

Directive 98/5/EC of the European Parliament and of the Council of 16 February 1998 to facilitate practice of the profession of lawyer on a permanent basis in a Member State other than that in which the qualification was obtained

Article 10

Like treatment as a lawyer of the host Member State

1 A lawyer practising under his home-country professional title who has effectively and regularly pursued for a period of at least three years an activity in the host Member State in the law of that State including Community law shall, with a view to gaining admission to the profession of lawyer in the host Member State, be exempted from the conditions set out in Article 4(1)(b) of Directive 89/48/EEC, '*Effective and regular pursuit*' means actual exercise of the activity without any interruption other than that resulting from the events of everyday life.

It shall be for the lawyer concerned to furnish the competent authority in the host Member State with proof of such effective regular pursuit for a period of at least three years of an activity in the law of the host Member State. To that end:

- a the lawyer shall provide the competent authority in the host Member State with any relevant information and documentation, notably on the number of matters he has dealt with and their nature;
- b the competent authority of the host Member State may verify the effective and regular nature of the activity pursued and may, if need be, request the lawyer to provide, orally or in writing, clarification of or further details on the information and documentation mentioned in point (a).

Reasons shall be given for a decision by the competent authority in the host Member State not to grant an exemption where proof is not provided that the requirements laid down in the first subparagraph have been fulfilled, and the decision shall be subject to appeal under domestic law.

2 A lawyer practising under his home-country professional title in a host Member State may, at any time, apply to have his diploma recognised in accordance with Directive 89/48/EEC with a view to gaining admission to the profession of lawyer in the host Member State and practising it under the professional title corresponding to the profession in that Member State.

3 A lawyer practising under his home-country professional title who has effectively and regularly pursued a professional activity in the host Member State for a period of at least three years but for a lesser period in the law of that Member State may obtain from the competent authority of that State admission to the profession of lawyer in the host Member State and the right to practise it under the professional title corresponding to the profession in that Member State, without having to meet the conditions referred to in Article 4(1)(b) of Directive 89/48/EEC, under the conditions and in accordance with the procedures set out below:

- a The competent authority of the host Member State shall take into account the effective and regular professional activity pursued during the abovementioned period and any knowledge and professional experience of the law of the host Member State, and any attendance at lectures or seminars on the law of the host Member State, including the rules regulating professional practice and conduct.
- b The lawyer shall provide the competent authority of the host Member State with any relevant information and documentation, in particular on the matters he has dealt with. Assessment of the lawyer's effective and regular activity in the host Member State and

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assessment of his capacity to continue the activity he has pursued there shall be carried out by means of an interview with the competent authority of the host Member State in order to verify the regular and effective nature of the activity pursued.

Reasons shall be given for a decision by the competent authority in the host Member State not to grant authorisation where proof is not provided that the requirements laid down in the first subparagraph have been fulfilled, and the decision shall be subject to appeal under domestic law.

4 The competent authority of the host Member State may, by reasoned decision subject to appeal under domestic law, refuse to allow the lawyer the benefit of the provisions of this Article if it considers that this would be against public policy, in a particular because of disciplinary proceedings, complaints or incidents of any kind.

5 The representatives of the competent authority entrusted with consideration of the application shall preserve the confidentiality of any information received.

6 A lawyer who gains admission to the profession of lawyer in the host Member State in accordance with paragraphs 1, 2 and 3 shall be entitled to use his home-country professional title, expressed in the official language or one of the official languages of his home Member State, alongside the professional title corresponding to the profession of lawyer in the host Member State.