

**Law**  
**Implementing the Directives of the European Community pertaining to the**  
**professional law regulating the legal profession \***

9 March 2000

The *Bundestag*, with the approval of the *Bundesrat*, has adopted the following law:

**Article 1**

**Law regulating the activity of European lawyers in Germany (EuRAG)**

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\* This law implements the following Directives:

In Article 1 § 1, § 2 to § 15, § 36 to § 42, Directive 98/5/EC of the European Parliament and of the Council of 16 February 1998 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 (OJ EC L077, p. 36); in Article 1 § 1, § 16 to § 24, § 36, § 40, Council Directive 89/48/EEC of 21 December 1988 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 (OJ EC L019, p. 16); in Article 1 § 1, § 25 to § 35, § 40, § 42 Council Directive 77/249/EEC of 22 March 1977 to facilitate the effective exercise by lawyers of freedom to provide services (OJ EC L078, p. 17).

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Part 1  
General Provisions

**§ 1**  
**Field of application *ratione personae***

This law regulates professional practice and admission to the profession of *Rechtsanwalt* in Germany with regard to nationals of the Member States of the European Union and of the other signatory States to the Agreement on the European Economic Area, who are entitled to practice as independent lawyers (European lawyers) under one of the professional titles listed in the annex to this provision.

Part 2  
Professional practice as established European lawyer

**Section 1**  
**General requirements**

**§ 2**  
**Establishment**

- (1) A European lawyer who, upon application, has been admitted to the Bar<sup>1</sup> having jurisdiction over the place where he is established, is entitled to practice in Germany as a lawyer under the professional title of his home State and in accordance with § 1 to § 3 of the Federal Lawyers' Act<sup>2</sup> (established European lawyer).
- (2) In order to be admitted to a Bar, the applicant must be registered as a European lawyer with the competent authority in the home State.

**§ 3**  
**Application**

- (1) Decisions on applications for admission to the Bar are taken by the Land administration of justice<sup>3</sup>.
- (2) Applications must include:
  1. proof of citizenship of a Member State of the European Union or of one of the signatory States to the Agreement on the European Economic Area;
  2. a certificate issued by the competent authority in the home State attesting to the European lawyer's membership of that profession. The Land administration of justice may require that, when presented, this certificate must not be more than three months old.
- (3) The application and obligatory supporting documents must be submitted in German, in so far as they are issued by the applicant; other documents, which are not in German, must be presented with a certified German translation.

**§ 4**  
**Procedure**

- (1) For decisions on the application as well as the withdrawal and revocation of the admission to the Bar, Part Two of the Federal Lawyers' Act with the exception of § 4, § 5, § 6 (1) and § 12 (3) applies *mutatis mutandis*.
- (2) The admission to the Bar also has to be revoked in accordance with § 14 (1) and (3) and § 16 of the Federal Lawyers' Act if the authorisation to exercise the profession in the home State is permanently withdrawn. If the permission to practice in the home State is withdrawn provisionally or temporarily, the admission to the Bar may be revoked.
- (3) The Land administration of justice informs the competent authority of the home State about the admission to the Bar as well as the withdrawal and revocation of the admission in order for that authority to be able to exercise its disciplinary control.

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<sup>1</sup> Rechtsanwaltskammer

<sup>2</sup> Bundesrechtsanwaltsordnung

<sup>3</sup> Landesjustizverwaltung

## **Section 2 Professional rights and duties**

### **§ 5 Professional title**

- (1) The established European lawyer shall use the professional title he is entitled to use in his home State pursuant to the laws of that State. A lawyer who is entitled to use the professional title of "Rechtsanwalt" shall also indicate the professional body of which he is a member in his home State.
- (2) The established European lawyer is entitled to use the title of "Mitglied der Rechtsanwaltskammer" (member of the Bar) for professional purposes. The title "Europäischer Rechtsanwalt" must not be used as a professional title or for advertising purposes.
- (3) Upon revocation of the admission to a Bar (§ 4), the established European lawyer must no longer use the professional title he is entitled to use in his home State pursuant to the laws of that State, in Germany.

