

Case C-359/09

Donat Cornelius Ebert

v

Budapesti Ügyvédi Kamara

(Reference for a
preliminary ruling from the Fővárosi Ítéltábla)

(Lawyers — Directive 89/48/EEC — Recognition of higher-education diplomas awarded on completion of professional education and training of at least three years' duration — Directive 98/5/EC — Practice of the profession of lawyer on a permanent basis in a Member State other than that in which the qualification was obtained — Use of the professional title of the host Member State — Conditions — Registration with the Bar Association of the host Member State)

Judgment of the Court (Fourth Chamber), 3 February 2011 I - 271

Summary of the Judgment

1. *Freedom of movement for persons — Freedom of establishment — Workers — Recognition of higher-education diplomas awarded on completion of professional education and training of at least three years' duration — Directive 89/48 — Lawyers — Practice of the profession on a permanent basis in a Member State other than that in which the qualification was obtained — Directive 98/5 — Practice of the profession under the title of lawyer of the host Member State*
(European Parliament and Council Directive 98/5; Council Directive 89/48, as amended by Directive 2001/19)

2. *Freedom of movement for persons — Freedom of establishment — Lawyers — Practice of the profession on a permanent basis in a Member State other than that in which the qualification was obtained — Directive 98/5 — Practice of the profession under the title of lawyer of the host Member State*

(European Parliament and Council Directive 98/5; Council Directive 89/48, as amended by Directive 2001/19)

1. Neither Directive 89/48 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, nor Directive 98/5 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 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.

(see para. 42, operative part 1)

2. Directive 89/48 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, and Directive 98/5 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 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.

Although, in the context of the rules allowing access to the profession of lawyer under the title of the host Member States, a lawyer qualified in another Member State has dispensation 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, particularly when 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 opportunity of applying to take up the profession of lawyer under the title of that Member State by relying on Directive 89/48.

(see paras 32, 35, operative part 2)