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USAID KOSOVO PRIVATE ENTERPRISE PROGRAM (KPEP)

Report on Licensing Issues for Architects and Engineers

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Implemented by
Booz Allen Hamilton

Contract No. EEM-I-07-00007-00
Task Order No. 2

MARCH 2010

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REPORT ON LICENSING ISSUES FOR ARCHITECTS & ENGINEERS

Kosovo Private Enterprise Program, Project "Report on Licensing Issues for Architects and Engineers"
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This report submitted by Booz Allen Hamilton

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1. PURPOSE OF ASSIGNMENT

1.01 The underlying aim of this part of the programme of work being undertaken by KPEP is to strengthen the Kosovo economy, focussing on those sectors which can be expected to be more successful. In particular, there is an intention to strengthen the construction industry professions, as an important driver of efficiency, quality and competitiveness in the industry as a whole.

1.02 Specifically, the primary objective of the current assignment is to assist in “the development of a realistic implementable plan to establish a bona fide licensing regime for professional architects and engineers in Kosovo”.

1.03 It should be emphasized that this report is intended to assist in the creation of a new licensing scheme, derived from local requirements and existing conditions, not to dictate such a scheme from outside. The report is primarily addressed to local stakeholders, therefore, but it will doubtless be considered by others with less immediate knowledge of circumstances in Kosovo.

1.04 In addition, it is suggested that, in this case the brief needs to address other issues that are closely related to the specific proposal to create a licensing regime. The following areas have been referred to:

- Education of architects
- Spatial planning controls (urban and rural planning)
- Construction regulations
- The role and structure of the Kosovo Association of Architects

1.05 Evidently, the views expressed in the Report are those of the author and do not necessarily reflect those of any organisation or body with which the author may be connected.

2.FIELD ACTIVITIES TO ACHIEVE PURPOSES

2.01 An exploratory visit was made to Kosovo in January 2010. Prior to that, enquiries were made of contacts in London and Brussels (and thus of other European sources). The author's previous knowledge and experience has also been brought to bear on the study.

2.02 Prior to the visit to Kosovo in January 2010, meetings were held in London, during November-December 2009, with various parties, including representatives of both the Royal Institute of British Architects and the Architects Registration Board. Meetings were also held with various individuals, mainly architects, with interesting experience in Kosovo (and other parts of former Yugoslavia).

2.03 On November 20-21, 2009, the General Assembly of the Architects Council of Europe was attended and during the course of these two days, further discussions were held with representatives of various European architects' organisations, including some of the major organisations and representatives from Croatia and Bosnia.

2.04 Various meetings were held in Kosovo during the period January 11-18, 2010.

2.05 Meetings were held at the Ministry of Environment and Spatial Planning, first with the Permanent Secretary, who was most supportive of the objectives of this study, and subsequently with a more extensive team of staff, led by Mr Servet Spahiu, covering a range of issues, including planning and construction regulations.

2.06 Contacts with the Ministry of Education, Science and Technology were initially less productive, since the European organisation which had been identified proved to be relevant to a lower level of qualification than university and professional qualifications in architecture and engineering. In the event, however, a subsequent meeting was arranged with the Director of the Accreditation Agency, which proved to be very useful in forming an understanding of recognition issues and providing a basis for future working.

2.07 At the State University and the Faculty of Architecture, there were opportunities to see the facilities and speak to the senior staff about the courses. A separate conversation was arranged with the recent Sub-Dean of Architecture. It must be admitted that some shortcomings were identified (in both the buildings and the course), by comparison with other European Schools of Architecture, especially in the context of the modern construction industry, which is heavily reliant on computer technology. The proposed meeting with the Kosovo Association of Structural Engineers (at the Faculty of Engineering) was abortive.

2.08 An especially useful session was arranged with Members of the Board of the Kosovo Association of Architects and their newly appointed Director. A separate conversation took place with the Past President of the Kosovo Association of Architects. It is clear that there exists an established core of professionals, but lacking the younger cohorts, for obvious reasons, and also apparently somewhat lacking in the oldest generation of most experienced professionals (whose careers would have been undermined by troubles of the last decades).

2.09 Nevertheless, the profession is represented in the KAA by architects with an impressive range of experience and ability, from small projects to relatively large scale schemes in their context, covering specialised areas (such as the historic environment and urban planning), with some teaching experience and experience outside Kosovo.

2.10 In addition it should be noted that particular help and insight was afforded by discussions with Mr Valdet Osmani and Mr Fittim Muçaj, respectively President and Board Member of the Kosovo Association of Architects, who spent time with the author of this report and gave freely of their advice and help.

3. GENERAL BACKGROUND

3.01 The Kosovo situation is well known to those to whom this Report is addressed and it is hardly necessary to dwell on its recent history.

3.02 Nevertheless, some aspects of this history are of particular relevance to the problems facing the construction industry professions in Kosovo and it is appropriate to recall them briefly.

3.03 Until the death of Tito (Josip Broz) in 1980, Yugoslavia enjoyed a period of stability and some prosperity, with recognition as a “non-aligned state” on the world stage. Underlying tensions were undoubtedly suppressed, however, and during the 1980s increasingly serious problems emerged.

3.04 Even during the Yugoslav period, Pristina and Kosovo were at a disadvantage by comparison with other parts of the country. In particular, the University of Prishtina was not able to offer higher professional qualifications in architecture, with the result that local students were obliged to complete their studies elsewhere. In any case, the regime as a whole was hostile to free-market commercial enterprise, although it was possible to export professional services in some cases.