### **§ 6 Professional status**

- (1) After admission to the Bar, the lawyer's legal status is subject to Parts Three, Four, Six, Seven, Nine to Eleven and Thirteen of the Federal Lawyers' Act.
- (2) Every year, the established European lawyer shall submit a certificate of the competent authority in the home State attesting to his membership of the profession.
- (3) The prohibition to represent clients according to § 114 (1) 4, § 150 and § 161a of the Federal Lawyers' Act shall apply to the entire federal territory. Exclusion from the profession, as provided for by § 114 (1) 5 of the Federal Lawyers' Act, is replaced by the prohibition to take care of another person's legal matters; upon entry into force of this decision, the convicted lawyer forfeits his membership of the Bar.
- (4) The established European lawyer shall cease his professional activity in Germany if the competent authority of the home State has provisionally, temporarily or permanently withdrawn his authorisation to exercise the profession.

### **§ 7 Professional indemnity insurance**

- (1) The established European lawyer is exempt from the duty to maintain a professional indemnity insurance as stipulated in § 51 of the Federal Lawyers' Act if he can prove to the Land administration of justice that he has subscribed an insurance or obtained a guarantee pursuant to the law of the home State, which is equal in terms of the conditions and the extent of coverage to the insurance according to § 51 of the Federal Lawyers' Act. If there is no equivalence, he shall contract additional insurance or guarantee in order to provide the protection which equally satisfies the requirements set out in § 51 of the Federal Lawyers' Act. Any supporting documents which are not originally issued in German shall be presented with a certified translation.
- (2) Where paragraph (1) applies, the established European lawyer shall annually provide the Land administration of justice with a certificate of the insurer, attesting to the conditions and the extent of coverage of the insurance. Furthermore, he shall promptly inform the Land administration of justice about the termination or cancellation of the insurance as well as any changes made to the insurance contract which affect the insurance cover as required under § 51 of the Federal Lawyers' Act. If he fails to comply with the duties set out in sentence 1 or in sentence 2, the admission to the Bar may be revoked. § 14 (2) 9 of the Federal Lawyers' Act remains unaffected.

### **§ 8 Joint practice in the home State**

- (1) A lawyer carrying on his activities in joint practice in his home State shall inform the Land administration of justice of the fact that he is a member of a grouping. He shall state the name and legal form of the grouping. The Land administration of justice may require him to provide further relevant information about this particular grouping.

- (2) The personal liability of the established European lawyer for claims made by the client on the grounds of damage caused by negligence will only be excluded or limited on account of the legal form of the grouping he belongs to in his home State, if he has contracted a professional liability insurance or guarantee which satisfies the conditions set out in § 59j of the Federal Lawyers' Act. § 7 applies *mutatis mutandis*.
- (3) The established European lawyer may employ the name of the grouping he belongs to in his home State in legal transactions. In that case he shall also mention the legal form of the grouping in his home State.

**Section 3**  
**Proceedings before the lawyers' disciplinary tribunals,**  
**service of documents**

**§ 9**  
**Obligation to furnish information,**  
**hearing in accordance with the law**

- (1) In order to assess if disciplinary measures have to be taken, the investigating public prosecutor's office informs the competent authority in the home State about the ascertained facts after having completed the investigation and before submitting the written accusation to the disciplinary tribunal, and sends a copy of the written accusation to the competent authority if the public prosecutor's office deems this necessary for the implementation of such measures.
- (2) In order to assess if disciplinary measures have to be taken, the competent authority in the home State shall be informed about:
  1. the decision on the opening of main proceedings
  2. the judgements
  3. the imposition of provisional measures imposed by the disciplinary tribunal, the abrogation and annulment of these measures
  4. the writ of defence
  5. the written appeal
  6. the written appeal on questions of law
  7. the written complaint

The duty to provide information lies with the tribunal which has taken the decision to be communicated, or to which the document subject to transmission was submitted. Information shall be provided by means of a copy of the decision which is sent directly to the competent authority in the home State.

