EUROPEAN COMMUNITIES—LEGAL PROFESSION—COUNCIL PASSES DIRECTIVE ALLOWING LAWYERS TO PROVIDE SERVICES ACROSS NATIONAL BORDERS.

On March 22, 1977, the Council of the European Communities issued a Directive designed to facilitate the effective exercise by lawyers of freedom to provide legal services throughout the European Economic Community (EEC). Member States are required to bring into force the measures necessary to comply with the Directive within two years. Council Directive of March 22, 1977, 20 O.J. EUR. COMM. (No. L 78) 17 (1977).

One of the express goals of the EEC has been "the abolition, as between Member States [of] obstacles to freedom of movement for persons, services and capital."[1] In many fields, the implementation of this plan has proved to be no great problem; in the professions, however, the process has been a slow one, due primarily to the great interest each State has in the regulation of such activities. The profession which has shown the greatest resistance to inter-Member freedom of movement has been the practice of law, due to the intimate relationship between the profession and the structure of the legal systems of the different sovereign States.[2] However, the free movement of legal services has been greatly facilitated by two decisions of the Court of Justice of the European Communities, and the full implementation of the Directive[3] will make a Community-wide practice of law possible. In order to assess the impact of these Community actions, this Recent Development will provide an overview of the right to practice law in several Member States, as compared with the right to practice law in the United States.

The various states in the United States tend to be vastly more restrictive in their regulation of practitioners of law than are the EEC Member States.[4] In general, only members of the bar of the forum state can represent clients in courts in that state; only when permission to appear *pro hac vice* is granted may an attorney appear in court in a sister state where he is not regularly licensed to practice.[5] Likewise the mere giving of legal

[1] Treaty Establishing the European Economic Community, art. 3(c), *done* March 25, 1957, 298 U.N.T.S. 11 [hereinafter cited as Treaty of Rome].

[2] S. Kramer, *The Liberal Professions in the E.E.C.*, 122 NEW L. J. 648 (1972).

[3] A Directive is binding on the Member States but must be implemented in the Member States by national legislation. EUROPEAN COMMUNITY: THE FACTS (1974).

[4] Comment, 15 HARV. INT'L L. J. 298, 321 (1974) [hereinafter cited as Comment].

[5] The privilege to practice *pro hac vice* is in the majority of cases very limited. The out of state lawyer is normally restricted to making court appearances and performing other functions related to a particular case in litigation; he is not allowed to engage in general practice. Note, 67 COLUM. L. REV. 731, 735 (1967).

advice without any further action on behalf of the client is in general prohibited if done by one who is not a member of the bar of the state in which he gives the advice.[6] This prohibition also applies to a non-United States attorney who gives advice concerning the law of his home jurisdiction.[7] It is possible, however, for a non-U.S. citizen to be admitted to a state bar.[8] One exception to the general rule prohibiting practice by out-of-state lawyers is the case of patent attorneys, who are licensed federally and therefore cannot be kept from carrying out their specialized practice by the unauthorized practice rules of a state bar.[9]

Although in Great Britain some activities, including appearances before the courts, are reserved to barristers and solicitors, the organized professions have no monopoly on the giving of legal advice.[10] Barristers have the exclusive right of advocacy before the High Courts as well as authorization to prepare pleadings and give advice on points of law.[11] They may not do the work of solicitors, and generally only receive cases through solicitors.[12] Solicitors have the exclusive right to transact all contentious[13] or non-contentious[14] business and to draft certain documents.[15] All legal advice given under the publically-supported Legal Advice program must be given by a solicitor or someone working under a solicitor.[16]

As to the practice of law by non-citizens, in the past the British view was that solicitors were in a sense officers of the court and therefore had to be British subjects.[17] However, this position has been changed by statute so that non-British subjects are no longer barred from being solicitors.[18] It should be noted that in many cases the documents prepared by solicitors may also be prepared by barristers, notaries, and various officials.[19]

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[6] *E.g.*, 29 N.Y. CODE § 478 (1968).

