

Free professions in European Union Attorneys (The lawyers)

Research Article

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Abstract

In this paper I have been dealing with free professions in the European Union which are closely related to the provisions adopted by the commission and are mandatory for implementation in all EU Member States. By doing a thorough study on free movement exercising lawyers in the European Union, enabling them to treat all subjects practicing the profession of lawyer in the European Union equally.

Understanding of free professions in the EU. I talked about the different directives regarding the practice of the advocacy profession in the EU as well as about CJEU jurisprudence regarding the profession of lawyer. Aspects of the implementation of this freedom that still face national barriers and other obstacles, not for legitimate reasons. The exercise of the official public authority is accompanied by examples from CJEU jurisprudence, while the innovations and changes introduced by Directive 2006/123 on the liberalization of services are materialized in a case study. Provision of services permanently by being placed in an EU Member State is governed by the provisions of freedom of establishment.

Directive 98/5 on the placement of lawyers and the effects on the Community's application of this provision. Under the approach taken by the Community legislature, member states are considered appropriate for the exercise of profession in its territory which had qualifications in the country of origin, professional qualifications and diplomas, on the premise of trust in "the appropriateness of national training systems.

Directive 77/249. The lawyer's profession is a unique position amongst the professions in Europe, since: firstly, lawyers have an important function in administering justice and maintaining the rule of law; Secondly, lawyers play a vital role in the economies of the Member States and the functioning of the European Union's internal market; Thirdly, the profession of lawyer is targeted specifically since it is based on national legal systems in which future lawyers qualify and practice professional practices.

Keywords: professions, European union, attorneys, lawyers.

1. Introduction

The right to practice a professional activity in the EU is based largely on the in-depth analysis of the Community provisions on the free movement of services, first of the TFEU provisions, and secondly the provisions of Community acts, the directives that are very much in this area, and Council regulations, and CJEU decisions.

Directive 89/48 / EEC, which is not subsequently amended by Directive 2005/36 / EC. In this regard, the directive distinguishes between a regulated occupation and an unregulated occupation. A profession regulated under Article 1 (c) and (d) of Directive 89/48 / EC is that profession which is governed by national rules. These directives are applicable and apply throughout the EU without exception. the internal affairs of the states that include the domestic legislation of each member state in the EU.

Professions consist of two categories: regulated and non-regulated professions. It is worth noting that regulated professions can also be exercised against the salary, and in this case, the professional employee does not exercise a free profession in the sense of the provisions on free professions, e.g. a physician, engineer, or employee lawyer of a large firm, assistant pharmacist, nurse, etc. - An unregulated profession includes professions whose activity is not related to trade, industry, crafts or agriculture. Usually are the intellectual or the noble professions, whose usufruct is the reward. Unregulated professions can be exercised freely or in some cases may be required a permit to practice. They are not covered by Directive 2005/36.

2. Understanding free professions in the EU

The creation of a European market for regulated professions is based on the recognition of the two main freedoms: stabilization and service Para stabilization, being represented in "Two ways in which a service sector operator can benefit from his / her right to movement within the Community".

The first judgment concerning the non-application of the directives related to free professions was in 1974. This trial was inspired by a Dutchman's story.

Van Binsbergen relates to a Dutch citizen who acted as a legal advisor to Van Binsbergen over proceedings before a Dutch social security court and moved his residence from the Netherlands to Belgium during the proceedings. He was told he could no longer represent his client, as under Dutch law, only Dutch-based persons could act as legal advisers. In this case a pre-trial request was made to the CJEU to determine whether Article 56 had direct effect and the Dutch rule was consistent with it. The CJEU hereby expresses itself in several points in relation to the above questions, namely in points 20, 21, 22, 24, 25, 26⁵. The Court of Justice, in order to clarify, made the decision to clarify the purpose of the clause national treatment, and emphasize that the implementation of the article. 59 (now Article 49 Trattato UE, now Article 56 TFEU), was an alternative, during the transitional period, to the adoption of secondary legislation, which was no longer subject to this condition.