- (3) If personal data which, according to paragraph (1) or paragraph (2), may be communicated, is connected with further personal data of the person concerned or of a third party in such a way that it cannot - or only with unjustifiable effort - be obtained separately, the transmission of this data is permitted, unless it is obvious that vested interests of the person or third party concerned in keeping this information confidential are stronger. It is not permitted to make use of this data. The recipient has to be advised as to the inadmissibility of the use of data on the third party, and that the data supplied on the person concerned must only be used for the purposes specified in paragraphs (1) and (2).
- (4) In disciplinary proceedings, the tribunal shall give the competent authority of the home State the opportunity to be heard. Representatives of the competent authority in the home State are admitted to in-camera court hearings.

**§ 10**  
**Service of documents**

Where it is impossible to assure service of documents within Germany in the way prescribed, in disciplinary proceedings and in proceedings according to § 56, § 57, § 74, § 74a of the Federal Lawyers' Act against a established European lawyer, and if it seems impossible or presumably futile to follow the provisions regarding service of documents abroad, the service is considered complete when a copy of the document to be served is sent to the competent authority in the home State and four weeks have passed since the document was posted.

Part 3  
Integration into the profession

**Section 1**  
**Admission to the legal profession after**  
**three years of professional practice**

**§ 11**  
**Conditions**

- (1) A lawyer who can prove that he has effectively and regularly for at least three years pursued an activity as established European lawyer in Germany, practising German law, including Community law, in accordance with § 12, is admitted to the profession of *Rechtsanwalt* according to the provisions of § 6 to § 42 of the Federal Lawyers' Act. Effective and regular pursuit means actual exercise of the profession without any interruption other than that resulting from the events of everyday life.
- (2) Interruptions of up to three weeks are usually interruptions resulting from the events of everyday life. Where interruption is longer, the specific circumstances of the individual case are decisive. The Land administration of justice takes into account the reasons for, as well as the duration and frequency of the interruption.
- (3) Where an interruption has occurred which is not resulting from the events of everyday life, the activity pursued up to that point will be taken into account in accordance with paragraph (1), sentence 1, provided an overall activity of at least three years can be proven and that the interruption is not a reason to consider that the activity was not effective and regular. The duration of such an interruption will not be taken into consideration for the calculation of the required three years of activity.

**§ 12**  
**Proof of professional practice**

- (1) The applicant shall provide proof as to the number of matters he has dealt with pertaining to German law and their nature as well as the duration of his activity. He shall provide the Land administration of justice with any information and documentation which can be used as evidence. The Land administration of justice may request the applicant to provide, orally or in writing, further detail on the information and documentation supplied. § 3 (3) shall apply.
- (2) As evidence proving activity in legal matters pertaining to German law, the applicant shall submit a list of cases which must as a rule include the following information: reference number, subject matter, duration of activity, the nature and scope of the activity, status of the matter. Upon request of the Land administration of justice, samples of the applicant's work, in which all data has been rendered anonymous, shall be presented.

**Section 2**  
**Admission after professional practice in German law**  
**for a lesser period**

**§ 13**  
**Conditions**

- (1) A lawyer who has effectively and regularly for at least three years pursued an activity as established European lawyer in Germany, but has practised German law for a lesser period, is admitted to the profession of *Rechtsanwalt* according to the provisions of § 6 to § 42 of the Federal Lawyers' Act, provided he can prove, according to § 14 and § 15, that he has the capacity to continue his activity.
- (2) For its decision, the Land administration of justice shall take into account the nature and scope of professional activity as well as any knowledge and professional experience of German law, and any attendance at lectures and seminars on German law, including the rules regulating professional practice and conduct of German *Rechtsanwälte*. § 11 (1), sentence 2, (2) sentence 3 applies *mutatis mutandis*.

#### **§ 14 Proof**

The applicant shall provide proof in accordance with § 12. In addition, he shall furnish the Land administration of justice with any information and documents which prove his knowledge and professional experience of German law. § 3 (3) shall apply.

#### **§15 Interview**

The Land administration of justice shall assess in an interview if the applicant has effectively and regularly pursued an activity as established European lawyer in Germany and in German law, and if he has the capacity to continue this activity. The subjects of the interview shall be chosen on the basis of the evidence of the applicant's professional practice and his other professional experience in the field of German law.

