

EBERT

JUDGMENT OF THE COURT (Fourth Chamber)

3 February 2011 *

In Case C-359/09,

REFERENCE for a preliminary ruling under Article 234 EC from the Fővárosi Ítéltábla (Hungary), made by decision of 23 June 2009, received at the Court on 7 September 2009, in the proceedings

Donat Cornelius Ebert

v

Budapesti Ügyvédi Kamara,

THE COURT (Fourth Chamber),

composed of J.-C. Bonichot, President of the Chamber, K. Schiemann, L. Bay Larsen (Rapporteur), C. Toader and A. Prechal, Judges,

* Language of the case: Hungarian.

Advocate General: P. Cruz Villalón,
Registrar: B. Fülöp, Administrator,

having regard to the written procedure and further to the hearing on 16 September 2010,

after considering the observations submitted on behalf of:

- Mr Ebert, Rechtsanwalt, by himself,
- the Budapesti Ügyvédi Kamara, by P. Kiss and P. Köves, ügyvédek,
- the Hungarian Government, by J. Fazekas, M. Fehér and Zs. Tóth, acting as Agents,
- the Czech Government, by M. Smolek, acting as Agent,
- the Spanish Government, by J. López-Medel Bascones, acting as Agent,
- the Italian Government, by G. Palmieri, acting as Agent, and P. Gentili, avvocato dello Stato,
- the Austrian Government, by E. Riedl, acting as Agent,

— the European Commission, by B. Simon and H. Støvlbæk, acting as Agents,

having decided, after hearing the Advocate General, to proceed to judgment without an Opinion,

gives the following

Judgment

- 1 This reference for a preliminary ruling concerns the interpretation of Council Directive 89/48/EEC of 21 December 1988 on a general system for the recognition of higher-education diplomas awarded on completion of professional education and training of at least three years' duration (OJ 1989 L 19, p. 16), as amended by Directive 2001/19/EC of the European Parliament and of the Council of 14 May 2001 (OJ 2001 L 206, p. 1), and 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 (OJ 1998 L 77, p. 36).

- 2 The reference has been made in the course of proceedings between Mr Ebert, a German national and lawyer registered as a 'Rechtsanwalt' at the Düsseldorf Bar (Germany), and the Budapesti Ügyvédi Kamara (Budapest Bar Association, Hungary) as to the right claimed by Mr Ebert to use the title 'ügyvéd' (lawyer in Hungary) without being a member of the Bar Association.

Legal context

European Union law

Directive 89/48

- 3 The seventh and tenth recitals in the preamble to Directive 89/48 which apply *ratione temporis* to the dispute in the main proceedings are worded as follows:

‘... the term “regulated professional activity” should be defined so as to take account of differing national sociological situations; whereas the term should cover not only professional activities access to which is subject, in a Member State, to the possession of a diploma, but also professional activities, access to which is unrestricted when they are practised under a professional title reserved for the holders of certain qualifications; ...

... the general system for the recognition of higher-education diplomas is intended neither to amend the rules, including those relating to professional ethics, applicable to any person pursuing a profession in the territory of a Member State nor to exclude migrants from the application of those rules; ... that system is confined to laying down appropriate arrangements to ensure that migrants comply with the professional rules of the host Member State.’

4 Article 1(a) of Directive 89/48 defines, for the purposes of that directive, the concept of ‘diploma’ as follows:

‘... any diploma, certificate or other evidence of formal qualifications or any set of such diplomas, certificates or other evidence:

— which has been awarded by a competent authority in a Member State, designated in accordance with its own laws, regulations or administrative provisions;

— which shows that the holder has successfully completed a post-secondary course of at least three years’ duration, or of an equivalent duration part-time, at a university or establishment of higher education or another establishment of equivalent level and, where appropriate, that he has successfully completed the professional training required in addition to the post-secondary course, and

— which shows that the holder has the professional qualifications required for the taking up or pursuit of a regulated profession in that Member State,

...’

5 Article 2 of Directive 89/48 provides:

‘This Directive shall apply to any national of a Member State wishing to pursue a regulated profession in a host Member State in a self-employed capacity or as an employed person.

