

**Reference for a preliminary ruling from the Oberste Berufungs- und Disziplinarkommission (Austria) lodged on 1 April 2009 — Robert Koller v Rechtsanwaltsprüfungskommission beim Oberlandesgericht Graz**

(Case C-118/09)

(2009/C 141/48)

*Language of the case: German*

**Referring court**

Oberste Berufungs- und Disziplinarkommission

**Parties to the main proceedings**

*Applicant:* Robert Koller

*Defendant:* Rechtsanwaltsprüfungskommission beim Oberlandesgericht Graz

**Questions referred**

1. Is Directive 89/48/EEC <sup>(1)</sup> applicable to the case of an Austrian national if he
  - (a) successfully completed his diploma course in law in Austria and was awarded by decision the academic degree of ‘Magister der Rechtswissenschaften’,
  - (b) after taking supplementary examinations at a Spanish university, which however involved less than three years of study, was then granted, by a certificate of recognition from the Ministry of Education and Science of the Kingdom of Spain, the entitlement to use the Spanish title ‘Licenciado en Derecho’, which is equivalent to the Austrian title, and
  - (c) by registering with the Madrid Chamber of Lawyers gained the entitlement to use the professional title ‘abogado’ and actually pursued the profession of a lawyer in Spain for three weeks before making the application and for five months at the most before the first instance decision?
2. In the event that Question 1 is answered in the affirmative:

Is it compatible with Directive 89/48/EEC to interpret Paragraph 24 of the Bundesgesetz über den freien Dienstleistungsverkehr und die Niederlassung von europäischen Rechtsanwälten in Österreich (Federal law on the free movement of services and the establishment of European lawyers in Austria, ‘EuRAG’) as meaning that obtaining an Austrian degree in law and attaining the entitlement to use the Spanish title ‘Licenciado en Derecho’ after taking supplementary examinations at a Spanish university over a period of less than three years of study is not sufficient for admission to the aptitude test in Austria under Paragraph 24(1) of the EuRAG without proof of the practice required under national law (Paragraph 2(2) of the Rechtsanwaltsordnung (Lawyers’ Code, ‘RAO’), even if the applicant has been admitted as an ‘abogado’ in Spain without a

comparable requirement for practice and had pursued the profession there for three weeks before making the application and for five months at the most before the first instance decision?

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<sup>(1)</sup> OJ 1989 L 19, p. 16

**Reference for a preliminary ruling from the Conseil d’État (France) lodged on 1 April 2009 — Société fiduciaire nationale d’expertise comptable v Ministre du budget, des comptes publics et de la fonction publique**

(Case C-119/09)

(2009/C 141/49)

*Language of the case: French*

**Referring court**

Conseil d’État

**Parties to the main proceedings**

*Applicant:* Société fiduciaire nationale d’expertise comptable

*Defendant:* Ministre du budget, des comptes publics et de la fonction publique

**Question referred**

Was Directive 2006/123/EC of the European Parliament and of the Council of 12 December 2006 on services in the internal market <sup>(1)</sup> intended to proscribe, in respect of the regulated professions falling within its scope, any general prohibition [on commercial communications], whatever the form of commercial practice concerned, or does it leave the Member States the option of maintaining general prohibitions in respect of certain commercial practices, such as canvassing?

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<sup>(1)</sup> OJ L 376, p. 36.

**Action brought on 1 April 2009 — Commission of the European Communities v Kingdom of Belgium**

(Case C-120/09)

(2009/C 141/50)

*Language of the case: French*

**Parties**

*Applicant:* Commission of the European Communities (represented by: M. van Beek and J.-B. Laignelot, acting as Agents)

*Defendant:* Kingdom of Belgium