation of building, the loss of values in projects and forgetfulness of responsibility in sustainability policies, not to mention the deterioration of historic heritage. EU institutions and Member States are also aware that high-quality planning services in the built and natural environment call for a balance between the cultural, social, economic, environmental and technical aspects of planning, construction and adaptation for re-use to achieve the general interest.

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Many EU Member States and third countries have spent over a decade setting up public **policies that reflect the goals of high-quality planning services in the built and natural environment.** Some Member States have legislated at State or regional level, for that purpose, as is the case of France, Lithuania and Catalonia in Spain and others are discussing putting in place legal instruments with the same goal.

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For the reasons set out, **ACE strongly believes it is time for an European Planning Directive. Climate action and digital transition in our economy will depend critically on our ability to create an environmentally sustainable and digitised built environment. The ability to provide high-quality planning services is at the core of achieving it.**