This Directive shall not apply to professions which are the subject of a separate directive establishing arrangements for the mutual recognition of diplomas by Member States.’

6 The first paragraph of Article 3 of Directive 89/48 provides:

‘Where, in a host Member State, the taking up or pursuit of a regulated profession is subject to possession of a diploma, the competent authority may not, on the grounds of inadequate qualifications, refuse to authorise a national of a Member State to take up or pursue that profession on the same conditions as apply to its own nationals:

(a) if the applicant holds the diploma required in another Member State for the taking up or pursuit of the profession in question in its territory, such diploma having been awarded in a Member State ...

...’

7 Article 4(1) of Directive 89/48, provides:

‘Notwithstanding Article 3, the host Member State may also require the applicant:

...

(b) to complete an adaptation period not exceeding three years or take an aptitude test:

- where the matters covered by the education and training he has received as laid down in Article 3(a) and (b), differ substantially from those covered by the diploma required in the host Member State, or

- where, in the case referred to in Article 3(a), the profession regulated in the host Member State comprises one or more regulated professional activities which are not in the profession regulated in the Member State from which the applicant originates or comes and that difference corresponds to specific education and training required in the host Member State and covers matters which differ substantially from those covered by the diploma adduced by the applicant ...

...

Should the host Member State make use of this possibility, it must give the applicant the right to choose between an adaptation period and an aptitude test. By way of derogation from this principle, for professions whose practice requires precise knowledge of national law and in respect of which the provision of advice and/or assistance concerning national law is an essential and constant aspect of the professional activity, the host Member State may stipulate either an adaptation period or an aptitude test. ...'

8 Article 6(1) of Directive 89/48 provides:

'Where the competent authority of a host Member State requires of persons wishing to take up a regulated profession proof that they are of good character or repute or

that they have not been declared bankrupt, or suspends or prohibits the pursuit of that profession in the event of serious professional misconduct or a criminal offence, that State shall accept as sufficient evidence, in respect of nationals of Member States wishing to pursue that profession in its territory, the production of documents issued by competent authorities in the Member State of origin or the Member State from which the foreign national comes showing that those requirements are met.’

9 Article 7(1) of Directive 89/48 states:

‘The competent authorities of host Member States shall recognise the right of nationals of Member States who fulfil the conditions for the taking up and pursuit of a regulated profession in their territory to use the professional title of the host Member State corresponding to that profession.’

Directive 98/5

10 Recitals 2, 3 and 7 in the preamble to Directive 98/5 are worded as follows:

‘(2) ... a lawyer who is fully qualified in one Member State may already ask to have his diploma recognised with a view to establishing himself in another Member State in order to practise the profession of lawyer there under the professional title used in that State; ... the objective of Directive 89/48 ... is to ensure that a

lawyer is integrated into the profession in the host Member State, and the Directive seeks neither to modify the rules regulating the profession in that State nor to remove such a lawyer from the ambit of those rules;

- (3) ... while some lawyers may become quickly integrated into the profession in the host Member State, inter alia by passing an aptitude test as provided for in Directive 89/48 ..., other fully qualified lawyers should be able to achieve such integration after a certain period of professional practice in the host Member State under their home-country professional titles or else continue to practise under their home-country professional titles;

...

- (7) ... in keeping with its objective, this Directive does not lay down any rules concerning purely domestic situations, and where it does affect national rules regulating the legal profession it does so no more than is necessary to achieve its purpose effectively; ... it is without prejudice in particular to national legislation governing access to and practice of the profession of lawyer under the professional title used in the host Member State.'

¹¹ Article 2 of Directive 98/5, entitled 'Right to practise under the home-country professional title', provides:

'Any lawyer shall be entitled to pursue on a permanent basis, in any other Member State under his home-country professional title, the activities specified in Article 5.

Integration into the profession of lawyer in the host Member State shall be subject to Article 10.’

12 Article 6(1) of Directive 98/5 is worded as follows:

‘Irrespective of the rules of professional conduct to which he is subject in his home Member State, a lawyer practising under his home-country professional title shall be subject to the same rules of professional conduct as lawyers practising under the relevant professional title of the host Member State in respect of all the activities he pursues in its territory.’