3.05 From about 1989 onwards, professional training in Pristina became even more difficult, due to the prejudicial treatment of Kosovo, by central government. Subsequently, of course, the whole country was disrupted by the wars which lead to the break-up of the country which had been created after the Second World War. Kosovo itself suffered directly from the effects of armed conflict between about 1997 and 2000, with a resurgence of violent ethnic conflict in 2004. In 1999, Kosovo was placed under United Nations administration (UN Council Resolution of 10 June 1999) and in 2008 Kosovo declared its independence of Serbia.

3.06 As a consequence of all this, it has for many years been difficult, in practice, for professionals in the construction industry in Kosovo to become fully qualified. Even for those who qualified before 1980-85, and who might now be at the peak of their careers, the loss of important working opportunities and the harm done to their professional prospects over many years has doubtless undermined their commitment to their profession.

3.07 Of course there is a core of committed professionals, with a range of experience, working in the interests of the profession – and the new country of Kosovo – but the extensive and established base which exists in other parts of Europe is lacking.

4. THE ROLE OF THE PROFESSIONS

4.01 There has always been a need, in construction projects, for a “chief builder” or project leader, to ensure that the project can be well designed, effectively managed and delivered in accordance with expectations. An example from the Middle Ages will suffice though others from earlier periods (in the Classical Age) could be found. In 1174, a fire had destroyed the old choir of Canterbury Cathedral and a project to rebuild was initiated. Gervase, the chronicler of the Cathedral, recounts the process of selecting an architect, from a number of candidates from England and France, to lead the project – a huge undertaking, by the standards of the time:

“Among the architects there was one, William of Sens, a man of great abilities and an ingenious workman in wood and stone. Dismissing the rest they chose him for the undertaking. And he, residing many days with the monks and carefully surveying the burnt walls ... did yet for some time conceal what he found it necessary to do, lest the truth should kill us in our hopelessness. But he went on preparing all things that were necessary, either himself or by the agency of others. And when he found that the monks began to be somewhat comforted, he confessed that the damaged pillars and all they supported must be destroyed, if the monks wished to have a safe and excellent building. At length they agreed ... to take down the ruined choir. Attention was given to procure stones from abroad. He made the most ingenious machines for loading and unloading stones from abroad. He made the most ingenious machines for loading and unloading ships and for drawing the mortar and stones. He delivered also to the masons models (cut out wooden templates) for cutting the stones ...”
[quoted in Niklaus Pevsner, ‘A History of European Architecture’]

4.02 The project leader needed an understanding of the practical and aesthetic requirements of the finished building, the technical details of the construction and the management of the work. Canterbury Cathedral stands as one of the greatest of architectural (and engineering) achievements.

4.03 The modern concept of the professional person seems to have emerged in the early part of the nineteenth century, as a result of problems arising where designers also acted as contractors, as appears to have been common during the late eighteenth century. The fundamental difficulty appears to have arisen when engineers and architects acting also as contractors faced a conflict between their own commercial interests and those of their clients, as well as a concern about the competence of some contractors. Thus, for example, the Institution of Civil Engineers was founded in 1818. The Royal Institute of the Architects of Ireland and the Royal Institute of British Architects received their Charters in 1833 and 1834 respectively. These Institutes are all still in existence, of course.

4.04 The fundamental attributes of the professional can be summarised briefly, here, though they need to be dealt with in more detail in separate sections. First, the professional must be competent in the role – educated and trained in the profession and up to date with all aspects of the work, including design, technical and legislative constraints (including health and safety controls: William of Sens died as a result of a fall from the scaffolding). Second, the professional must adhere to a strict code of integrity, placing the client’s interests before his (or her) own, and having due regard to social obligations.

4.05 Currently, the importance of a good professional team is widely recognised (but not universally so). A construction project starts long before the ground is broken. The design phase is a fundamentally important part of the whole project and the Architects Plan of Work reflects the fact that the tasks span across the whole project, from inception, briefing and

design to handover of the finished building (and, in some respects, post completion maintenance). The latest Plan of Work published by the RIBA is useful, but it is instructive to note that a study carried out some years ago by the ACE found a considerable degree of consistency in the way in which architects work across Europe.

4.06 The consequences of poor design and programming can be very serious, for example cost over-run, delays and abortive work. Less obviously sometimes, but even more seriously, the resulting project can be a disappointment, a missed opportunity to make the best of an opportunity to achieve the aims of the client or sponsor, whether they be increased commercial profits or improved social facilities.

4.07 By contrast, good design can reduce costs, by providing better value for money spent and enhancing the value of the finished product. It is true to say that such improvements may be difficult to measure, enabling people to create “homes” rather than merely providing mass housing “units”. Even so, it is necessary to evaluate the quality of the product, not merely to seek lowest prices for an inadequately defined or poorly designed project. To undervalue a project can be even more costly than to overpay, in the end:

“It’s unwise to pay too much but it’s worse to pay too little. When you pay too much you lose a little money – that’s all. When you pay too little, you sometimes lose everything, because the thing you bought was incapable of doing the thing it was bought to do.” (John Ruskin)

4.08 Evidently, a good professional team is required in the context of a construction project – it should be remembered that construction projects are always complex and are all unique, not mass-produced, subject to different circumstances even where designs are apparently similar (in residential buildings, for example).