[7] *In re* Roel, 3 N.Y.2d 224, 144 N.E.2d 24, 165 N.Y. S.2d 31 (1957) *appeal dismissed*, 335 U.S. 604 (1958).

[8] *In re* Griffiths, 413 U.S. 717 (1973); *see generally* 4 GA. J. INT'L & COMP. L. 206 (1974).

[9] Sperry v. Florida *ex rel.* Florida Bar, 373 U.S. 379 (1963).

[10] Comment, *supra* note 4, at 302.

[11] P. JAMES, INTRODUCTION TO ENGLISH LAW 49-50 (9th ed. 1976).

[12] A. KIRALFY, THE ENGLISH LEGAL SYSTEM 328 (4th ed. 1967); H. CECIL, BRIEF TO COUNSEL 39 (1958).

[13] Contentious business is business done, whether as solicitor or advocate, during or for the purposes of proceedings begun before a court or before an arbitrator appointed under the Arbitration Act of 1950. It includes such activities as suing out writs, appearing on behalf of the client in lower courts, and briefing counsel. Solicitor's Act, 1957, § 86(1).

[14] Non-contentious business is the business of obtaining probate and administration where there is no contention as to the right thereto, or where such contention is terminated. Such business includes the preparation of documents in probate or administration proceedings. Supreme Court of Judicature (Consolidation) Act, 1925, § 175.

[15] Solicitor's Act, 1957, § 20.

[16] Legal Aid Act, 1974; G. GRAHAM-GREEN & D. GORDON, CORDERY'S LAW RELATING TO SOLICITORS 377-78 (6th ed. 1968).

[17] A. KIRALFY, *supra* note 12, at 326.

[18] Solicitor's (Amendment) Act, 1974, § 2.

[19] *E.g.*, Solicitor's Act, 1957, §§ 20, 21.

In Italy, the lawyers who represent clients before the courts are divided into the *procuratori* and *avvocati*. The *procuratore* acts as the client's agent and prepares procedural documents pursuant to a written power of attorney. The *avvocato* prepares and prosecutes the party's substantive claims and defenses. Actually, there is no great difference between the two groups, for the sole requirement for becoming an *avvocato* is to have several years' experience as a *procuratore*. Almost all *avvocati* retain their qualifications as *procuratori* and can perform both functions in the same case. A *procuratore* may perform the functions of an *avvocato* in litigation, but he may only practice within the territorial district of the court of appeal in which he resides. An *avvocato* may practice anywhere in the country, with some restrictions upon practice before the highest courts. All *procuratori* and *avvocati* must be members of the Attorney's Guild (*ordine forense*), but no one, whether a member of the organized legal profession or not, is forbidden to give legal advice for a fee.[20]

The French legal profession was formerly divided into a number of different branches such as *avocats*, *avoués*, and *agrées*. However, the above professions were united into the profession of *avocat* in 1972.[21] Each *avocat* must be a member of his local bar association (*barreau*),[22] but may make oral argument anywhere in France, except before the highest courts (the *Cour de Cassation* and the *Conseil d' État*), which are reserved for the *avocats au Conseil d' État et à la Cour de Cassation*.[23] There are, however, territorial limitations as to the performance of procedural formalities and actions as a party's agent for litigation, in that the *avocat* may only do these tasks within the jurisdiction of the *tribunal de grande instance* (court of first instance of general jurisdiction) for the area in which he has his official residence. If his bar association is one which encompasses several *tribunaux de grande instance*, he may perform these tasks before all these courts.[24]

Until 1972, the giving of legal advice under the title of *conseil juridique* or other titles was not regulated and was not at all restricted to those with formal legal training.[25] However, the legislation which changed the profession of *avocat* also regulated the *conseil juridique*.[26] Under the new law,

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[20] M. CAPPELLETTI, J. MERRYMAN, & J. PERILLO, THE ITALIAN LEGAL SYSTEM: AN INTRODUCTION 90-93 (1967) [hereinafter cited as CAPPELLETTI].