As for the legal profession, the inability to coordinate curricula - as with the study of individual national rights - made Union legislators limit its intervention to the free provision of legal services where Directive 77/249 / EEC (1977/03/22). The foundation of the general system was the principle of mutual recognition, developed by the Court of Justice in the case of the well-known

Cassis de Dijon in the free movement of goods. They later expanded from commodity goods and became the basic mechanism for realizing the internal market.

The first one finds its legal basis in the article. 43 (now Article 49 TFEU) of the Treaty, which prohibits restrictions on the freedom of citizens to move to a Member State other than a member state other than an undertaking which they are required to pursue. System operations are implemented with the article. 45 (now Article 51 TFEU) Tratt. EC, those activities which the country of destination is connected, even by chance, with the exercise of free professions but which are related to the host country and not to the country of origin.

3. Subjects of freedom of establishment

For professions that have implications for public safety and public health may also require a preliminary capability test. For services performed using a title other than that commonly used in the country 'guest', may require that the service provider because recipients of a variety of information services such as registration number to be registered, registry overseers, professional enrolment order.

Entities or beneficiaries of the right of establishment can be divided into two groups: in individuals, individuals, and legal persons, companies or firms as defined in Article 54 TFEU - ("*Business Companies or Companies*" are commercial companies or registered under civil or commercial law, including cooperative societies and other legal persons governed by public or private law, with the exception of those who are non-profit ") and treated equally as natural persons. The subjects of the right of establishment are self-employed persons and as such differ from employed persons whose status is regulated by the head on the free movement of workers.

As regards legal persons as beneficiaries of freedom of establishment, companies and firms to exercise the right of freedom of establishment, they must meet the following conditions:

- they should be formed / created in accordance with the law of a member state;
- They should have the registered office, central administration or principal place of business within the EU. In the context of providing services, if the central administration of a company or principal place of business is established outside the EU, the company's activities must have an effective and consistent link with the economy of a member state, except for a link based on nationality, which is a link based on the nationality of penners or members of the management or oversight of bodies or of persons holding equity shares;
- legal person should pursue economic activity for remuneration, so non-for-profit enterprises are excluded from the scope of Article 54 TFEU. However, this does not mean that the other provisions of the Treaties are not applicable to non-for-profit undertakings as in Case 172/98 Commission v. Belgium.

4. Legal regulation of free professions

- A profession regulated by Article 1 (c) and (d) of Directive 89/48 / EEC is the profession that national rules (whether legislation, regulations or administrative provisions) governing / regulating the conditions for taking over or pursuing the activity domestic professionals impose the mastery of a diploma or other qualification certificate as a precondition for practicing that profession. Among the regulated professions, the best known are lawyers,

accountants and doctors. It is worth noting that regulated professions can also be exercised against the salary, and in this case, the professional employee does not exercise a free profession in the sense of the provisions on free professions, e.g. a physician, engineer, or employee lawyer of a large firm, assistant pharmacist, nurse, etc.

- An unregulated profession includes professions whose activity is not related to trade, industry, crafts or agriculture. Usually are the intellectual or the noble professions, whose usufruct is the reward. Unregulated professions can be exercised freely or in some cases may be required a permit to practice. They are not covered by Directive 2005/36. A person exercising an unregulated profession can freely pursue his / her profession without the need for a permit or authorization, but if necessary based on the principles set forth in Vlassopoulou case 340/89. We note that free professions are regulated not directly by the treaty, but through sectoral directives based on Article 53 of the TFEU for the obligation of Community institutions to issue directives on the recognition of certificates, diplomas and professional qualifications, to supplement the deficient legal framework of protection and their realization in practice in the Single Market. With this in mind, for the purpose of exercising the free movement of services of freedom of establishment and the freedom of movement of employees, it is essential that a subject of this professional qualification be valid in any Member State where he wishes to exercise his profession for which he has been qualified in a Member State or even a third, since Article 53 of the TFEU provides for the obligation of Community institutions to issue directives for the mutual recognition of diplomas, certificates, evidence or formal qualifications in relation to enabling the exercise of professions as economic activities, independent and unrestricted
- *In this case, the Court after finding that since no directive under Article 53 was applicable to the regulation of this case, it referred to the Thieffry and Patrick cases and decided in the 1991 decision that: a Member State which allows access to a particular activity with the possession of a diploma or a professional qualification must apply Article 49 of the TFEU and take into account diplomas, certificates and other titles that the person concerned has acquired for the purpose of pursuing the profession in question in another Member State by proceeding with the comparison between the competences certified by these diplomas and the professional qualifications required by the national norms (the same as in Case 104/91 Aguirre Borrell in relation to the profession of real estate agent, 375/92 Spain, Spain, concerning the profession of tourist guides) . With this decision, the CJEU has theorized the presence of a system of recognition very similar to that envisioned by the directives on mutual recognition, and this jurisprudence continues to be of value despite the adoption of several directives in the field of mutual recognition.*
- cases that are not regulated by any directive in force and in which recognition can only come by referring to Article 49 TFEU or other norms in the field of free movement, as may be the case for unregulated professions, as outlined above that they do not fall within the scope of the directives issued under Article 53 TFEU, as well as for professions or work not governed by the legal norm but by the collective labour agreement, and member states