4.09 Architects (and, for some projects, engineers) generally act as the professional team leaders, co-ordinating the work of other team members and resolving conflicting constraints. It is therefore essential for them to have a wide understanding of all aspects of a project, including the design criteria which constrain other professionals (without necessarily being in a position to execute the detailed design calculations). They need to recognise the expectations of clients remembering that profit, for example, is not the only consideration for an entrepreneur – certainty and risk reduction, for example, can be at least as important. They also need to be aware of wider obligations to future users of projects (which may, indeed, be imposed by health and safety legislation or other controls) and they need to be conscious of their duties to society as a whole. The Preamble to Council Directive 85/384/EEC of the European Union recorded that:

“... architecture, the quality of buildings, the way they blend in with their surroundings, respect for the natural and urban environment and the collective and individual cultural heritage are matters of public concern ...”

4.10 For architects, the essential qualifications were usefully set out in Article 3 of the Directive. These are still relevant to the profession:

- “1. an ability to create architectural designs that satisfy both aesthetic and technical requirements,*
- 2. an adequate knowledge of the history and theories of architecture and the related arts, technologies and human sciences,*
- 3. a knowledge of the fine arts as an influence on the quality of architectural design,*
- 4. an adequate knowledge of urban design, planning and the skills involved in the planning process,*
- 5. an understanding of the relationship between people and buildings and between buildings and their environment, and of the need to relate buildings and the spaces between them to human needs and scale,*

6. *an understanding of the profession of architecture and the role of the architect in society, in particular in preparing briefs that take account of social factors,*
7. *an understanding of the methods of investigation and preparation of the brief for the design project,*
8. *an understanding of the structural design, constructional and engineering problems associated with building design,*
9. *an adequate knowledge of physical problems and technologies and of the function of buildings so as to provide them with internal conditions of comfort and protection against the climate,*
10. *the necessary design skills to meet building users' requirements within the constraints imposed by cost factors and building regulations,*
11. *an adequate knowledge of the industries, organisations, regulations and procedures involved in translating design concepts into buildings and integrating plans into overall planning."*

4.11 Evidently, much of this applies equally to engineering projects.

4.12 It must also be emphasised that, though these "Eleven Points" were expressed as being fundamental to the "education and training" of architects, the knowledge required is bound to change over time, especially in relation to "regulations and procedures" (Point 11). It is also true, that within the broad professions of architecture and engineering, many individuals will specialise and become experts in a particular area of work, without losing the broad qualification as a member of the whole profession.

4.13 It follows, moreover, that an architect or an engineer cannot practise in isolation, after qualification. A continuous effort is needed to maintain competence and in order for this to be possible, professional structures are required.

4.14 Crucially, professionals are subject to codes of conduct (deontological or ethical codes) and disciplinary procedures which need to maintain their relevance to the profession. Professionals need to be subject to controls which ensure that standards of competence and standards of integrity are upheld. It is neither cost effective nor socially just to rely on civil courts (in relation to incompetence) and criminal courts (in relation to dishonesty) to regulate the professions, although, of course, the courts will be involved in serious cases.

4.15 In order for professionals to maintain their competence, it is necessary for a programme of continuing lectures and other training and information sessions to be available. The professional institutes can provide these services (and, incidentally, this can help to fund the institutes themselves). The professional institutes can also be supportive in other ways, by giving guidance on practical issues or publishing standard contracts and forms, for example.

4.16 This, then, also amounts to a public benefit. Evidently, a large international company is perfectly able to manage its contractual relationships with its professional service providers, on its own terms, in a position of considerable negotiating power in the market. Even at a more local scale, a modest developer, for example, is likely to be very familiar with standard practice in the industry and conversant with standard forms and agreements. At the other end of the scale of clients, however, individual homeowners and even small businesses may not be at all confident in dealing with unfamiliar processes. The existence of a respected professional organisation (publishing standard documents), independent from service providers themselves, can be especially helpful to such clients, redressing what has been termed the asymmetry of information for clients who seldom undertake construction projects.

4.17 Finally, the professional association or institute can fulfil an important role as an interlocutor for government, drawing attention to problems and opportunities as they emerge, in a co-ordinated and coherent way.

4.18 It is interesting to observe that all the states of the European Union have established and well regarded professional institutes or associations of architects (the various states being represented at the Architects Council of Europe), even in those countries which are relatively “deregulated” in the sector (the United Kingdom, Ireland, The Netherlands, and the Scandinavian countries).

5. THE REGULATION OF CONSTRUCTION PROJECTS

5.01 The subject of the report concerns the implementation of a licensing regime for professional architects and engineers but it is essential to consider the framework within which such a licensing regime would operate. In particular, it is necessary to consider the role of the profession in relation to urban planning laws and construction regulations and the qualifications required in members of the profession (whether those qualifications are acquired locally or elsewhere). Of course, many other areas of law bear on the construction process, for example, business registration and regulation, financial regulation, employment law or health and safety regulations. In this section, however, attention is given to the urban planning system and construction regulations which bear directly on project design (and thus on the tasks of the professionals).

