

JUDGMENT OF THE COURT (Grand Chamber)

26 June 2007*

In Case C-305/05,

REFERENCE for a preliminary ruling under Article 234 EC from the Cour d'arbitrage (now the Cour constitutionnelle) (Belgium), made by decision of 13 July 2005, received at the Court on 29 July 2005, in the proceedings

Ordre des barreaux francophones et germanophone,

Ordre français des avocats du barreau de Bruxelles,

Ordre des barreaux flamands,

Ordre néerlandais des avocats du barreau de Bruxelles,

v

Conseil des Ministres,

* Language of the case: French.

intervening parties:

Conseil des barreaux de l'Union européenne,

Ordre des avocats du barreau de Liège,

THE COURT (Grand Chamber),

composed of V. Skouris, President, P. Jann, C.W.A. Timmermans, A. Rosas, K. Lenaerts, E. Juhász (Rapporteur) and J. Klučka, Presidents of Chambers, J.N. Cunha Rodrigues, R. Silva de Lapuerta, K. Schiemann, A. Borg Barthet, M. Ilešič and J. Malenovský, Judges,

Advocate General: M. Poiares Maduro,
Registrar: M.-A. Gaudissart, Head of Unit,

having regard to the written procedure and further to the hearing on 12 September 2006,

after considering the observations submitted on behalf of:

— the Ordre des barreaux francophones et germanophone and the Ordre français des avocats du barreau de Bruxelles, by F. Tulkens and V. Ost, avocats,

- the Ordre des barreaux flamands and the Ordre néerlandais des avocats du barreau de Bruxelles, by M. Storme, avocat,

- the Conseil des barreaux de l'Union européenne, by M. Mahieu, avocat,

- the Ordre des avocats du barreau de Liège, by E. Lemmens, avocat,

- the Belgian Government, by M. Wimmer, acting as Agent, and by L. Swartenbroux, avocat,

- the Italian Government, by I.M. Braguglia, acting as Agent, and by P. Gentili, avvocato dello Stato,

- the Cypriot Government, by E. Rossidou-Papakyriakou and F. Komodromos, acting as Agents,

- the Austrian Government, by C. Pesendorfer, acting as Agent,

- the Slovak Government, by R. Procházka, acting as Agent,

- the European Parliament, by A. Caiola and C. Castillo del Carpio, then by A. Caiola and M. Dean, acting as Agents,

- the Council of the European Union, by M. Sims and M.-M. Josephides, acting as Agents,

- the Commission of the European Communities, by W. Bogensberger and R. Troosters, acting as Agents,

after hearing the Opinion of the Advocate General at the sitting on 14 December 2006

gives the following

Judgment

- 1 The question referred for a preliminary ruling concerns the legality of Article 2a(5) of Council Directive 91/308/EEC of 10 June 1991 on prevention of the use of the financial system for the purpose of money laundering (OJ 1991 L 166, p. 77), as amended by Directive 2001/97/EC of the European Parliament and of the Council of 4 December 2001 (OJ 2001 L 344, p. 76) ('Directive 91/308').

- 2 This reference has been made in the context of actions brought before the referring court respectively by the *Ordre des barreaux francophones et germanophone* (Association of the French-speaking and German-speaking Bars), the *Ordre français des avocats du barreau de Bruxelles* (French Bar Association of Brussels), the *Ordre des barreaux flamands* (Society of Flemish Bars) and by the *Ordre néerlandais des avocats du barreau de Bruxelles* (Dutch Bar Association of Brussels), seeking the annulment of certain Articles of the Law of 12 January 2004 amending the Law of

11 January 1993 relating to the prevention of the use of the financial system for the purpose of money laundering, the Law of 22 March 1993 relating to the status and control of credit institutions, and the Law of 6 April 1995 relating to the status and control of investment firms, financial intermediaries and investment advisors (*Moniteur belge* of 23 January 2004, p. 4352, 'the Law of 12 January 2004'), which transposes Directive 2001/97 into the national legal system.

Legal context

Convention for the Protection of Human Rights and Fundamental Freedoms

3 Article 6, entitled 'Right to a fair trial', of the Convention for the Protection of Human Rights and Fundamental Freedoms ('ECHR') provides:

'1 In the determination of his civil rights and obligations or of any criminal charge against him, everyone is entitled to a fair and public hearing within a reasonable time by an independent and impartial tribunal established by law. ...