are obliged to accept and apply *Vlassopoulou's conditions for recognition of equivalent degrees issued by other member states. As an example, issue 234/97 Teresa Fernandez de Bobadilla v. Museo Nacional Del Prado, where de Bobadilla, a Spanish citizen resident in Madrid after having received bachelor's degree at Boston University, USA, received an MA in the fine arts restoration in the United Kingdom in 1989. A grant from Museo Prado helped her study in the UK where she worked from 1989-1992 to Prado in Spain under an interim contract as a restorer of the article on paper. Under the terms of a collective agreement concluded in 1988 by Prado and staff representatives, the restorer's post was preserved for persons who possessed qualifications awarded by the restoration fund of the faculty of beautiful articles or by the school of fine arts or by the school of articles in Spain, or any other qualification recognized by the competent authorities. In October 1992, Mrs. De Bobadilla applied to the relevant Deputies of the Minister of Education to officially recognize the school earned in the UK as equivalent to a Spanish school in the preservation and restoration of cultural assets but was notified that her English diploma was recognized, had to demonstrate sufficient knowledge of the 24 subjects listed in the notice through a two-part examination. In November 1992, Prado organized a competition for a permanent post of a handwritten article restorer, and Mrs. De Bobadilla's application was removed with the claim that it did not meet the requirements set out in the collective bargaining agreement. Mrs Bobadilla filed a lawsuit for the annulment of such claims as being in violation of the Spanish constitution and Article 39 TEC (Article 45 TFEU);*

- cases where EU citizens acquire their qualifications in a non-EU country, exercise their right of residence in the host Member State and then seek to practice it in another member state such as issue 154 / 93 *Taïl-Albertini and 319/92 Haim v Kassenzahnärztliche Vereinigung Nordrhein. Tawil-Albertini, a French citizen, received a dental qualification in Libya, who later became acquainted in Belgium where he practiced as a dentist. When he applied for authorization to practice in France, he was refused on the ground that his qualification was obtained in a non-member State and, as a consequence, Directive 78/686 / EEC relating to the mutual recognition of diplomas, certificates and other evidence formal qualifications of dentistry practice, was not applied to him. Taïl-Albertini argued that he was covered by the directive while his qualification was recognized in Belgium.*

4.1 Directive 98/5 on the Placement of Lawyers and the Effects on the Community Implementation

Directive 98/5 / EC, adopted in February 1998, after more than three years of discussion, is an important step towards affirming the European lawyer in the Figure. The adoption of this instrument is, in fact, the backbone of a slow, but necessary, liberalization of the legal profession at Community level, which has contributed to all the case law.

Article. 2, Directive 98/5 / EC lays down the right of lawyers to practice stably in all Member States using their professional title, subject to registration with the competent authority of the receiving State (subject to the presentation of a document certifying "professional registration with the authority (Article 2, Directive 77/249 / EEC.) - this is dependent on the verification by the

competent authority of the country of origin, Article 3) This registration requirement which is expressly excluded if professional armies under freedom to provide services the competent authority of the receiving State, the compliance of established lawyers with the rules of professional conduct in force there.

Therefore, Directive 98/5 / EC introduces an additional treatment in comparison with the general recognition of diplomas (now of professional qualifications) to facilitate the exercise of the freedom of attorney.