5.02 Here, it is necessary to distinguish between the scope of application of the urban (and rural) planning system and construction regulations, respectively. The former is concerned with broad considerations of land use (in fact in both the urban and rural environment) while the latter deals with details of building construction, its resistance to weather, stability, soundness and so on. In general terms, it can be said that a distinction always needs to be drawn between these two scales of control, since different types of criteria must be applied at each level, while construction standards ought to be based on directly technical criteria by comparison with planning judgements which also involve social and economic factors.

Urban and rural planning controls

5.03 A planning control system is founded on plans which define the central or local government's intentions for the spatial planning of the locality. The plans can be settled in law (as in France, Germany and Spain) or set out in government policy documents (as in the United Kingdom and Ireland). In either case, the formal plan needs to have binding force, even if the rules permit some flexibility and can be subject to interpretation.

5.04 Plans vary, of course, in their form and content. Some need to cover wide rural areas, where little development may be expected and where, indeed, development may be restricted to preserve the rural character for different reasons. Others cover urban areas, or areas where urbanisation is expected, to control change to an existing environment (which may be limited in scope) or to regulate new developments. In any case, some over-arching strategic plan is also required, probably at a regional level in larger states (as in the United Kingdom and Spain), though in Kosovo, a small state by most standards, a national strategy is needed.

5.05 In Kosovo, a broad structure for the planning framework has been devised. It envisages a national strategy, with local plans to cover particular areas. It is suggested that the national strategy should cover the whole land area of Kosovo, including rural areas. Uncontrolled and unregulated development in the countryside can be very harmful. Put very simply, the costs of providing infrastructure (such as electricity, sewerage and water) and of creating local services (such as schools and health care) can be much higher for scattered development. Even for the private sector, a scattered population pattern can make it much less likely that commercial services (such as shops and leisure facilities) can be viable. In addition, scattered rural development can have serious implications for traffic and transport, leading, for example, to congestion in towns. Besides, the countryside is an important resource in itself, to the benefit of the population generally, as well as offering a useful

resource for tourism. The damage that can be done to this resource by the accumulation of small scale development that undermines rural character is all too apparent in other parts of Europe, which afford useful lessons (Spain and Ireland, for example).

5.06 In urban areas, controls are evidently still required, to protect the existing environment and to manage improvements in response to social and economic change. Such plans need to address general planning considerations in their local context but specialised plans (action area plans) will be needed in particular areas, for example where major change is envisaged (economic development areas) or where especially sensitive historic sites need to be protected (particular historic buildings or locations).

5.07 The plan preparation process in Kosovo is making some progress but there is still much to be done. The strategy for Kosovo as a whole has yet to be closely defined, approximately half the proposed plans have yet to be initiated and important action area plans still need to be prepared.

5.08 In passing, it can be observed that the process of preparing the necessary plans needs to be accelerated, in order to encourage desirable development and to provide a sound framework for it. It is suggested that some external assistance would be helpful, but there would be disadvantages if substantial work were merely outsourced. It is therefore suggested that exemplar projects could be identified, for competitive contracting to teams who would undertake to involve local professionals and thereby provide a training and experience resource as well as providing the contracted planning service.

5.09 The plan sets the framework for development, but in each case a formal permit will be needed, to verify that the particular project is in accordance with the regulations. It is envisaged that, in most cases, such permits would be issued by the relevant municipal authorities though the issuing of licences for major projects could be reserved to the national government (the Ministry of Environment and Spatial Planning). It is also, of course, expected that a national inspection and verification process will be required, to ensure that permits are, in fact granted in accordance with the regulations. This system also needs refinement to make it effective and free from corruption.

5.10 In any case, engagement with the planning process takes place early in the design stage of a project and it is therefore at the stage in the project for which planning permission is needed that the architect or engineer is also involved. It is appropriate to emphasise the key role of the architect (usually as team leader), throughout the construction process, from draft brief to final handover and building maintenance. Indeed, part of the task of the professional team is to advise on the status of the proposed project in relation to planning regulations.

5.11 It is to the planning process, therefore, that the licensing system for architects and engineers should first be related.

Construction regulations

5.12 The level of control over buildings and structures imposed by construction regulations is much more detailed and, in some senses, more objective. It is aimed at regulating details of construction rather than the broad principles of building scales and uses, for example.

5.13 Though urban planning was controlled in an entirely different way during the Yugoslavia period, construction regulations evidently applied through regulations that could still have considerable relevance. Of course the regulations themselves would have evolved during past decades, to respond to new methods of construction, new understanding of

potential risks (for example in terms of fire safety) and new social and “political” imperatives (for example in terms of access for less able people or conservation of energy).

5.14 In addition, it must again be pointed out that effective control mechanisms need to be established. It is obvious, even from a cursory glance at some of the work that has been carried out in Pristina, that fundamental errors are not corrected. It is expected that the necessary professional “supervision” on-site would be undertaken by the project architect and engineer, as well as by officials from the local municipality or an organisation with delegated powers (since the municipalities would not be expected to have sufficient staff to manage all the work). However, a national team of construction experts would also be needed, to resolve differences of interpretation and to ensure compliance.

5.15 Current construction regulations are evidently in need of refinement and modernisation. European-wide standards apply to products but regulation of construction details cannot realistically be applied across such widely different sets of circumstances as apply across the continent. Climate, geology (including seismic risks), construction practices and other differences combine to make a uniform system unrealistic and impracticable. For the same reason, it would not be appropriate merely to adopt the regulations applied in Germany, the United Kingdom or some other relatively distant state, though useful lessons could no doubt be drawn from others’ experience of regulations in such areas as fire escape or access for the less able and also in matters of administrative control and enforcement of compliance.