2 Everyone charged with a criminal offence shall be presumed innocent until proved guilty according to law.

- 3 Everyone charged with a criminal offence has the following minimum rights:
- a to be informed promptly, in a language which he understands and in detail, of the nature and cause of the accusation against him;
 - b to have adequate time and facilities for the preparation of his defence;
 - c to defend himself in person or through legal assistance of his own choosing or, if he has not sufficient means to pay for legal assistance, to be given it free when the interests of justice so require;
 - d to examine or have examined witnesses against him and to obtain the attendance and examination of witnesses on his behalf under the same conditions as witnesses against him;
 - e to have the free assistance of an interpreter if he cannot understand or speak the language used in court.'

Community legislation

- 4 Recital 3 in the preamble to Directive 91/308 states:

'Whereas money laundering has an evident influence on the rise of organised crime in general and drug trafficking in particular; whereas there is more and more

awareness that combating money laundering is one of the most effective means of opposing this form of criminal activity, which constitutes a particular threat to Member States' societies.'

5 Recitals 1, 14 to 17, and 20 of Directive 2001/97 state:

'(1) It is appropriate that Directive 91/308 ..., as one of the main international instruments in the fight against money laundering, should be updated in line with the conclusions of the Commission and the wishes expressed by the European Parliament and the Member States. In this way the Directive [91/308] should not only reflect best international practice in this area but should also continue to set a high standard in protecting the financial sector and other vulnerable activities from the harmful effects of the proceeds of crime.

...

(14) There is a trend towards the increased use by money launderers of non-financial businesses. This is confirmed by the work of the FATF [Financial Action Task Force] on money laundering techniques and typologies.

(15) The obligations of the Directive [91/308] concerning customer identification, record keeping and the reporting of suspicious transactions should be extended to a limited number of activities and professions which have been shown to be vulnerable to money laundering.

- (16) Notaries and independent legal professionals, as defined by the Member States, should be made subject to the provisions of the Directive [91/308] when participating in financial or corporate transactions, including providing tax advice, where there is the greatest risk of the services of those legal professionals being misused for the purpose of laundering the proceeds of criminal activity.
- (17) However, where independent members of professions providing legal advice which are legally recognised and controlled, such as lawyers, are ascertaining the legal position of a client or representing a client in legal proceedings, it would not be appropriate under the Directive [91/308] to put these legal professionals in respect of these activities under an obligation to report suspicions of money laundering. There must be exemptions from any obligation to report information obtained either before, during or after judicial proceedings, or in the course of ascertaining the legal position for a client. Thus, legal advice remains subject to the obligation of professional secrecy unless the legal counsellor is taking part in money laundering activities, the legal advice is provided for money laundering purposes, or the lawyer knows that the client is seeking legal advice for money laundering purposes.
- ...
- (20) In the case of notaries and independent legal professionals, Member States should be allowed, in order to take proper account of these professionals' duty of discretion owed to their clients, to nominate the bar association or other self-regulatory bodies for independent professionals as the body to which reports on possible money laundering cases may be addressed by these professionals. The rules governing the treatment of such reports and their possible onward transmission to the "authorities responsible for

combating money laundering” and in general the appropriate forms of cooperation between the bar associations or professional bodies and these authorities should be determined by the Member States.’

6 Under Article 2a(5) of Directive 91/308, the following persons are subject to the obligations laid down in that directive:

‘(5) notaries and other independent legal professionals, when they participate, whether:

(a) by assisting in the planning or execution of transactions for their client concerning the

(i) buying and selling of real property or business entities;

(ii) managing of client money, securities or other assets;

(iii) opening or management of bank, savings or securities accounts;

(iv) organisation of contributions necessary for the creation, operation or management of companies;

(v) creation, operation or management of trusts, companies or similar structures;

(b) or by acting on behalf of and for their client in any financial or real estate transaction’.

7 Article 6 of Directive 91/308 provides:

‘1. Member States shall ensure that the institutions and persons subject to this Directive and their directors and employees cooperate fully with the authorities responsible for combating money laundering:

(a) by informing those authorities, on their own initiative, of any fact which might be an indication of money laundering;

(b) by furnishing those authorities, at their request, with all necessary information, in accordance with the procedures established by the applicable legislation.

