

Case C-294/89

Commission of the European Communities

v

French Republic

(Lawyers — Freedom to provide services)

Report for the Hearing	I - 3592
Opinion of Mr Advocate General Tesauro delivered on 7 May 1991	I - 3601
Judgment of the Court, 10 July 1991	I - 3606

Summary of the Judgment

Freedom to provide services — Lawyers — Directive 77/249 — Implementation — Persons covered — Exclusion of nationals practising as lawyers in another Member State — Not permissible — Obligation to work in conjunction with a local lawyer — Scope — Procedures — Rule applicable to local lawyers concerning the territorial exclusivity of the right to plead — Not applicable to a lawyer providing services (EEC Treaty, Arts 59 and 60; Council Directive 77/249)

The French Republic has failed to fulfil its obligations under Articles 59 and 60 of the Treaty and Directive 77/249 to facilitate the effective exercise by lawyers of freedom to provide services by:

- (i) depriving French nationals who practise as lawyers in a Member State other than the French Republic of the benefit of the provisions on freedom for lawyers to provide services in France;
- (ii) requiring a lawyer providing services to work in conjunction with a lawyer who is a member of a French Bar when acting before authorities or bodies which have no judicial function and when acting in situations where French law does not make the assistance of a lawyer compulsory; and
- (iii) requiring a lawyer providing services who appears before a Tribunal de

Grande Instance (Regional Court), in civil cases where it is compulsory to be represented by a lawyer, to retain a lawyer who is a member of the Bar of

that court or is authorized to plead before it in order to plead or carry out the procedural formalities.

REPORT FOR THE HEARING in Case C-294/89 *

I — Facts and procedure

According to Article 4(1) of the directive:

1. *Legal background*

(a) Community law

'Activities relating to the representation of a client in legal proceedings or before public authorities shall be pursued in each host Member State under the conditions laid down for lawyers established in that State, with the exception of any conditions requiring residence, or registration with a professional organization, in that State.'

On 22 March 1977 the Council adopted Directive 77/249/EEC to facilitate the effective exercise by lawyers of freedom to provide services (Official Journal 1977 L 78, p. 17).

Furthermore, Article 5 of the directive provides as follows:

According to Article 1(1), the directive is to apply, within the limits and under the conditions laid down therein, to the activities of lawyers pursued by way of provision of services. Article 1(2) defines the term 'lawyer' as meaning any person entitled to pursue his professional activities under one of the designations listed therein. Article 2 provides that such a person is to be recognized 'as a lawyer' for the purpose of pursuing his activities by way of the provision of services.

'For the pursuit of activities relating to the representation of a client in legal proceedings, a Member State may require lawyers to whom Article 1 applies:

— to be introduced, in accordance with local rules or customs, to the presiding judge and, where appropriate, to the President of the relevant Bar in the host Member State;

* Language of the case: French.