Must impose the "local" professional concourse formula, already foreseen for providing services by lawyers (Article 5, Directive 77 / 249 / EEC), the Community legislature sought to avoid the creation of a difference in treatment between them and the lawyer established in the host Member State regarding the ability to carry out representation and defense activities in court. The obligation to act "in concert" will be implemented, as stated in recitation. 10, Directive 98/5 / EC, in accordance with the interpretation that that concept gave to the Court of Justice in its judgment of 25/02/1988, 427/85, Commission / Germany, and added to a judgment a little later , The Court Giust. 1991/7/10, Commission / France. The rules of sustained lawyer functioning represent another point of contact with what is foreseen by the lawyer-service provider: it is the application of the so-called dual ethics principle. Directive 98/5 / EC, in fact, stipulates that, notwithstanding the rules of professional conduct applicable in their Member State, a lawyer under his home-country professional title is subject to the same professional and ethical rules faced by lawyers who practice under the relevant professional title of host Member State, including those related to disciplinary proceedings.

The CJEU has been very excited at this point and stated that the only condition for registration is the submission by the applicant to the competent authorities of the host Member State of a certificate certifying the registration of the competent authorities of the home Member State.

4.2 Directive 2005/36 on the recognition of professional qualifications and the effects of practical application illustrated by CJEU jurisprudence

The Directive has in its contents 65 articles and makes the following adjustments:

- presents, for the first time, a distinction in relation to free professions in terms of the establishment and provision of services on the basis of temporarily or sustainability and sustainability on time. In the cases where service is provided, a balance has been established between the free movement of legally established professionals in a Member State and consumer protection, based on mutual recognition and control by the host Member State, which may ask the service provider to make a statement before providing the services including details of any insurance coverage or other personal or collective defence remedies related to professional liability. The receiving Member State may also require that the first application be accompanied by particular documents listed in an annex to the Directive. When the host country requires a pro forma registration (for the sake of the form) with the professional society competent, this should be done automatically. When a professional service is provided on an interim and casual basis for a period of not more than 16 weeks per year, a service provider is not required to apply for recognition of his qualifications but he may provide services under his original professional title, and is subject to certain conditions imposed to protect the user of the service. In particular, it may be necessary to provide the recipient of the services and the

national administration with information. In the case of temporary movement, if the professions in question have implications for health or public safety and do not benefit from automatic recognition under Title III of Title III of the Directive, the host Member State may carry out the verification of professional qualifications in accordance with the principle of proportionality.

- leave the recognition mechanism established by Directive 89/48 / EEC as amended by Directives 92/51 / EEC and Directive 1999/42 / EC unchanged.
- For unregulated professions, the person concerned must prove that he has been practicing that profession for a period of two years during the 10-year period preceding the provision of the services.
- when a person as an employee or a self-employed person wants to exercise the right of establishment, the directive sets out the conditions for the recognition of professional qualifications and the rules governing the cognitive mechanisms. Three recognition systems are provided by the directive:
 - automatic recognition of qualifications for specific professions that provide for an automatic recognition of the qualification certificate relates to 7 professions architects, dentists, nurses responsible for general care, doctors, veterinarians, midwives, and pharmacists who are called otherwise sectorial professions and minimum training conditions have been harmonized at European level. In the past these professions were regulated by sectoral directives and now after their harmonization are covered by the automatic recognition provided by the directive ¹.
 - general system: applicable to all professions all types of diplomas which are not covered by specific recognition rules and situations where migrant professionals do not meet the conditions set out in other recognition schemes. In the case of significant differences between training received by immigrants and requests by the host member state, the "compensatory" measures and the recognition mechanism established by the previous directives remain unchanged. This system is built to meet the lack of specific harmonization directives when the level and duration of training that regulates access to certain professions is not essentially equivalent in different member states, and therefore there is no automatic recognition but verification by the authorities of the receiving State that certificate of competence or qualifications professional qualifications have been issued by the competent authorities of a member state and the level of qualification pursued is equivalent to that required in the host country.
 - automatic recognition of qualifications based on professional experience applies to industrial, contractual and commercial activities listed in the Directive and certified by the professional experience referred to in Annex IV of the Directive. There are two ways to recognize these activities: first, under Articles 17-19 of the directive, specifying the minimum deadline and the

¹ Guide de l'utilisa ESMr directive 2005/36, Tout ce que vous voulez savoir sur la reconnaissance des qualifications professionnelles nē http://ec.europa.eu/internal_market/qualifications/docs/guide/users_guide_fr.pdf

nature of the experience required for the different occupations of the list, and secondly, if these conditions are not met, mutual recognition may be required general system.