2. The information referred to in paragraph 1 shall be forwarded to the authorities responsible for combating money laundering of the Member State in whose territory the institution or person forwarding the information is situated. The person or persons designated by the institutions and persons in accordance with the procedures provided for in Article 11(1)(a) shall normally forward the information.

3. In the case of the notaries and independent legal professionals referred to in Article 2a(5), Member States may designate an appropriate self-regulatory body of the profession concerned as the authority to be informed of the facts referred to in paragraph 1(a) and in such case shall lay down the appropriate forms of cooperation between that body and the authorities responsible for combating money laundering.

Member States shall not be obliged to apply the obligations laid down in paragraph 1 to notaries, independent legal professionals, auditors, external accountants and tax advisors with regard to information they receive from or obtain on one of their clients, in the course of ascertaining the legal position for their client or performing their task of defending or representing that client in, or concerning, judicial proceedings, including advice on instituting or avoiding proceedings, whether such information is received or obtained before, during or after such proceedings.'

National legislation

- 8 By Article 4 of the Law of 12 January 2004, the following Article 2b was inserted in the law of 11 January 1993 relating to the prevention of the use of the financial system for the purpose of money laundering and the financing of terrorism (*Moniteur belge* of 9 February 1993, p. 2828, 'the Law of 11 January 1993'):

'In so far as expressly provided for, the provisions of this law shall also apply to lawyers [*avocats*]:

1° where they assist their client in the planning or execution of transactions relating to:

- (a) the buying or selling of real property or business entities;

- (b) the managing of client money, securities or other assets;

- (c) the opening or management of bank, savings or securities accounts;

- (d) the organisation of contributions necessary for the creation, operation or management of companies;

- (e) creation, operation or management of trusts, companies or similar structures;

2° or when they act on behalf of and for their client in any financial or real estate transaction.'

- 9 By Article 25 of the Law of 12 January 2004, the following paragraph 3 was added to Article 14a of the Law of 11 January 1993:

'The persons referred to in Article 2b who, in carrying out the activities listed in that Article, come across facts which they know or suspect to be linked to money laundering or to the financing of terrorism must immediately inform the President of the Bar of which they are members.

However, the persons referred to in Article 2b shall not pass on that information where they receive it from, or obtain it on, one of their clients in the course of ascertaining the client's legal position or in the course of performing their task of defending or representing that client in, or concerning, judicial proceedings, including advice on instituting or avoiding proceedings, whether such information is received or obtained before, during or after those proceedings.

The President of the Bar shall verify compliance with the conditions set out in Article 2b and in the preceding subparagraph. If those conditions are complied with, he shall immediately pass the information to the Financial Information Processing Unit.'

¹⁰ Article 27 of the Law of 12 January 2004 replaced Article 15(1) of the Law of 11 January 1993 with the following:

'1. If the Financial Information Processing Unit receives an item of information, as referred to in Article 11(2), the Unit or one of its members or one of the members of its staff designated for that purpose by the judge in charge or by his deputy may require any additional information which they consider useful for the performance of the tasks of the Unit to be provided, within such time-limits as they prescribe, by:

(1) any of the bodies and persons referred to in Articles 2, 2a and 2b and by the President of the Bar referred to in Article 14a(3)

...

The persons referred to in Article 2b and the President of the Bar referred to in Article 14a(3) shall not pass on that information if the persons referred to in Article 2b have received it from one of their clients, or obtained it on one of their clients, in the course of ascertaining the client's legal position or in the course of performing their task of defending or representing that client in, or concerning, judicial proceedings, including giving advice on instituting or avoiding proceedings, whether the information has been received or obtained before, during or after those proceedings.

...

The main proceedings and the question referred for a preliminary ruling

- 11 By two applications of 22 July 2004 made, respectively, by the Ordre des barreaux francophones et germanophone and the Ordre français des avocats du barreau de Bruxelles, on the one hand, and by the Ordre des barreaux flamands and the Ordre néerlandais des avocats du barreau de Bruxelles, on the other, the referring court was asked to annul Articles 4, 5, 7, 25, 27, 30 and 31 of the Law of 12 January 2004. The Conseil des barreaux de l'Union européenne (Council of the Bars and Law Societies of the European Union) and the Ordre des avocats du barreau de Liège (Society of lawyers of the Bar of Liege) have intervened in the main proceedings.