5.16 On the other hand, experience elsewhere in former Yugoslavia suggests that it could be beneficial to examine others’ experience of adapting the earlier Yugoslav regulations to modern requirements. In order to obtain the best advantage from such a process, it is suggested that a conference could be arranged for representatives experienced in and knowledgeable about such regulations, from the new countries that have emerged from Yugoslavia. Additional delegates from other parts of Europe could be invited, but the working language would probably need to be “Serbo-Croat”. Individual meetings would be less productive, since they would not allow the sharing of experience in the same way.

5.17 The location for such a conference would also need to be considered carefully, due to current sensibilities and taking account of cost considerations. Split (which is accessible but not a capital city) may be worthy of consideration.

5.18 This stage of the project documentation is, obviously somewhat later in the construction process than the planning stage though, of course, architects and engineers would need to be fully conversant with regulations relevant to their work and would need to maintain their competence in this field throughout their professional careers. Nevertheless, it may be that technicians with a lower (or different) qualification could deal with project documentation in relation to construction regulations.

5.19 Hence, it is suggested that this technical level of submission should also be under the direction of the construction professionals, according to the scale of the project, even though it would not be the primary focus of a licensing system for architects and engineers.

6. LICENSING FOR ARCHITECTS AND ENGINEERS

Introduction

6.01 The regulation of function in the construction sector is well established in Europe, and worldwide, but it is useful to reflect on the underlying logic of such a system since, on the face of it, any restriction on commercial activity (which therefore affects competition) ought to be justified in the public interest.

6.02 Architects (and, in some cases, engineers) are regulated throughout Europe and the world. Even the regulation of title, as distinct from function (as in the United Kingdom) provides a benefit to the public by ensuring that a professional person holds relevant qualifications, independently verified.

6.03 In the European Union, however, the function of the Architect is protected to a greater or lesser extent in all countries, with the exception of the British Isles, the Netherlands and Scandinavia.

6.04 Of course, the function exercised by certain professions is highly protected even within the British Isles. Such professions include medical (including veterinary), legal and teaching professions and various financial services. In such cases, it is, presumably, argued that it is in the interests of both the individual and society for such restrictions to be imposed. In some areas there is also a special moral argument relating, for example, to the protection of animals (veterinary surgeons, farriers) or children (school teachers, nursery nurses, children's group leaders).

6.05 In principle, however, some special arguments may apply to the categories of medical practitioners (doctors, dentist, opticians and so on) or legal advisers (solicitors and barristers) or financial advisers (banks, building societies, mortgage lenders, insurers, accountants and so on) or teachers.

6.06 In such cases it may be argued that the harm which could be caused to an individual who makes use of the services of an unqualified person is so serious that an individual ought to be prevented from committing the folly of employing an unqualified person. After all, individuals are generally forbidden to drive a motor car without a seat belt or to ride a motor cycle without a crash helmet. It is further argued that society as a whole would have to bear the consequences of a foolish individual being allowed to rely on obviously unsatisfactory professional advice. Medical intervention by an unqualified person would obviously cause health damage. Serious injustice resulting from poor representation in court harms society as a whole as well as the individual and, of course, unprofessional representations can mislead or waste the time of the court. Serious financial loss as a result of bad or dishonest advice causes great harm to the individual and can result in an individual falling into reliance on the State for maintenance.

6.07 In the case of architects and engineers, it is argued that the consequences to society as a whole of unlicensed individuals acting on construction projects also introduces unacceptable risks. Harm could be caused to the common environment, risks may be posed to health and safety.

6.08 Philosophically, however, there must be a limit to the requirement for different functions to be protected. It would obviously be impossible for the State to ensure that every

transaction in life is undertaken with the best advice available, removing individuals' responsibility for appointing their own advisers or making their own decisions. The question arises, therefore, not whether there should be some limit to the concept of the protection of function, or whether on the other hand no functions at all should be protected, but where in this spectrum the architectural profession should lie. In that calculation the UK and a few other European States, place the architectural profession among those professions whose function it is not necessary to protect in the public interest or where private consequences of a mistake are likely to be so serious that restrictions should be in force. These states, however, are among the most developed in Europe and they impose other procedures to ensure that construction projects are compliant with regulations and carried out safely.

6.09 It should be noted that there is a second argument which support the idea of regulation of function through the professions. In those countries where it is essential for an Architect to be appointed to a building project, it is noticeable that the State control of construction (at local or township level) is notably weaker. It appears to be the case that, in those countries (such as France, Spain and Germany) where an Architect is required for a building project, the State, as it were, "privatises" the responsibility to ensure that the design and implementation of the project will be technically adequate. Reliance is placed on competent professionals to perform their tasks adequately (and if not, to be subject to civil law) rather than for the State to meticulously recheck and recalculate submissions that have been made to the public authority. The process of submitting building regulations applications to UK local councils, irrespective of whether a competent professional has been employed or not, inclines to the approach that the State should always take responsibility and check that work is done properly rather than rely on a professional person paid from private rather than from public funds.

6.10 Of course, it should also be recognised that the protection of function does not always work efficiently in practice, since it has proved to be the case that Architects will sometimes sign off a project which is not their own design. Indeed, Standard 1.1 of the ARB Code and the equivalent provisions in the RIBA Code was specifically directed at the "*signature de complaisance*" (from experience in France, though other European Union countries have had similar experiences). Firm ethical control of the professions is, therefore, also essential.