[21] Loi n° 71-1130 du 31 décembre 1971, NOVEAU C. PRO. CIV. art. 1 (70e ed. Petits Codes Dalloz 1976) [hereinafter Loi n° 71-1130].

[22] Loi n° 71-1130, art. 15.

[23] Herzog & Herzog, *The Reform of the Legal Professions and of Legal Aid in France*, 22 INT'L & COMP. L.Q. 462, 469 (1973).

[24] Loi n° 71-1130, art. 5(2), (3).

[25] R. DAVID & H. DEVRIES, THE FRENCH LEGAL SYSTEM 23 (1958).

[26] Loi n° 71-1130 states the following: Art. 54. The persons who do not belong to a judicial or juridical profession which is regulated or whose title is protected and who give, under a professional title, consultations or who draw up documents for others in legal matters are not authorized to make use of the title of *conseil juridique* or *conseil fiscal*, whether or not

those wishing to use the title of *conseil juridique* must be entered on the list of *conseillers juridiques* which is kept by each procurator of the Republic.[27] In order to be entered on the list he must possess a law degree or an equivalent,[28] meet the standards of character set for *avocats*,[29] and have three years or more experience as a clerk of a *conseil juridique*, a *notaire*, an *avocat au Conseil d' État et la Court de Cassation* or as an *avocat stagiaire*.[30]

In the Federal Republic of Germany the equivalent of the *avocat* is the *Rechtsanwalt*. In civil or commercial cases, a *Rechtsanwalt* can only appear or plead before a court to which he is admitted.[31] In general,[32] a *Rechtsanwalt* is admitted to practice before his local court, which is primarily a court of small claims,[33] and before his district court, which is the court of general jurisdiction.[34] Because the districts are quite small—there are 92 in the Federal Republic of Germany—a *Rechtsanwalt* is very restricted geographically.[35] In some instances, a *Rechtsanwalt* admitted before the district court may also be admitted before the appeals court; in other parts of the country, appellate bar members are not permitted to practice before the district court.[36] It is generally possible to change to another court after first having been admitted.[37] Practice before the Fed-

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qualified with a mention of a specialty, or a title equivalent to or capable of being assimilated under the title of *conseil juridique* or *conseil fiscal* until they are inscribed on the list established by the procurator of the Republic, and subject to the following conditions:

1. be the holder of a *licence* or *doctorat* in law or a certificate or diploma recognized as being equivalent for the exercise of the planned activity;
2. give proof of professional experience;
3. meet the conditions of conduct demanded of *avocats*.

Art. 55. Persons of a foreign nationality can, with a professional title give consultations or draft documents for others in juridical matters under the conditions:

1. that their activities bear principally upon foreign law and international law.
2. that they be inscribed upon the list previously mentioned in Art. 54.

These conditions are not demanded of citizens of the Member States of the European Communities or of any State that accords without restriction to French citizens the privilege of exercising the professional activity that they themselves propose to exercise in France. [Translation by the author.]

[27] Decret n° 72-670 du 13 juillet 1972, NOVEAU C. PRO. CIV. art. 1 (70e ed. Petits Codes Dalloz 1976) [hereinafter cited as Decret n° 72-670].

[28] Decret n° 72-670, art. 2.

[29] Loi n° 71-1130, art. 54(3).

[30] Decret n° 72-670, arts. 3, 4. An *Avocat stagiaire* is a legal apprentice who has not yet been fully admitted to practice.

[31] Cohn, *The German Attorney—Experiences with a Unified Profession (I)*, 9 INT'L & COMP. L.Q. 580, 582 (1960).

[32] I. FORRESTER, THE GERMAN LEGAL SYSTEM 21 (1972).

[33] *Id.* at 11.

[34] *Id.* at 12.

[35] Cohn, *supra* note 31, at 583.