13 Entitled ‘Like treatment as a lawyer of the host Member State,’ Article 10 of Directive 98/5 is worded as follows:

‘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 ...

...

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 ... 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 ... under the conditions and in accordance with the procedures set out below:

...

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.’

National law

¹⁴ Access to the profession of lawyer in Hungary is governed by the following laws:

- Law No C of 2001 on the recognition of foreign qualifications and diplomas (A külföldi bizonyítványok és oklevelek elismeréséről szóló 2001. évi C. törvény) ('Law on the recognition of qualifications and diplomas');

— Law No XI of 1998 on lawyers (Az ügyvédekről szóló 1998. évi XI. Törvény) ('Law on lawyers').

Law on the recognition of qualifications and diplomas

¹⁵ From 1 May 2004 to 20 October 2007, the relevant provisions of the Law on the recognition of qualifications and diplomas were worded as follows:

'Paragraph 21

(1) The provisions of this part shall apply where a national of a Member State wishes to practise a regulated profession in Hungary and is entitled to practise that profession in the State he has come from or the country of origin.

...

Paragraph 35

The authority concerned may prescribe an adaptation period not exceeding three years or an aptitude test,

- (a) where the applicant's practical or theoretical training differs substantially from the training necessary to obtain the prescribed diploma in Hungary in order to practise the regulated profession,

...

(2) The authority concerned shall allow the applicant to choose between the adaptation period and the aptitude test.

(3) The authority concerned may derogate from subparagraph 2 with respect to any profession whose practise requires a precise knowledge of Hungarian law and in respect of which the provision of advice and/or assistance concerning Hungarian law is an essential and constant aspect. In such cases, the authority concerned shall require the applicant to complete an adaptation period or to take an aptitude test.

...'

¹⁶ According to the list of regulated professions in force from 1 May 2004 to 8 May 2009, published by the Hungarian Ministry of Education, the formal qualifications necessary for the practice of the profession of lawyer fall within the definition of 'diploma' for the purposes of the Law on the recognition of qualifications and diplomas.

The Law on lawyers

- 17 On the date on which the action giving rise to the main proceedings was brought, that is 13 December 2006, the relevant provisions of the Law on lawyers was worded as follows:

‘Paragraph 6

(1) A lawyer

- (a) cannot be bound by a contract of employment, a public interest service contract or any contract imposing an obligation to perform work and cannot be a public sector employee, civil servant or notary, or hold the office of mayor on a full-time basis,
- (b) cannot carry on business in a personal capacity or involving unlimited financial liability.

...

- (3) A lawyer is required to declare to the Bar Association any reasons of incompatibility within 15 days of their occurrence.

...

Article 13

(1) Any person who is registered with the Bar Association and who has sworn an oath before that association may practise as a lawyer, but not as a salaried lawyer.

...

(3) Admission to the Bar shall take place at the request of the applicant, who shall:

(a) be a national of one of the States [parties to the Agreement on] the European Economic Area [of 2 May 1992 (OJ 1994 L 1, p. 3)].

...

(c) have no previous convictions;

(d) be a law graduate;

(e) have passed the professional law examination in Hungary;

- (f) be a member of Ügyvédek Biztosító és Segélyező Egyesülete (a general mutual insurance for company for lawyers in Hungary) or have another form of civil liability insurance accepted by the Bar Association;
 - (g) be in possession of adequate office space within the jurisdiction of the Bar Association to be able to practise as a lawyer on a permanent basis;
 - (h) not fall within any of the situations giving rise to exclusion listed in subparagraph 4;
- (4) A person shall not be admitted to the Bar Association if:
- (a) he is in one of the situations of incompatibility referred to in Article 6 and he does not put an end to that situation;
 - (b) he is subject to an additional penalty excluding him from public affairs or excluding him from any occupation connected with a legal qualification;
 - (c) he has been convicted by the courts and sentenced to a term of imprisonment for committing an intentional offence ...
 - (d) he has been excluded from the Bar Association ...

(e) he is subject to guardianship limiting or excluding capacity or who is incapable even if he is not subject to guardianship ...