Licensing system

6.11 For all these reasons, but especially in the social and historic context of Kosovo, the principle of licensing has been established. The licensing system itself needs to address several distinct but related issues.

6.12 Moreover, it should be observed that, since the licensing system for architects and engineers needs to be related to the regulatory framework, it is of crucial importance for that framework to be properly established.

Register

6.13 Hence, in simple terms, a process must be established for registers of architects and engineers (respectively) to be prepared and kept up to date, in Kosovo. The system must be robust and reliable, in order that potential clients and others can be sure of the status of their prospective professional advisers and in order that the authorities can be confident that projects are certified by appropriately qualified individuals.

6.14 Here, it should be noted that professional liability is personal, rather than corporate, though it may be that the register could include details of companies, partnerships or organisations providing qualified professional services, for ease of administration.

Academic qualifications

6.15 Access to the professional registers is to be in accordance with recognised qualifications in the first instance. Those comprise, first, the necessary academic (university) degrees and titles but, second, a demonstration of professional experience and ability by validated experience and examination.

6.16 It is suggested that qualifications creating an entitlement to inclusion in the registers will include both local (Yugoslav and Kosovo) qualifications and foreign qualifications. Both give scope for problems.

6.17 The academic qualifications of those who completed their studies in former Yugoslavia, in Zagreb, Belgrade or Ljubljana for example, may be irreproachable but studies completed more recently may be harder to validate. On the other hand, it appears that those who have recently undertaken their studies wholly within Kosovo will not have reached the international standards appropriate for registration as architects (while insufficient information was available to comment on the situation for new engineers). This shortcoming must obviously be addressed urgently. On the one hand, registers of professionals that do not admit locally qualified individuals will be resented and undermined. On the other hand, admission of poorly qualified candidates to the register will result in its becoming discredited and ineffective. A further comment on architectural studies is, therefore, given below.

6.18 Qualifications obtained outside Kosovo also need to meet international professional standards. For candidates from within the European Union, the existing system of mutual recognition of degrees would seem to offer a good solution. Architects whose qualifications are recognised by the member states of the European Union ought also to be enabled to register in Kosovo.

6.19 For candidates who have obtained their qualifications outside the EU, the control of licensing presents more difficulties. Even for a relatively large country, like the United Kingdom or Spain, the number of different qualifications available in the world presents a formidable task of appraisal. In the United Kingdom a special panel system has been created, to consider documentary qualifications and interview candidates on an individual basis. If the candidate is successful, this leads to partial validation (and a requirement for further studies) or full validation. The process is evidently expensive and time consuming and it requires a fund of experience and knowledge in the interview panel. In Spain, the responsibility for admission to further studies rests with the university while validation of external qualifications (from outside the European Union) for the purposes of registration is a rather technical and bureaucratic ministerial process.

6.20 It is noted that Albania and Serbia still lie outside the European Union and it is suggested (for discussion) that any professional whose qualifications had been accepted in Albania, Serbia, the United Kingdom or the United States of America (bearing in mind the three official languages of Kosovo) would also be acceptable. It is not recommended that a full validation system (in case architects from any part of the world wanted to register in Kosovo) could be a practicable solution at this time.

6.21 Hence, the first criterion for registration will be academic qualification, whether obtained in Kosovo, in the European Union or elsewhere.

Professional test

6.22 In some countries in Europe (for example in Spain) the academic qualification has been sufficient in itself for an architect, for example, to be licensed to practise. In other

countries, however, a further test is required. In the United Kingdom and Austria, the architect is required to have undertaken a period in practice (subject to monitoring) and to have passed a professional test. In the United States of America, an architect also undertakes a professional test (for licensing purposes) but this includes a design element whereas the United Kingdom system ascribes design training to the university and covers contractual, legislative, property rights, management matters and so on in the professional test. This model has been adopted as the desirable standard by the Architects Council of Europe.

6.23 For Kosovo, it is proposed that the professional test should, likewise, cover professional and practice issues, including regulations, contracts, management, health and safety and so on. A two year period of experience, monitored by a fellow professional should be required, followed by an official examination and the presentation of a case study, to demonstrate the validity of the experience and the knowledge acquired.

6.24 The preparation and administration of the professional examination will need to be undertaken by a professional body, such as the Kosovo Association of Architects, where experience and knowledge of professional practice resides.

Continuing professional development

6.25 As has been mentioned, the achievement of a professional licence does not bring the architect's or engineer's education and training to a close. The development of new technologies, new materials and products, new procedures and so on all require professionals to undertake a continuous learning process, in any case. Besides, changing administrative and legal requirements impose a need to keep abreast of current requirements.

6.26 Furthermore, training sessions provide opportunities for architects and engineers to study areas of special interest (such as historic buildings) or potential opportunity (such as agricultural or tourist development).

6.27 Evidently, any serious professional person must make a regular commitment to this continuous learning process. It must also be emphasised that the training needs to be provided by a body with the expertise and resources to understand the needs of its profession and provide suitable functions and events at reasonable cost.

6.28 Furthermore, the "continuing professional development" of each professional needs to be monitored in a fair and independent way, to ensure that standards are genuinely maintained throughout the professional career of any licensed professional.