[36] *Id.* at 584.

[37] *Id.*

eral Supreme Court (*Bundesgerichtshof*) is limited by statute to a very small number of attorneys.[38]

Although the organized legal profession has a monopoly over legal counseling as well as representation before courts and administrative bodies,[39] (here is a statutory provision for licensed legal consultants (*Rechtsbeistände*).[40] German citizenship is not required, but an applicant must make a showing of professional competence and good character.[41] Application is made to the president of the district court where the *Rechtsbeistand* desires to be established, and the consultative activity of the *Rechtsbeistand* is limited to the district of the court by which he is admitted.[42]

In addition to the legal professionals already mentioned there are in the civil law countries other legal professionals who play an important role in the legal system but who are not directly affected by the Directive. The most important of these professionals is the "notary," who bears only a faint resemblance to the Anglo-American functionary with the same title. For example, the French *notaire*, though restricted in his activities to a relatively small geographic area,[43] is allowed a rather extensive practice consisting primarily of documentary work. This includes all conveyancing of realty; drafting of wills, marriage contracts, and acts of incorporation; and authentication of instruments of all kinds.[44] The *notaire* has a monopoly on drafting mortgages and marriage settlements; he is generally retained to draw deeds of sale for real estate transactions and to draft documents for administering the estates of decedents, but his presence is not required by statute.[45] In the Federal Republic of Germany,[46] Italy,[47] and other civil law countries,[48] the "notary" plays a similar role.

For attorneys, the full implementation of Article 3 of the Treaty of Rome has two aspects: the right of establishment[49] and the right to provide services.[50] These two areas are related but distinguishable. The right of establishment includes the right to engage in self-employed activities and the right to set up and manage undertakings within the jurisdiction of any other Member State, subject only to the same municipal restrictions as

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[38] I. FORRESTER, *supra* note 32, at 13.
[39] Cohn, *supra* note 31, at 583.
[40] Comment, *supra* note 4, at 310.
[41] RGB art. 1, § 1.
[42] Comment, *supra* note 4, at 310.
[43] R. SCHLESINGER, COMPARATIVE LAW 272 (3d ed. 1970).
[44] R. DAVID, FRENCH LAW 65 (1972).
[45] Brown, *The Office of Notary in France*, 2 INT'L & COMP. L.Q. 60, 61-62 (1953).
[46] I. FORRESTER, *supra* note 32, at 22.
[47] CAPPELLETI, *supra* note 20, 99-102.
[48] R. SCHLESINGER, *supra* note 43, 15-17.
[49] Treaty of Rome, arts. 52-58.
[50] *Id.* arts. 59-66.

would be applied to the nationals of that Member State.[51] It presupposes an establishment, *i.e.*, a center of activity created within the second Member State from which business is conducted.[52] The problem of establishment for attorneys was at least partially solved in the case of *Reyners v. Belgian State.*[53] In *Reyners*, the plaintiff was fully qualified to enter the profession of an *avocat* in Belgium, except that he did not have Belgian nationality.[54] He was a resident in Belgium, he had done his legal studies in Belgium, and was the holder of a Belgian legal diplôma which would have entitled a Belgian national to be admitted to the Belgian bar. However, he was denied admission on the basis of a 1967 law which provided that no one could practice the profession of *avocat* who was not a Belgian national.[55] Plaintiff alleged that the law was in violation of Articles 52, 54, 55, and 57 of the Treaty of Rome, and the case was then referred by the *Conseil d' État* of Belgium, acting under Article 177 of the Treaty, to the Court of Justice of the European Communities.

The Court's decision in *Reyners* contained two important holdings. Because the transitional period for the gradual implementation of the Treaty had ended, the Court ruled that the provision guaranteeing the freedom of establishment could be directly enforced within Member States and did not need to be promulgated by means of a directive as provided for in Articles 54(2) and 57(1) of the Treaty. The second holding was that the performance of all the functions of an *avocat*—including counseling and representation in court—was not an exercise of official authority, and therefore could not be denied to non-nationals under Article 55(1), which provides that Members may exclude non-nationals from activities which are connected, even occasionally, with the exercise of official authority.[56] Therefore, plaintiff could not be kept from being admitted to the Belgian bar and establishing his practice in Belgium.