(f) he is, on account of his lifestyle or his conduct, unworthy of the public confidence necessary in order to practise the profession of lawyer

...

Article 89/A

(1) The provisions of this Law shall apply, subject to the derogations set out in this Chapter, to activities carried out in the Republic of Hungary, to nationals of a Member State of the European Economic Area who are entitled to practise law in a Member State of the European Economic Area with one of the professional titles referred to in other laws or regulations (“European lawyers”).

...

Article 89/B

(1) A person wishing to practise as a European lawyer on a permanent basis in the Republic of Hungary shall apply to the Bar Association to be added to the register of European lawyers (hereinafter, and for the purposes of this Chapter, “registration”).

This shall be optional for those wishing to pursue that activity only occasionally as service providers.

(2) An applicant shall be registered if:

(a) he can justify that he is entitled to practise law in his Member State of origin, by means of a certified translation into Hungarian of a certificate issued no more than three months earlier by the body charged with registering lawyers in that Member State,

...

Article 89F

(1) At the request of the interested party, the Bar Association shall admit a European lawyer as an “ügyvéd” if:

(a) he satisfies the conditions set out in Article 13(3)(c) and (f) to (h);

(b) by means of documentation proving the number and nature of cases dealt with or in the individual hearing convened at the specific request of the Bar Association, he can show to a satisfactory standard that he has practised Hungarian law (which includes the application of European Union law in Hungary) for an uninterrupted period of three years in the Republic of Hungary and

(c) he is able to demonstrate at the individual hearing that he has the required level of Hungarian law to practise law.

(2) At the applicant's request, the Bar Association may also admit a European lawyer as an "ügyvéd" if, although he has practised law in Hungary for an uninterrupted period of three years, he has practised Hungarian law (which includes the application of European Union law in Hungary) for a lesser period, so long as he satisfies the other requirements [set out] in subparagraph (1).

...

(4) By his admission, a European lawyer shall become a full member of the Bar Association. While practising he may continue to use the professional title recognised in his Member State of origin alongside the title "ügyvéd".

...

Article 89/I

...

(2) While practising, a European lawyer may use exclusively the title conferred by his Member State of origin and shall indicate the name of the professional body to

which he belongs in the official language of that Member State. He shall also provide a supplementary explanation in Hungarian of the professional title if that title may be confused with the title “ügyvéd”.’

The dispute in the main proceedings and the questions referred for a preliminary ruling

- 18 Mr Ebert, a German national, studied law in Germany and, as a member of the Düsseldorf Bar, has been entitled to use the title ‘Rechtsanwalt’ since 1997. Mr Ebert has lived in Hungary since the end of the 1990s where he acquired the title Doctor of Law in 2002 after studying at the University of Miskolc.
- 19 In 2004, Mr Ebert signed a cooperation agreement with a Hungarian law firm and was registered as a European lawyer, within the meaning of Article 89/A of the Law on lawyers, by decision of 20 September 2004 of the Budapesti Ügyvédi Kamara, enabling him to practise as a lawyer in that Member State under his home-country professional title.
- 20 According to the information contained in the order for reference, in 2005 Mr Ebert set up his own law firm in Hungary which was registered by the Budapesti Ügyvédi Kamara by decision of 6 April 2005.
- 21 The order for reference further states that, on 13 December 2006, Mr Ebert requested the Fővárosi Bíróság (Court of Budapest) to grant him the right to use the Hungarian title ‘ügyvéd’ in Hungary without being a member of the Bar Association.

22 The Fővárosi Bíróság dismissed that request on the ground that, pursuant to Articles 1 and 7(1) and (3) of Directive 89/48, Mr Ebert could use the title ‘ügyvéd’ only if he established that he was a member of the Bar Association. Mr Ebert brought an appeal against that decision before the Fővárosi Ítéltábla (Court of Budapest).

23 In those circumstances the Fővárosi Ítéltábla decided to stay the proceedings and to refer the following questions to the Court of Justice for a preliminary ruling:

‘1. May ... Directive 89/48... and Directive 98/5 ... be interpreted as meaning that the applicant, a German national licensed to practise law in Germany where he is a member of the local Bar Association, but who has a permit to live and work in Hungary, has the right to use, in legal and administrative proceedings, the title “ügyvéd” (lawyer), which is the official title in the host Member State (Hungary), in addition to the German title “Rechtsanwalt” (lawyer) and the Hungarian title “európaiközösségi jogász” (European lawyer), despite the fact that he is not a member of the Bar Association in Hungary and has not obtained any form of authorisation?