- 12 Before the referring court, the applicants maintain, in particular, that Articles 4, 25 and 27 of the Law of 12 January 2004, in so far as they extend to lawyers both the obligation to inform the competent authorities if they come across facts which they know or suspect to be linked to money laundering and the obligation to transmit to those authorities additional information which those authorities consider useful, unjustifiably impinge on professional secrecy and the independence of lawyers, that is to say, on principles which are a constituent element of the fundamental right of every individual to a fair trial and to the respect of his rights of defence. Those articles thus infringe Articles 10 and 11 of the Belgian Constitution, read in

conjunction with Article 6 of the ECHR, the general principles of law relating to the rights of the defence, Article 6(2) EU, and also Articles 47 and 48 of the Charter of Fundamental Rights of the European Union proclaimed at Nice on 7 December 2000 (OJ 2000 C 364, p. 1).

- 13 The applicants further maintain, as does the Council of the Bars and Law Societies of the European Union, that that claim is not invalidated by the fact that the Belgian legislature transposed into national law the provisions of Directive 91/308 restricting the obligations of information and of cooperation as they relate to lawyers. In that regard, the *Ordre des barreaux francophones et germanophone* and the *Ordre français des avocats du barreau de Bruxelles* consider that the distinction drawn by those provisions between activities essential to the work of a lawyer and ancillary activities is legally untenable and gives rise to a serious lack of legal certainty. The *Ordre des barreaux flamands* and the *Ordre néerlandais des avocats du barreau de Bruxelles* emphasise that the obligations of reporting on and incriminating clients go beyond mere infringement of professional secrecy, to the extent that they wholly destroy the relationship of trust between lawyer and client.
- 14 The Council of the Bars and Law Societies of the European Union argues that the Law of 11 January 1993, as amended by the Law of 12 January 2004, makes it impossible to maintain intact the traditional role of the lawyer. The Council states in that connection that the specific features of the legal profession — namely independence and professional secrecy — contribute to the trust which the public has in that profession, and that such trust in a lawyer applies generally, not only to particular tasks performed by that lawyer.
- 15 The referring court observes that the actions for annulment have been brought against the Law of 12 January 2004, the function of which was the transposition into Belgian law of the provisions of Directive 2001/97. Given that the Community legislature is under a duty — as is the Belgian legislature — to respect the rights of the defence and the right to a fair trial, the referring court considers that, before ruling on the compatibility of that Law with the Belgian Constitution, it is first necessary to settle the question whether the directive on which that Law is based is itself lawful.

- 16 In those circumstances, the Cour d'arbitrage decided to stay proceedings and to refer the following question to the Court for a preliminary ruling:

'Does Article 1(2) of Directive 2001/97 ... infringe the right to a fair trial which is guaranteed by Article 6 of the ECHR and, as a consequence, Article 6(2) EU in so far as the new Article 2a(5) which it inserted into Directive 91/308/EEC requires the inclusion of members of independent legal professions, not excluding the profession of lawyer [*avocat*], in the scope of that directive, which in essence has the aim of imposing on the persons and institutions targeted by it an obligation to inform the authorities responsible for combating money laundering of any fact which might be an indication of such money laundering (Article 6 of Directive 91/308/EEC, replaced by Article 1(5) of Directive 2001/97/EC)?'

The question referred for a preliminary ruling

- 17 It must be noted at the outset that, while in the main proceedings which have given rise to this reference the applicants and the interveners questioned the lawfulness, in the light of several higher-ranking rules of law, of the national legislation transposing Directive 91/308, the fact remains that, by its question, the referring court has considered it necessary to ask the Court to review the legality of that directive solely by reference to the right to a fair trial, as guaranteed by Article 6 of the ECHR and Article 6(2) EU.
- 18 According to settled case-law, the procedure established in Article 234 EC rests on a clear separation of functions between the national courts and the Court of Justice, with the result that it is solely for the national court before which the dispute has been brought, and which must assume responsibility for the subsequent judicial decision, to determine in the light of the particular circumstances of the case both

the need for a preliminary ruling in order to enable it to deliver judgment and the relevance of the questions which it submits to the Court (see Case C-448/01 *EVN and Wienstrom* [2003] ECR I-14527, paragraph 74, and Case C-145/03 *Keller* [2005] ECR I-2529, paragraph 33).