- the directive does not apply, inter alia, to mariners' professions, company auditing, insurance intermediaries, air traffic controllers, and other occupations in the field of transport and related activities involving toxic products.
- The new directive provides for "common platforms" as defined by a set of professional qualification criteria that are appropriate for the compensation and substantial differences that we have mentioned below. These platforms may be submitted to the Commission by Member States or by professional associations or organizations that are nationally or Europeanly represented and, if adopted, the receiving State shall initiate the application of compensatory measures.
- establishes a network of contact points (placing in each member state) having the task of providing information and assistance to EU citizens regarding the recognition procedures and solving any difficulties that may arise in obtaining recognition of their professional qualifications. The network enhances co-operation between national administrations and between them and the Commission.
- The directive also envisages the introduction of professional "knights" by professional associations and organizations with a view to monitoring the careers of professionals and containing the information specified in respect of professional qualifications, the legal decision of the holder, any disciplinary measure against him and the details of the relevant national competent authority.

4.3 Directive 77/249 on the freedom to provide services by lawyers, the effects of its implementation in the EU and the recognition of the profession of lawyer

Directive 77/249 on facilitating the exercise by lawyers of the free movement of services:

Recognizing the legal profession of an EU lawyer has faced difficulties in having a specific solution. There are two ways of recognizing the lawyer's title: one concerns the pursuit of the general regime of the 2005/36 directive being reviewed, the second concerns the implementation of Directive 98/5 on the placement of lawyers in one state member other than the one in which he was awarded the qualification. In relation to the first route, reference should be made to Article 14 (3) of the Directive, which provides: *"For professions whose exercise requires an accurate recognition of national law and in which the services and consultancy and / or assistance in question of national law constitutes an essential and continuous element of professional activity"* (taking into account the form of admission to the profession of lawyer) that the choice between a practice of adaptation or passing of a skill test is left to the Member State host, and not interested. Implementation of Directive 77/249 / EEC in Italian law: Gebhard case Italian legislation transposes Directive 77/249 / EEC, cited in s. 1982/09/02, n. 31 [61], he has engaged the European Court of Justice in his Gebhard judgment note [62]. The dispute originated from the story of Mr Gebhard who, having worked for a certain period of time within a law firm in Milan, decided to open his own studio which also collaborated with Italian professionals. After some time, Gebhard was subjected to disciplinary proceedings initiated by the Council of Lawyers for breach of the Article. 2, par. 2, l. n. 31/1982 which provided that a foreign lawyer who wished to provide services in Italy could not be placed in the territory of the Republic or a study or principal or branch office.

5. Legal Profession and Free Movement of Lawyers

Significant growth in the demand for cross-border legal services and the consequent expansion of the internal market for services and its catchment area have resulted in the need to continue at Community level and individual national legal systems for a reconsideration of the advocacy figure and legal profession in general. Liberalization The community of this class has proven, however, from the beginning, difficult to implement and has experienced a path, not without insecurities and obstacles. This is due to the peculiarities that characterize the legal profession than other professions in terms of, for example, content.