2. Does Directive 98/5 ... supplement Directive 89/48 ... in the sense that Directive 98/5 ... on the practice of the profession of lawyer constitutes a special law on the legal profession, whereas Directive 89/48 ... merely regulates in a general manner the recognition of higher-education diplomas?’

24 In his written submissions and at the hearing Mr Ebert submitted that in fact he simply applied to the Hungarian Ministry of Education and Culture to sit the aptitude test in order to obtain authorisation to practise the profession of lawyer under

the professional title of the host Member State, in accordance with Directive 89/48, which has not replied to that request, but forwarded it to the Budapesti Ügyvédi Kamara, which has also failed to reply.

- 25 At the hearing, the Budapesti Ügyvédi Kamara confirmed receipt of that application from the Ministry of Education and Culture, but submitted that under national law it has no competence as regards the recognition of higher education diplomas under Directive 89/48, as that competence rests with the Ministry of Education and Culture which has not yet taken a decision on Mr Ebert's application. The Budapesti Ügyvédi Kamara stated that for that reason it could not reply to that application, but added Mr Ebert to the list of European lawyers.
- 26 Before the Court, the Hungarian Government confirmed that, according to the Law on recognition of titles and diplomas, which transposed Directive 89/48 into Hungarian law, the recognition of Mr Ebert's diplomas falls within the competence of the Ministry of Education and Culture.

Consideration of the questions referred

The second question

- 27 By its second question, which it is appropriate to examine first, the national court asks, in essence, whether Directive 98/5 excludes the application of Directive 89/48, as the detailed rules laid down in Article 10(1) and (3) of Directive 98/5 are the only

means for lawyers from other Member States to gain access to the title of lawyer of a host Member State, or whether the two directives complement one another by establishing, for lawyers from Member States, two ways to gain admission to the profession of lawyer in a host Member State under the professional title of the latter State.

- 28 Mr Ebert, the Hungarian, Czech, Spanish and Austrian Governments and the European Commission take the view that Directives 98/5 and 89/48 establish two ways to gain admission to the profession of lawyer in the host Member State. At the hearing, the Budapesti Ügyvédi Kamara indicated that it shares that opinion.
- 29 In that connection, the second paragraph of Article 2 of Directive 89/48 states that it does not apply to professions which are the subject of a separate directive establishing arrangements for the mutual recognition of diplomas by Member States.
- 30 However, it is clear from Article 10(1) of Directive 98/5 that 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 in the host Member State and in the law of that Member State, including European Union law, is dispensed from the conditions referred to in Article 4(1)(b) of Directive 89/48 in order to gain admission to the profession of lawyer in that Member State.
- 31 Furthermore, in the circumstances described in Article 10(3) of Directive 98/5, 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 also obtain the

right to practise 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.

³² However, although, in the context of those rules which allow access to the profession of lawyer under the title of the host Member States, a lawyer qualified in another Member State is dispensed from the conditions referred to in Article 4(1)(b) of Directive 89/48, it must be stated that Directive 98/5 does not deprive such a lawyer, in particular where he has not yet effectively and regularly pursued a professional activity for a period of at least three years in the host Member State, of the possibility of applying to take up the profession of lawyer under the title of that Member State by relying on Directive 89/48. As reflected in recitals 2 and 3 in the preamble to Directive 98/5, Article 10(2) clearly states that 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 with a view to gaining admission to the profession of lawyer in that Member State and practising law under the professional title corresponding to the profession in that Member State.