The right to provide services refers to the right of persons who are nationals of a Member State and who are established in a Member State to provide any of the services enumerated in Article 60—including professional services—in another Member State.[57] Ideally, an EEC national should be allowed to temporarily pursue his activity in the Member State where the service is to be rendered, subject to the same conditions as are imposed on the nationals of that State.[58] This issue was dealt with in *van*

[51] *Id.* art. 52(2).

[52] U. EVERLING, THE RIGHT OF ESTABLISHMENT IN THE COMMON MARKET 205 (1964).

[53] Court of Justice of the European Communities, Case No. 2/74, June 21, 1974. Reports of Cases Before the Court, 1974-1975, at 631; CCH COMM. MKT. REP. ¶ 8256 (1974).

[54] Reyners was a citizen of the Netherlands.

[55] CODE JUDICIARE (Belg.) art. 428 (Law of Oct. 10, 1967).

[56] CCH COMM. MKT. REP. ¶ 8256, at 9161-38 (1974).

[57] U. EVERLING, *supra* note 52, at 206.

[58] Treaty of Rome, art. 60.

Binsbergen v. Bestuur van de Bedrijfsvereniging voor de Metaalnijverheid.[59]

In *van Binsbergen*, plaintiff in a social security action in the Netherlands authorized a legal advisor who was a Dutch national established in the Netherlands to bring an appeal on his behalf before the *Centrale Raad van Beroep* in July 1972. In November 1973, the advisor was informed that because he had transferred his habitual residence from the Netherlands to Belgium he could no longer act as either an advisor or representative *ad litem* for plaintiff. The reason given was that the rules of procedure in social security courts allowed only persons established in the Netherlands to act as advisors or legal representatives in those courts.[60] The advisor invoked Article 59 of the Treaty of Rome, claiming that the law barring him from acting in the case was violative of the Treaty's guarantees of the freedom to provide services. The issue was referred, in accordance with Article 177 of the Treaty of Rome, to the Court of Justice of the European Communities for a preliminary ruling, where the Court found for plaintiff. Articles 59 and 60 of the Treaty of Rome were interpreted as meaning that a Member State cannot use a requirement of habitual residence to deny persons established in another Member State the right to provide services, where the provision of such services is not regulated by reasonable special provisions of national laws. These two articles of the Treaty of Rome are self-executing and may be relied on in the municipal courts, at least insofar as they seek to abolish any discrimination against a person providing a service based on his nationality or residence in a different Member State.

The *van Binsbergen* decision does not go so far as to say that a person admitted to the organized legal profession may freely provide services in Member States where he is not established, for in *van Binsbergen* the representative in question was not an *avocat*, but rather a legal advisor whose activities were not regulated by law or by a professional body.[61] If the legal practitioner is engaged in a non-regulated area of practice, then there can not, under the Treaty, be any bar to his practicing outside his own State or across national boundaries. If, however, the practitioner is in a regulated field, *e.g.*, an *avocat,* then he is subject to national regulations, with the caveat that such regulations may not be designed solely to discriminate against non-nationals. However, prior to the full implementation of the Directive, such laws may include the requirement that the practitioner have obtained a law degree in the State in which he desires to practice and have met all the other qualifications for admission to the profession in that Member State, such as being admitted to the local bar or being enrolled as a *conseil juridique.*[62]

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[59] Court of Justice of the European Communities, Case No. 33/74, Dec. 3, 1974. Reports of Cases Before the Court, 1974-1975, at 1299; CCH COMM. MKT. REP. ¶ 8282 (1975).

[60] BEROEPSWET (Neth.) art. 48(1) (Law of Feb. 2, 1955).