Liberalization of the legal profession - which also preceded those of other professions - has played an important role in the Court of Justice. Freedom of establishment and provision of services were, in fact, at first, thanks to the law applied case which has known the direct effect of the articles. 43 and 49 Tratt. EC (now Articles 49 and 56 TFEU) - resulting in overcoming discriminatory barriers based on nationality - only in respect of professionals belonging to the forensic class to meet the training requirements laid down by the receiving State, they intend to to practice the profession in permanent or temporary form. To do this you should:

- have completed as a lawyer enrolled in List II of attorneys a legal profession period of two years and have passed the examination at the end of forensic training, or
- have passed the probation test provided for the benefit of lawyers another EU member state through the amended law of 10 August 1991 fixing for the legal profession in the general system for recognition of diplomas of education is given after completion of the training of a minimum of three years or
- as a European lawyer accepted in practice exists under his professional title, effectively and properly justifying followed for a minimum of three years. Some details about language requirements
- The profession of lawyer is a free and independent profession. The profession can be exercised individually. Lawyers can be united in the manner provided by law with legal personality. They are the only ones allowed to assist or represent the parties, to protect them before the courts of any kind whatsoever they may be, to obtain their documents and their evidence to file for the judges, to sign and sign the acts of necessary for the regularity of the procedure and guide the process so that we can reach judgment. Only lawyers can provide, usually and after compensation, legal advice or prepare acts signed on behalf of others by individuals. Lawyers representing or assisting their clients in international courts, such as the European Court of Justice at the European Court of Human Rights. Lawyers are bound by professional secrecy; which rule is a rule of public law the violation of which is punishable under the criminal law. In order to exercise your legal profession and in Luxembourg, you must be registered in the Chamber of Advocates designated in the Grand Duchy of Luxembourg. The above applies also to European lawyers who wish to practice in Luxembourg under their professional title.

- *In order to carry out judicial activity, the following simple terms must be respected:*
- a) Recognition of the appointment must be reported immediately to the judicial authorities and the chair of the respective room on the territory;
- b) the benefits associated with this duty must be carried out in consultation with a lawyer Italians registered and received in practice before the requested authority;
- c) the lawyer or prosecutor referred to in the previous letter
- d) provides the relationship with Judge and undertake, about the same and behavioural performance professional, fulfilling the duties assigned to the defence counsel by law.

6. Understanding the practice of a lawyer profession in the European Union

There are fundamental principles in the exercise of the legal profession that are similar across Europe, although there are minor differences in the way they are expressed in different jurisdictions. Fundamental principles are underlined in national or international codes that regulate attorneys' conduct. European lawyers are committed to these principles, which are essential for proper administration of justice, access to justice and the right to a fair legal process as required by the European Convention on Human Rights. Advocacy bars and legal associations, courts, legislators, governments and international organizations should be guided and protected by these fundamental principles in the public interest.

The basic principles are, in particular:

- (a) Independence of the lawyer, and the freedom of lawyers to pursue the client's case.
- (b) The right and obligation of a lawyer to confidentiality of his client's affairs and respect of professional secrecy.
- (c) Avoiding conflicts of interest between his or her clients, or client and attorney.
- (d) Dignity and respect for the profession of lawyer, integrity and good reputation of the lawyer.
- (e) Loyalty to the Customer.
- (f) Fair Treatment of Customers with regard to Payments.
- (g) Professional Attorney's Competence.
- (h) Respect for peer professionalism.
- (i) Respect for the rule of law and fair administration of justice, and Self-regulation of the legal profession.

Respect for these principles is the basis of the right to legal protection, where the latter is the cornerstone of all fundamental rights in democracy.

Basic principles underline the common basis which is underlined by all national and international rules that regulate the conduct of the European Advocates

- *The national professional rules of the states of Europe, including the rules of those countries that are not members of the CCBE, which share these common principles of the European legal profession.*

7. Right of service and competition of lawyers in the EU

Every lawyer is authorized to freely provide his professional services to another European country (i.e. host country) with the title of the country of origin without the right to use the title of the lawyer of the host country, and only on a casual and irregular basis, it is not equipped with this Directive the right to settle in the host country.

Lawyers who come to practice a practice with a host country attorney and before starting their professional activities in the state, a lawyer coming from another EU country should send a special notice to the President of the Chamber of Lawyers for the exercise of this activity, the exercise of their attorney's community activities are subject to the disciplinary jurisdiction of the Association Council for the territory. Recognition of professional qualifications. In order to obtain the recognition of a lawyer's professional title as well as other professional qualifications obtained in the European Union for the pursuit of the profession, you may follow the procedure for recognition of professional qualifications pursuant to Directive 2005/36 / EC on the recognition of professional qualifications. Pursuant to Article 206/2007, the recognition of a legal profession is subject to passing a candidate's ability test to EU citizens seeking, for the purposes of the legal profession in Italy, the recognition of qualifications awarded by the country of origin which certifies professional training and possession of which the law of that State will do the exercise of the profession.

