

# COMMISSION OF THE EUROPEAN COMMUNITIES

COM(76) 86 final.

Brussels, 8 March 1976.

AMENDMENTS TO THE  
AMENDED PROPOSAL FROM THE COMMISSION OF THE EUROPEAN COMMUNITIES TO  
THE COUNCIL FOR A DIRECTIVE TO FACILITATE THE EFFECTIVE EXERCISE BY  
LAWYERS OF FREEDOM TO PROVIDE SERVICES

(submitted by the Commission to the Council in accordance with  
Article 149, para. 2 of the EEC Treaty)

COM(76) 86 final.

I

Amended proposal from the Commission of the European Communities to the Council for a Directive to facilitate the effective exercise by lawyers of freedom to provide services ;

proposal submitted in accordance with the second paragraph of Article 149 of the Treaty

1. Article 1 (1) shall read as follows :

" 1. The provisions of this Directive shall apply, within the limits and under the conditions laid down by them, to the activities of lawyers carried on by way of provision of services. Notwithstanding anything contained in this Directive, Member States may reserve to prescribed categories of lawyers the drafting of legal documents relating to the sale and purchase of real property and matters of probate."

2. Article 1 (2) shall read as follows :

" 2. "Lawyer" means any person exercising his or her professional activities under one of the following designations:"

List of designations unchanged

3. Article 4 (1) shall read as follows :

" 1. The activities of lawyers relating to the representation and defence of a client before the courts shall be carried on in each host Member State under the conditions laid down in respect of lawyers established in that State, with the exception of any condition requiring residence (three words deleted) or registration with a professional organisation, in that State."

4. Article 5, second indent, shall read as follows :

" - they must work in conjunction with a lawyer who practises before the court in question and who would be, if necessary, responsible to the court in question, or with an "avoué" or "procuratore" practising at that court."

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(submitted by the Commission to the Council in accordance with Article  
149, para. 2 of the EEC Treaty).

5. Article 6 is ~~replaced~~ by the following text:

" 1. The professional organization in the host Member State may request the person providing the services to establish his qualifications as a lawyer." (11 words deleted)

" 2. In cases involving the exercise of the activities referred to in Article 4(1), in the event of a breach of the rules of professional conduct of the host Member State, the professional organization of the latter shall determine in accordance with its own rules and procedure the consequences of this behaviour, and to this end can obtain the transmission of the file of the person providing services. It shall inform the professional organization in the Member State from which he comes of any decision taken. Such communications do not alter the confidential character of the file."

II

EXPLANATORY MEMORANDUM for the amendments to be made to the amended proposal from the Commission of the European Communities to the Council for a directive to facilitate the effective exercise by lawyers of freedom to provide services.

Point 1

Although the proposal for a directive does not affect national regulations concerning the form, the conditions and the procedure relating to the drafting of the documents in question, it is desirable to add this phrase in order to facilitate the interpretation of the provisions of this directive in certain Member States.

Points 2, 3, 4 and 5

These drafting amendments are intended to clarify or to simplify the text.