[61] CCH COMM. MKT. REP. ¶ 8282, at 7214 (1975).

[62] Treaty of Rome, art. 60(3).

The next logical step in developing freedom of movement for lawyers in the EEC is for the *van Binsbergen* rule to be extended to the regulated professions. This step is accomplished by the new Directive, which was originally submitted to the Council in September of 1975[63] and then referred to the Social and Economic Committee and to the European Parliament for comments.[64] As finally issued, the Directive[65] allows lawyers[66] to render all their professional services, including court appearances, in any Member State, subject to the conditions established by the host State in regard to lawyers' practice, with the important exception that there can be no requirement of residence in the host State or of affiliation with a professional organization in the host State.[67]

The Directive does not seek to allow any attorney admitted to practice in one Member State the right of establishment in another Member State without certification by the bar of the second Member State. What it does seek to provide is authorization to render services while visiting another Member State, including appearances in court, without the necessity of obtaining national certification.[68] It should be noted that the ability of a foreign *avocat* to appear in court is not discretionary under the Directive but rather mandatory,[69] although a Member State may require an *avocat* to be introduced to the presiding judge in accordance with local custom or require the foreign lawyer to work with a local lawyer in order to plead.[70] The right of a Member State to require that the foreign lawyer work with a local lawyer is intended to avoid the problem of allowing the foreign lawyer more freedom of movement than that allowed to nationals. In the Federal Republic of Germany, for example, a *Rechtsanwalt* who wishes to try a case in a district other than the one in which he is admitted must do his pleading through a *Rechtsanwalt* who is admitted in that district. If a French *avocat* were not required to obtain assistance from a *Rechtsanwalt*

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[63] 18 O.J. EUR. COMM. (No. C 213) 3 (1975).

[64] CCH COMM. MKT. REP. ¶ 9782, at 9731 n.3 (1975).

[65] Council Directive of March 22, 1977, 20 O.J. EUR. COMM. (No. L 78) 17 (1977) [hereinafter cited as Directive].

[66] "Lawyer" means persons exercising a professional activity under one of the following designations: *Avocat-Advocaat* (Belgium); *Advokat* (Denmark); *Rechtsanwalt* (Germany); *Avocat* (France); Barrister or Solicitor (Ireland); *Avvocato* (Italy); *Avocat-Avoué* (Luxembourg); *Advocaat* (Netherlands); Advocate, Barrister, Solicitor (United Kingdom). Directive, art. 1(2).

[67] *Id.* art. 4(1).

[68] *Id.* Preamble. Similar policies have also been implemented on a bilateral basis, *e.g.*, an agreement has been reached between England and the Paris bar under which a French lawyer may apply to appear before a judge in England or Wales provided he is led by a member of the English bar, and a member of the English bar has a right to appear before any Paris court so long as he is led by a French lawyer. *Halsbury's* Law of England Monthly Review 8 (Jan. 76).

[69] Directive, art. 1(1).

[70] *Id.* art. 5.

admitted in the district of the trial, he would have a considerable advantage over his German counterpart.[71]

A lawyer representing a client in legal proceedings is required by the Directive to observe the rules of professional conduct of the host state, without prejudice to his obligations under the professional rules governing his behavior in his home state.[72] When a lawyer engages in non-courtroom activities, he is to be governed by the professional rules of his home state, without prejudice to the rules which govern the profession in the host state.[73] "Without prejudice" means that in the case of conflict between the professional rules of the home state and the host state, the more restrictive rule would apply. Thus, if attorneys in the host state were allowed to engage in outside business, but attorneys in the home state were not permitted such activities, then the guest attorney would have to abide by the rules of his home state. If, however, attorneys in the home state were allowed outside business involvement but the host country prohibited such involvement, the guest attorney would be unable to engage in nonlegal business within the host state. He would, however, be allowed to engage in such business outside the host state. When the host country is Great Britain or Ireland, the visiting lawyer must follow the rules applicable to either barristers or solicitors, depending on whether the work done by the visiting attorney would normally be done in the host country by a barrister or a solicitor.[74]