7.1 Access to the profession of training of lawyers in the EU

The profession of lawyer is a free and independent profession. The profession can be exercised individually. Lawyers can join legal entities. They are the only ones allowed to assist or represent the parties, to protect them before the courts of any kind whatsoever they may be, to obtain their documents and evidence to bring them to court, to lie down and to manage all the evidence necessary to appear in court.

Only lawyers can provide, usually and after compensation, legal advice or prepare acts signed on behalf of others by individuals. Lawyers representing or assisting their clients in international courts, such as the European Court of Justice at the European Court of Human Rights. Lawyers are bound by professional secrecy, that rule is a rule of public law the violation of which is punishable under the criminal law.

Lawyers registered as individuals should know the language of the legislation under the article of 24 February 1984 in the language regime as well as any other language necessary for the exercise of their professional activities, in spite of the above mentioned. The lawyer who receives a task must have the necessary professional and linguistic skills in the pain of sanctions. The counsellor's council, after consultation with the Minister of Justice, may, under the terms of reciprocity by the non-member European Union citizen, to waive the requirements of citizenship possession listed in Schedule I of lawyers are the only ones allowed to use the title as a lawyer at the Court.

▪ ***To do this you need to have:***

1. Completed as a lawyer registered in List II of lawyers a Legal profession period of two years and have passed the examination at the end of forensic training, or
2. To have passed the probation test given for the benefit of lawyers to another EU Member State through the amended Law of 10 August 1991 the legal profession in the general system for the recognition of diplomas of education is given after the completion of the training of a minimum of three years, or

A European law practitioner accepted in practice exists under his professional title, effectively and legitimately justified for a minimum of three years, including European Union law, or to benefit from the provisions of Article 9, paragraph 2 of the amended Law of 13 November 2002 on transposing into Luxembourg law of Directive 98/5 / EC of the European Parliament and of the

Council of 16 February 1998 to facilitate the practice of a legal profession in a Member State other than that in which you have acquired the qualifications of Lawyers.

8. Conclusions

Lawyers whose status is regulated except the 2005/36 directive by two specific directives for advocates, according to statistics, is measured to have utilized the implementation of Directive 98/5 for the establishment at the highest percentage in Brussels and Luxembourg, Germany, etc., as this Directive is effectively implemented by member states without any restrictions, what facilitate their migration to the community advocacy services market. However, if the European Union is to truly pursue the goal of transforming ESM into a competitive market for free movement of services and employment, it should coordinate efforts with Member States to harmonization and uniformization of the *acquis* on services and deployment, stimulating the implementation of the Single Market Strategy and its impact on national economies, to encourage the latter for efficiency and progress in implementing provisions on services and deployment. In the whole of the analysis of this important directive it should be noted that Directive 2006/123 on services and Directive 2005/36 on professional qualifications are complementary instruments dealing with various issues. Therefore, for matters not related to professional qualifications, the Directive on Services for Regulated Professions falling within its scope applies. A controversial point about the free movement of professionals and recognition of their qualifications in another member state is that of language requirements, as we speak of an EU with 24 official languages and in this case we include Norwegian and Icelandic, but Article 53 of the Directive explicitly provides that "the beneficiaries of the recognition of professional qualifications must have the language skills necessary for practicing the profession in the host Member State". And in this respect, they should be knowledgeable in proportion to the need to practice the profession. Regardless of the regulation that the directive deals with, in practice, individuals and businesses face more problems in recognizing their qualifications of non-implementation of directive 2005/36, and in such cases an EU citizen, individual or business, there are several tools to protect their clients.