Professional conduct and discipline

6.29 Finally, it must be observed that a licensing system will require provisions to ensure that a professional person who falls below minimum professional standards of integrity or competence may be removed from the register of licensed architects or that of licensed engineers.

6.30 Essentially, it is necessary to define those standards in a Code of Conduct (Deontological or Ethical Code). It should be noted that regulations aimed at protecting members of the profession (rather than the public at large) have been increasingly outlawed, especially as a result of competition regulations across the European Union. Thus professional "rules" prohibiting advertising, fixing fee scales, prohibiting competition, prohibiting certain forms of mixed practice and so on have been generally, though not

universally, abandoned by the professions. Of course, some safeguards are retained, to ensure that advertising is fair and that mixed services do not mislead clients, for example.

6.31 Codes of conduct exist across Europe and the world and both the International Union of Architects (UIA) and the Architects Council of Europe (ACE) have adopted versions. Interestingly, a study of European Codes some years ago showed a remarkable consistency between European codes, except in the area of professional self protection. There was a notable difference between France and Belgium, for example, on the matter of advertising. Nevertheless, codes have generally become more aligned, sometimes under pressure (the Belgian Order of Architects was fined by the European Commission for publishing a fee scale).

6.32 The model Code of Conduct published by the Architects Council of Europe seems appropriate for Kosovo, subject to review. The Code should be reviewed and refined if necessary and kept up to date by the professional bodies who have a knowledge and understanding of professional responsibilities and pressures but with independent input (see below).

6.33 In support of the Code of Conduct it is necessary for a disciplinary process to be implemented and enforced. This has to consist of a process for dealing with complaints (but filtering out frivolous or vexatious allegations) and dealing with genuine complaints in a robust way, including the withdrawal of the professional licence in the most serious cases. Although this process needs to be part of the overall licensing process, the tribunal which, in the final stage, must decide on the architect's or engineer's culpability needs to be independent of the profession itself, with external "judges".

Organisation

6.34 The licensing systems for architects and engineers would need to be related to the construction process, through legislation requiring the involvement of appropriate professionals in construction projects.

6.35 The licensing system itself would, however, cover the various aspects of the licensing process, not merely produce a list of names, an overly simplistic approach. Hence an organisation is required that would cover the range of tasks and bring to them an understanding of the professional process.

6.36 It is suggested that the licensing system for architects could be managed by the Kosovo Association of Architects but that a Governance Board would need to be created, to oversee the implementation of the system and to ensure fairness and transparency in the system. The Board would, therefore, need to include government and academic representatives.

6.37 Below the Governance Board, the Association would need to take direct control of the preparation and management of the professional examinations and the training process and it would need to offer a course of continuing training lectures and other activities to ensure that professionals maintain their competence.

6.38 The Kosovo Association of Architects is undoubtedly weak, at present. Although it appears to have a strong core of members, membership is voluntary and its financial standing is precarious, due to under-funding. Of course that also reflects the underlying economy in Kosovo and there is no obvious alternative body to take on the role. It would not be appropriate for a new government group to be created, for example, since the professional background would be lacking.

6.39 Evidently, the licensing system would need to be self funding. The register of licensed architects would command an annual subscription or fee. Fees would be charged for professional examinations. Continuing professional development events would also command an appropriate payment. The income from these sources would be necessary to fund the management of the whole process.

6.40 The funding of the Association (and hence the licensing system) could be further enhanced by other activities, such as co-operation with product manufacturers and other advertisers, though such activities could be easier to develop once the Association has become more firmly established.

6.41 It must be made clear, however, that the basic income for the Association, to support the licensing process would need to be derived from the annual subscriptions of professional members. In order to practise, professionals would be obliged to obtain the necessary professional licence.

Note on architecture courses

6.42 The University of Prishtina suffers from a long term lack of investment while the faculty of architecture has been in relative isolation for some time. Even during the Yugoslav period, graduates of the University of Prishtina, Faculty of Architecture typically finished their studies elsewhere. Indeed, some students now move on to complete their studies outside Kosovo.

6.43 Although a formal review of the faculty has not been undertaken, it seems unlikely that the course at Pristina would meet the best international standards. For example, the building is inadequate in various respects (and effectively lacks a library) and the course does not focus on matters of current concern. In view of the importance of establishing a locally taught cohort of students, who could be licensed under a new system, it is important that standards be raised.

6.44 Of the international recognition systems that exist, the International Union of Architects (UIA) system is not realistically applicable (since Kosovo is not recognised by the United Nations as a whole). Nor would the system operated by the Commonwealth Association of Architects be applicable. Both these systems have been administered by the Royal Institute of British Architects, however, which also operates its own system worldwide. It is recommended that an approach be made to the RIBA to seek an appraisal of the faculty at Pristina and that any recommended improvements should be implemented. The British Council may be willing to assist.

6.45 Other schools of architecture in Pristina also appear to be weak and it is doubtful, at this stage, whether the private sector could supplant the public university, especially if it were sufficiently strengthened, though further decline at the public university could put the course there at risk.

7. CONCLUSIONS AND RECOMMENDATIONS

7.01 A very brief summary of the key points from this report, relating directly to the licensing of architects, may be given as follows.

7.02 A preliminary proposal for licensing systems in the construction sector in Kosovo is discussed in this brief report, though it should be emphasised that the system would need to be refined in discussion with local stakeholders.