Under the Directive, a lawyer will not adopt the professional title used by attorneys in the host state, but will rather continue to use whatever title he would be permitted to use in his home country.[75] Thus, a French *avocat* operating in the Federal Republic of Germany will still refer to himself as an *avocat*, and not as a *Rechtsanwalt*. This limitation is placed on the foreign attorney because the Directive is concerned solely with the freedom of provision of services and is not designed to provide for the mutual recognition of diplomas.[76] Article 6 of the Directive allows Member States to prohibit foreign lawyers who are the salaried employees of corporations or other undertakings from representing their employers. This provision exists because the professional organizations in some of the Member States frown on the idea of in-house counsel, and therefore, require that their members not be salaried employees but rather independant practioners. In Italy, for example, it is permissible for an *avvocato* to be given office space within company facilities by a corporation he represents, but he

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[71] Comment, CCH COMM. MKT. REP. ¶ 9782, at 9732 (1975).

[72] Directive, art. 4(2).

[73] *Id.* art. 4(4).

[74] *Id.* art. 4(3). When in the United Kingdom, Irish barristers must always follow the rules for United Kingdom barristers and Irish solicitors must always follow the rules which govern United Kingdom solicitors. The converse applies to the United Kingdom lawyer in Ireland.

[75] *Id.* art. 3.

[76] *Id.* Preamble, para. 8.

receives fees in the same manner as any other *avvocato*, and is, at least theoretically, as totally independent as his fellow *avvocato*, who practices law out of an office in his home.[77]

One great limitation placed on visiting lawyers by the Directive which was not present in earlier drafts[78] is the right given to the Member States to reserve to prescribed categories of lawyers the right to prepare formal documents to obtain title for administering estates and to create or transfer interests in land.[79] This provision is designed to protect the monopolies which notaries have in several of the Member States. In the Federal Republic of Germany, for example, it is required by statute that a *Notar* authenticate such documents as wills and real estate transactions.[80] Under the Directive, therefore, the Federal Republic of Germany could still require a French *avocat* to use the services of the proper *Notar* in a transfer of German land.

It should be noted that the Directive does not benefit attorneys from non-EEC countries who have establishments in the Member States, such as United States lawyers with offices in London or Paris. Under the Treaty of Rome, the freedom to provide services is extended only to nationals of Member States who are established within a Member State, although it is possible for this freedom to provide services to be extended to non-EEC nationals by a unanimous vote of the Council.[81] Given the present European reluctance toward allowing United States lawyers to operate within the Member States, it is highly unlikely that the privilege of providing legal services throughout the Common Market will be extended to American attorneys.[82]

The process of European integration is having its effect on the practice of law in the EEC. It is now theoretically possible for a citizen of one Member State to become admitted to the bar or give legal advice in unregulated sectors of the legal profession in any other Member State without becoming a citizen of the second State. Under the Directive, lawyers admitted to practice in one Member State will soon be able to make court appearances and render all other legal services in another Member State without having to meet any residency requirement in the second State or become a member of any professional association in the other State. Eventually, we can expect that a lawyer admitted to practice in any European Community country will be able to establish himself in any other State in the EEC without having to obtain national certification. It is interesting to find that the sovereign nations of Europe, despite centuries of conten-

[77] CAPPELLETTI, *supra* note 20, at 93.

[78] CCH COMM. MKT. REP. ¶ 9765 (1975); CCH COMM. MKT. REP. ¶ 9782, at 9733 (1975).

[79] Directive, art. 1(2).

[80] I. FORRESTER, *supra* note 32, at 22.

[81] Treaty of Rome, art. 59.

[82] Comment, *supra* note 4, at 317.

tious co-existence, are rapidly progressing toward a much more open system of transjurisdictional legal practice than exists between the states of the United States.

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