³³ In such a situation the holder of a 'diploma', within the meaning of Article 1(a) of Directive 89/48, such as Mr Ebert, enjoys, in accordance with Article 3, first paragraph, subparagraph (a) thereof, access to the regulated profession of lawyer in the host Member State. However, since the profession is one whose practice requires a precise knowledge of national law and an essential and constant element of which is the provision of advice and/or assistance concerning national law, Article 3 of Directive 89/48 as amended does not prevent the host Member State from requiring, pursuant to Article 4(1)(b) thereof, that the applicant take an aptitude test, provided that that Member State first verifies whether the knowledge acquired by the applicant in the course of his professional experience is capable of covering, in whole or in part,

the substantial difference referred to in the first subparagraph of that latter provision (see Case C-118/09 *Koller* [2010] ECR I-13267, paragraphs 38 and 39).

- 34 It follows that a lawyer from a Member State may gain admission to the profession of lawyer, in a host Member State where that profession is regulated, and practise under the professional title awarded by it, either under Directive 89/48 or Article 10(1) and (3) of Directive 98/5.
- 35 Therefore, the answer to the second question is that Directives 89/48 and 98/5 complement one another by establishing, for lawyers from Member States, two means for gaining admission to the profession of lawyer in a host Member State under the professional title of that State.

The first question

- 36 By its first question, the national court asks, in essence, whether Directives 89/48 and 98/5 preclude national rules laying down the requirement to be a member of a body such as a Bar Association in order to practise the profession of lawyer under the title of lawyer of the host Member State.
- 37 It is clear from Article 3 of Directive 89/48 that if a person holds a diploma required by another Member State in order to gain admission to a profession, he is entitled to take up or pursue that profession under the same conditions as those for nationals of that State, except for the condition relating to the possession of a diploma from the host Member State.

- 38 Furthermore, it is clear from Article 6 of Directive 89/48, read in the light of the 10th recital in the preamble thereto, that a person taking up a regulated profession in a host Member State on the basis of the recognition of a diploma within the meaning of Article 1(a) thereof, must comply with the rules of that Member State governing, in particular, professional ethics.
- 39 It is also clear from Article 6(1) of Directive 98/5 that even lawyers practising under their home-country professional title in a host Member State are subject to the same rules of professional conduct as lawyers practising under the professional title of that State (see, to that effect, Case C-225/09 *Jakubowska* [2010] ECR I-12329, paragraph 57).
- 40 Therefore, it must be stated that neither Directive 89/48 nor Directive 98/5 preclude the application, to any person practising the profession of lawyer in a Member State, particularly as regards the taking up or pursuit thereof, of national provisions laid down by law, regulation or administrative action justified by the general good, such as rules relating to organisation, qualifications, professional ethics, supervision and liability (see, to that effect, as regards Directive 89/48, Case C-55/94 *Gebhard* [1995] ECR I-4165, paragraph 35 and the case-law cited).
- 41 It is for the national court to ascertain whether the Budapesti Ügyvédi Kamara has applied those rules in accordance with the rules of European Union law and, in particular, the principle of non-discrimination (see, to that effect, Case C-19/92 *Kraus* [1993] ECR I-1663, paragraph 32; *Gebhard*, paragraph 37; and judgment of 11 June 2009 in Case C-564/07 *Commission v Austria*, paragraph 31).

- ⁴² Therefore, the answer to the first question is that neither Directive 89/48 nor Directive 98/5 precludes national rules laying down the requirement to be a member of a body such as a Bar Association in order to practise the profession of lawyer under the title of lawyer of the host Member State.

Costs

- ⁴³ Since these proceedings are, for the parties to the main proceedings, a step in the action pending before the national court, the decision on costs is a matter for that court. Costs incurred in submitting observations to the Court, other than the costs of those parties, are not recoverable.

On those grounds, the Court (Fourth Chamber) hereby rules:

- 1. Neither Council Directive 89/48/EEC of 21 December 1988 on a general system for the recognition of higher-education diplomas awarded on completion of professional education and training of at least three years' duration, as amended by Directive 2001/19/EC of the European Parliament and of the Council of 14 May 2001, nor 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 preclude national rules laying down the requirement to be a member of a body such as a Bar Association in order to practise the profession of lawyer under the title of lawyer of the host Member State.**

- 2. Directives 89/48 and 98/5 complement one another by establishing two means by which lawyers from Member States may gain admission to the profession of lawyer in a host Member State under the professional title of that Member State.**

[Signatures]