- 19 That being so, the legality of Directive 91/308 should not additionally be appraised by reference to fundamental rights not specified by the referring court, such as the right to respect for privacy provided for in Article 8 of the ECHR.
- 20 Article 6(1) of Directive 91/308 provides that the persons covered by that directive must cooperate fully with the authorities responsible for combating money laundering by informing those authorities, on their own initiative, of any fact which might be indicative of money laundering and by furnishing those authorities, at the request of the latter, with all necessary information, in accordance with the procedures established by the applicable legislation.
- 21 As regards lawyers, Directive 91/308 delimits the application of those obligations of information and cooperation in two ways.
- 22 First, under Article 2a(5) of Directive 91/308, lawyers are subject to the obligations laid down in that directive — and, in particular, to the obligations of information and cooperation laid down in Article 6(1) thereof — only in so far as they participate, in the ways specified in Article 2a(5), in certain transactions listed exhaustively in that provision.
- 23 Secondly, it is clear from the second subparagraph of Article 6(3) of Directive 91/308 that the Member States are not obliged to impose the obligations of

information and cooperation on lawyers as regards information which they have received from a client, or obtained on one of their clients, in the course of ascertaining the client's legal position or in the course of performing their task of defending or representing that client in, or concerning, judicial proceedings, including the giving of advice on instituting or avoiding such proceedings, whether such information is received or obtained before, during or after such proceedings.

24 The significance of that exemption is emphasised in recital 17 of Directive 2001/97, which states that it would not be appropriate for Directive 91/308 to impose the obligation of reporting suspicions of money laundering on independent members of professions providing legal advice which are legally recognised and controlled, such as lawyers, where they are ascertaining the legal position of a client or representing a client in legal proceedings. Recital 17 of the directive also states that an exemption from any obligation to report should be provided for in respect of information obtained before, during or after judicial proceedings, or in the course of ascertaining a client's legal position. The same recital underlines the fact that such an exemption implies that legal advice remains covered by professional secrecy unless the lawyer is himself taking part in money laundering activities, or is providing legal advice for the purposes of money laundering, or knows that his client is seeking legal advice for such purposes.

25 In the present case, it is clear from Articles 25 and 27 of the Law of 12 January 2004 that the Belgian legislature introduced into that Law exemptions for lawyers, covering information received or obtained in the circumstances referred to in the second subparagraph of Article 6(3) of Directive 91/308.

26 In those circumstances, it is necessary to determine whether the obligation incumbent on a lawyer acting in the exercise of his professional activities to cooperate with the authorities responsible for combating money laundering within the meaning of Article 6(1) of Directive 91/308 and to inform them on his own

initiative of any fact which could be an indication of money laundering, account being taken of the limitations placed on that obligation by Articles 2a(5) and 6(3) of that directive, constitutes an infringement of the right to a fair trial as guaranteed by Article 6 of the ECHR and Article 6(2) EU.

- 27 It must first be observed that the second subparagraph of Article 6(3) of Directive 91/308 may lend itself to several interpretations, and consequently the precise extent of the obligations of information and cooperation incumbent on lawyers is not entirely unambiguous.
- 28 On that point, the Court has consistently held that, if the wording of secondary Community law is open to more than one interpretation, preference should be given to the interpretation which renders the provision consistent with the EC Treaty rather than to the interpretation which leads to its being incompatible with the Treaty (see Case 218/82 *Commission v Council* [1983] ECR 4063, paragraph 15, and Case C-135/93 *Spain v Commission* [1995] ECR I-1651, paragraph 37). Member States must not only interpret their national law in a manner consistent with Community law but also make sure they do not rely on an interpretation of wording of secondary legislation which would be in conflict with the fundamental rights protected by the Community legal order or with the other general principles of Community law (Case C-101/01 *Lindqvist* [2003] ECR I-12971, paragraph 87).
- 29 It must also be stated that fundamental rights form an integral part of the general principles of law whose observance the Court ensures. For that purpose, the Court draws inspiration from the constitutional traditions common to the Member States and from the guidelines supplied by international instruments for the protection of human rights on which the Member States have collaborated or to which they are signatories. In that regard, the ECHR has special significance (see, to that effect, Case 29/69 *Stauder* [1969] ECR 419, paragraph 7; Case C-274/99 P *Connolly v Commission* [2001] ECR I-1611, paragraph 37; Case C-283/05 *ASML* [2005] ECR I-12041, paragraph 26). Thus the right to a fair trial, which derives inter alia from

Article 6 of the ECHR, constitutes a fundamental right which the European Union respects as a general principle under Article 6(2) EU.