There are six sectors in Europe that have employed more than 15 million workers in 2009, such as processing industry, wholesale and retail trade, human health and social work activities, construction, public administration and defence, and education, and European research predicts that the number of jobs in Europe is expected to increase by 2020, with the creation of up to 20,300,000 jobs and about 39% of these jobs will require a much higher level of qualifications. In the logic of this report, we can say that there will be a huge impact on the future enlargement with other Western Balkan countries that will increase the flows of free movement of workers in the member states where they find the conditions or the most good for the provision of services in different occupations or the conditions and procedures of facilitating and appropriate accommodation for their professions, within the national regulatory aspect that have the procedures for recognition of professional qualifications.

References

1. Andenas, M., Woldridge, F., European Comparative Company, Cambridge University Press, 2009, pp.90-92; Code des sociétés May 8, 1999 at
2. [http://www.justice.just.fgov.be/cgi_loi/change_lg.pl? Language = fr & la = F & table_name = loi & cn = 1999050769](http://www.justice.just.fgov.be/cgi_loi/change_lg.pl?Language=fr&la=F&table_name=loi&cn=1999050769).
3. Evaluation of the Legal Framework for the Free Movement of Laukers, Executive Summary, Maastricht University, Zoetermeer, December 18, 2012, p.8.
4. Daniele L., European Single Market Law, Second Edition, Giuffrè Editore, 2012, p.212-213.
5. Kaczorońska.A., European Union Law, second edition published, 2011 by Routledge, pp.735-737.
6. Evaluation of the Legal Framework for the Free Movement of Laukers, Executive Summary, Maastricht University, Zoetermeer, December 18, 2012, pp. 6-7.
7. Free movement of lawyers at <http://international.laesociety.org.uk/eu/practise>; Daniele L., European Single Market Law, Second Edition, Giuffrè Editore 2012, pp.212-213; Council Directive 77/249 / EEC of 22 March 1977 on the approximation of the laws of the Member States relating to the pursuit of television broadcasting activities [http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=CELEX:31977L0249:EN: HTML](http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=CELEX:31977L0249:EN:HTML).
8. Evaluation of the Legal Framework for the Free Movement of Laukers, Executive Summary, Maastricht University, Zoetermeer, December 18, 2012, pp.3-5.
9. Green Paper on Modernizing the Professional Qualifications Directive, COM (2011) 367 final; [http://ec.europa.eu/internal_market/consultations/docs/2011/professional_qualifications_directive/COM267_en. df](http://ec.europa.eu/internal_market/consultations/docs/2011/professional_qualifications_directive/COM267_en.pdf).
10. The Commission having the powers of the Treaty Guardian, that is, the supervisor of the implementation of EU law, is the institution that can take measures in fines, calls and charges at the CJEU when it notes a violation of the right by EU Member States, the. see; Guillobez Th., L'Europe droit européen, éditions Foucher 2008, p.22.
11. Single Market Act: Towards a Single Market Act to strengthen Growth and Consolidation confidence - COM (2011) 206 final: [http://eurlex.europa.eu/LexUriServ/LexUriServ.do?uri=COM:2011_0206: FIN: EN: PDF](http://eurlex.europa.eu/LexUriServ/LexUriServ.do?uri=COM:2011_0206:FIN:EN:PDF)
12. Exercise of all these professional activities shall be subject to the conditions laid down in: 1) the list I of the Annex IV which refers specifically to textiles, oil, printing, construction, etc. 2) List II of Annex IV referring to the sectors of construction of transport equipment and auxiliary transport activities, post and telecommunications, photographic studios, etc. 3) List III of Annex IV referring to the sectors of transport hotel, personal services, community and recreational services, etc. See Directive 2005/36.
13. Council Directive 77/249 / EEC of 22 March 1977 on the facilitation of the effective exercise of the freedom of access to the information on:
[http://eurlex.europa.eu/LexUriServ/LexUriServ.do?uri=CELEX:31977L0249:EN: HTML](http://eurlex.europa.eu/LexUriServ/LexUriServ.do?uri=CELEX:31977L0249:EN:HTML) / Free Movement of Settlers in <http://international.laesociety.org.uk/eu/practise> 24. Directive 98/5 / EC of the European Parliament and of the Council of 16 February 1998 to facilitate the practice of the profession of lawyer on a permanent basis in a Member State other than that in which the qualification is obtained at <http://eurlex.europa.eu/LexUriServ/LexUriServ.do?uri=CELEX:31998L0005:EN:NOT>