

Resolution of the ACE General Assembly 02/19 on the ECJ judgment in the infringement procedure on the German fee scale - HOAI - of 4 July 2019 (C-377/17)

The General Assembly of the Architects' Council of Europe welcomes that the European Court of Justice (ECJ), in its judgment in the infringement procedure of the European Commission against Germany concerning the binding minimum and maximum tariffs of the fee scale for architects and engineers (HOAI) has pointed out new possibilities of justification and reasons for professional regulation.

The General Assembly welcomes that the ECJ, in the reasoning of the judgment:

- Acknowledges that the preservation of the quality of the built environment, in short “Baukultur”, as well as ecological building, directly linked to the quality of planning work, are of public interest and therefore overriding reasons relating to the public interest as defined by the Services Directive 2006/123/EC:
 - o the quality of the work
 - o the protection of consumers and beneficiaries of services
 - o the preservation of the cultural heritage
 - o the cultural policies
 - o the sustainability of buildings and the environment.
- Underlines that the imposition of minimum tariffs may be suitable to secure the quality of the built environment and the environment itself in line with consumer protection and the public interest.
- Emphasises that in this case, a consistent and coherent system is required in which certain tasks may only be provided by persons with relevant, high quality qualifications including quantitative and qualitative requirements of training.
- Stresses that, in the absence of a fee scale, particular market situations may lead to a price competition between planning service providers, resulting in a decrease in quality and, ultimately, in the elimination of operators offering high quality services.
- Underlines that Member States solely need to demonstrate that their regulation is capable of making a significant contribution to the objectives pursued. However, they do not need to produce such evidence.

The General Assembly of the Architects' Council of Europe welcomes these points and this positive approach as they underline the importance of Baukultur, sustainability and consumer protection as well as the crucial role of a high quality of services.

Barcelona, 22 November 2019