30 Article 6 of the ECHR provides that everyone is entitled to a fair hearing, whether in the determination of his civil rights and obligations or in the context of criminal proceedings.

31 According to the case-law of the European Court of Human Rights, the concept of ‘a fair trial’ referred to in Article 6 of the ECHR consists of various elements, which include, inter alia, the rights of the defence, the principle of equality of arms, the right of access to the courts, and the right of access to a lawyer both in civil and criminal proceedings (see *Golder v United Kingdom*, judgment of 21 February 1975, Series A No 18, §§ 26 to 40; *Campbell and Fell v United Kingdom*, judgment of 28 June 1984, Series A No 80, §§ 97 to 99, §§ 105 to 107 and §§ 111 to 113; and *Borgers v Belgium*, judgment of 30 October 1991, Series A No 214-B, § 24).

32 Lawyers would be unable to carry out satisfactorily their task of advising, defending and representing their clients, who would in consequence be deprived of the rights conferred on them by Article 6 of the ECHR, if lawyers were obliged, in the context of judicial proceedings or the preparation for such proceedings, to cooperate with the authorities by passing them information obtained in the course of related legal consultations.

33 As was pointed out in paragraph 22 above, it is clear from Article 2a(5) of Directive 91/308 that the obligations of information and cooperation apply to lawyers only in so far as they advise their client in the preparation or execution of certain transactions — essentially those of a financial nature or concerning real estate, as referred to in Article 2a(5)(a) of that directive — or when they act on behalf of and for their client in any financial or real estate transaction. As a rule, the nature of such

activities is such that they take place in a context with no link to judicial proceedings and, consequently, those activities fall outside the scope of the right to a fair trial.

34 Moreover, as soon as the lawyer acting in connection with a transaction as referred to in Article 2a(5) of Directive 91/308 is called upon for assistance in defending the client or in representing him before the courts, or for advice as to the manner of instituting or avoiding judicial proceedings, that lawyer is exempt, by virtue of the second subparagraph of Article 6(3) of the directive, from the obligations laid down in Article 6(1), regardless of whether the information has been received or obtained before, during or after the proceedings. An exemption of that kind safeguards the right of the client to a fair trial.

35 Given that the requirements implied by the right to a fair trial presuppose, by definition, a link with judicial proceedings, and in view of the fact that the second subparagraph of Article 6(3) of Directive 91/308 exempts lawyers, where their activities are characterised by such a link, from the obligations of information and cooperation laid down in Article 6(1) of the directive, those requirements are respected.

36 On the other hand, it must be recognised that the requirements relating to the right to a fair trial do not preclude the obligations of information and cooperation laid down in Article 6(1) of Directive 91/308 from being imposed on lawyers acting specifically in connection with the activities listed in Article 2a(5) of that directive, in cases where the second subparagraph of Article 6(3) of that directive does not apply, where those obligations are justified by the need — emphasised, in particular, in recital 3 of Directive 91/308 — to combat money laundering effectively, in view of its evident influence on the rise of organised crime, which itself is a particular threat to society in the Member States.

37 Having regard to the foregoing, it must be held that the obligations of information and of cooperation with the authorities responsible for combating money laundering, laid down in Article 6(1) of Directive 91/308 and imposed on lawyers by Article 2a(5) of that directive, account being taken of the second subparagraph of Article 6(3) thereof, do not infringe the right to a fair trial as guaranteed by Article 6 of the ECHR and Article 6(2) EU.

Costs

38 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 (Grand Chamber) hereby rules:

The obligations of information and of cooperation with the authorities responsible for combating money laundering, laid down in Article 6(1) of Council Directive 91/308/EEC of 10 June 1991 on prevention of the use of the financial system for the purpose of money laundering, as amended by Directive 2001/97/EC of the European Parliament and of the Council of 4 December 2001, and imposed on lawyers by Article 2a(5) of Directive 91/308, account being taken of the second subparagraph of Article 6(3) thereof, do not infringe the right to a fair trial as guaranteed by Article 6 of the Convention for the Protection of Human Rights and Fundamental Freedoms and Article 6(2) EU.

[Signatures]