7.03 The licensing systems would be managed by the appropriate professional bodies but would be subject to the scrutiny (and perhaps direction) of Governance Boards, for the sake of fairness and transparency.

7.04 The licensing process must deal with academic qualifications, professional testing, continuing professional development, a code of conduct and the disciplinary procedures.

7.05 In order for the licensing process to be effective, it needs to relate to the regimes for planning and construction permits. These, in turn, need to be more effective.

7.06 In order to avoid undermining the new system, the courses and facilities offered by Pristina University need to be strengthened.

8. ANNEXES

- Annex 1: General notes
- Annex 2: Schedule of meetings
- Annex 3: Draft outline for licensing system legislative framework
- Annex 4: Documents required

ANNEX 1: GENERAL NOTES

Where words have a commonly used equivalent in English the English version has been adopted in place of local spellings, thus:

Kosovo for Kosova
Pristina for Prishtinë or Priština
Yugoslavia for Jugoslavija

Abbreviations are sometimes adopted for well-known organisations, thus:

ACE Architects Council of Europe (also CAE: Conseil des Architectes d'Europe)
KAA Kosovo Association of Architects
Asociacioni i Arkitektëve të Kosovës – Asociacija Arhitekta Kosova
KPEP Kosovo Private Enterprise Programme
RIBA Royal Institute of British Architects
UIA Union Internationale d'Architectes (International Union of Architects)

ANNEX 2: SCHEDULE OF MEETINGS HELD IN PRISTINA (11-18 JANUARY 2010) ETC

Meetings in Kosovo 11-18 January 2010

- 12 January Ministry of Environment and Spatial Planning
(Mr Arben Çitaku, Permanent Secretary)
(Mr Servet Spahiu plus team)
(Xhemajl Metolli, Shpresa Strellci, Narme Pakashtica, Agim Radoniq, Hidajete Zhuri)
Faculty of Engineering
(Prof Naser Kabashi, Dean)
Faculty of Architecture
(Prof Flamur Doli, Sub-Dean)
- 13 January Ministry of Education, Science and Technology
(Dr Tzako Pantaleev, Ms Eila Heikkilä, EU KOSVET V)
Ministry of Education, Science and Technology
(Mrs Valbona Fetiu, Director Vocational Education and Training)
Kosovo Association of Structural Engineers [Meeting failed]
(Mr Hamdi Sylejmani, Board Chairman)
Florina Jerliu, Past President Kosovo Association of Architects
- 14 January Kosovo Association of Architects
Fitim Muqaj, Suzana Goranc, Violeta Nushi, Tomor Elezkurtaj,
Gejlane Hoxha, Vigan Perani, Driton Ibrahim, Blerim Uka,
Nora Shehu (Executive Director)
(including teachers from AAB and UBT colleges, private practice,
industry and government officials)
Prof Xhelal Llonçari, private consultant, lately Sub-Dean of Architecture
Ministry of Education, Science and Technology
(Dr Ferdie Zhoshi, Director Accreditation Agency)
AND Valdet Osmani, President Kosovo Association of Architects
Fitim Muqaj, Board Member Kosovo Association of Architects

- 15 January Kosovo Private Enterprise Programme
Greg Olson, David Cowles, Valdet Osmani, Fitim Muçaj,
- 16 January Exploratory visits by car:
Pejë/Peć, Deçan/Dečan, Gjakovë/Đakovica, villages
- 17 January Exploratory visits by car:
Lipjan/Lipljan, Suha Rekë/Suva Reka, Prizren,
Lubizhde/Ljubizda, Skorobiste/Skorbisht, villages
- 18 January Kosovo Private Enterprise Programme
Management meeting (as observer)
David Cowles plus staff

Formal and informal meetings, London, Brussels and Palma

David Gloster, Director of Education, RIBA

Alison Carr, Registrar, ARB

Derek Shields and Eleanor Pritchard (British Council Advisers)

Muhamed Serdarević, President, Bosnian Association of Architects

President, Croatian Association of Architects

Representatives of architects associations from France, Germany and Spain

ANNEX 3: DRAFT OUTLINE FOR LICENSING SYSTEM LEGISLATIVE FRAMEWORK

1. The establishment of a licensing system for Architects/Engineers
 - Information required to be provided
(personal details, address, business name etc)
 - Admission fees and annual fees
2. The professional functions which are regulated by the licensing system
3. The establishment of the Kosovo Association of Architects/Engineers
(as the manager of the system)
4. The establishment of a Governance Board
 - Constitution
 - Powers
5. The duty to maintain a Register of Architects/Engineers
6. The obligation to admit appropriately qualified persons to the Register
7. The definition of acceptable academic qualifications
 - Qualifications obtained in Kosovo (eventually)
 - European Union qualifications
 - Other qualifications
8. The professional tests
9. Removal or resignation from the register
10. The establishment of a Code of Conduct
 - Integrity
 - Competence (including principle of continuing professional development)
 - Social obligations
11. Investigation of complaints
12. Disciplinary Tribunal
13. Sanctions
14. Appeals
15. Definitions, supplementary and administrative provisions

ANNEX 4: DOCUMENTS REQUIRED (HARD COPIES)

RIBA Plan of Work

ACE Plan of Work

Examination syllabus for professional examinations

Codes of conduct (UIA, ACE)

ACE study of codes of conduct

Validation criteria for schools of architecture

Draft legal framework for licensing system (see above)