#### Part 4 Aptitude test

#### **§ 16 Aptitude test**

- (1) Nationals of European Union Member States or other signatory States to the Agreement on the European Economic Area, who have completed professional education and training which entitle them to direct access to the profession of a European lawyer (§ 1), can take an aptitude test in order to be admitted to the profession of *Rechtsanwalt*.
- (2) If the professional education and training were not mainly received in European Union Member States or other signatory States of the Agreement on the European Economic Area, only those applicants are entitled to take an aptitude test, who have exercised the profession of a European lawyer effectively and regularly for at least three years and where this is certified by the Member State or signatory State which recognised the education and training.

#### **§ 17 Purpose of the aptitude test**

The aptitude test is a state examination limited to the professional knowledge of the applicant, with the aim of assessing the applicant's ability to exercise the profession of *Rechtsanwalt* in the Federal Republic of Germany. The aptitude test must take account of the fact that the applicant is qualified to practise the profession of lawyer in another European Union Member State or signatory State to the Agreement on the European Economic Area.

#### **§ 18 Examination authority**

- (1) The aptitude test is carried out by the examination authority competent for the Second State Examination<sup>4</sup>.
- (2) Several *Länder* may agree to set up a joint examination authority. By agreement, the competence of an examination authority may be limited to carrying out aptitude tests for applicants from certain home States only.
- (3) The aptitude test is administered by an examining board consisting of at least three examiners. In the event of a tie, the Chairman shall have the casting vote. The law of the individual *Land* may provide that instead of by the board, written performances are assessed by two examiners which must not necessarily be members of the board. If the two examiners cannot reach an agreement as to whether the written examination meets the requirements, a third examiner, who is appointed by the examination authority, shall make the decision.
- (4) The examiners are independent in the performance of their duties.

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<sup>4</sup> Zweite Juristische Staatsprüfung

### **§ 19**

#### **Admission to the aptitude test**

- (1) Admission to the aptitude test is subject to the decision of the examination authority.
- (2) Admission to the aptitude test is refused, if the applicant fails to meet the legal requirements, or if he fails to submit the documents or make the declarations which will be prescribed by an ordinance with the force of law<sup>5</sup>.

### **§ 20**

#### **Examination subjects**

- (1) Examination subjects are one compulsory subject, which is civil law, two optional subjects and the legal provisions on the professional conduct of lawyers. The applicant chooses one optional subject in each of the two following groups:
  1. public law or criminal law,
  2. commercial law, labour law, areas of civil law which are not covered by the compulsory subject, public law or criminal law.

The applicant must not choose the same optional subject in both groups.

- (2) The examination covers certain areas of the compulsory subject and of both optional subjects, which are to be determined in greater detail by an ordinance with the force of law, as well as the respective procedural law, including the fundamentals of the laws on the constitution of the courts and tribunals, on executions and on insolvency law.

### **§ 21**

#### **Examination elements**

- (1) The examination consists of a written and an oral test. The examination is taken in German.
- (2) The written test consists of two papers written under supervision. One paper relates to the compulsory subject, the other to the optional subject chosen by the applicant.
- (3) The applicant is only admitted to the oral test, if at least one written test paper satisfies the requirements; otherwise the applicant is considered to have failed the examination.
- (4) The oral test consists of a presentation and an interview. The oral test covers the rules governing the professional conduct of lawyers, the optional subject, in which the applicant has not taken a written examination and, if one of the written examinations is unsatisfactory, the oral test will also cover the subject of that examination.

### **§ 22**

#### **Decision on the test result**

The examining board decides on the basis of the overall performance in the written and oral examinations and by a majority vote, if the applicant possesses the knowledge required under § 17.

### **§ 23**

#### **Objections**

- (1) The applicant may object in writing to the assessment of his performance.
- (2) If the applicant is admitted to the oral examination, he has to put forward his objections to the examination authority (§ 18): to the assessment of the written examinations no later than one month after the publication of the test result; to the assessment of the oral performance immediately after the publication of the result. Further details to substantiate his objections to the result of the written examinations shall be provided no later than two months after the publication of the written test result, and no later than one month after publication of the oral assessment.
- (3) If the applicant is not admitted to the oral examination, he has to put forward his objections to the assessment of the written examinations to the examination authority no later than one month after the publication of the test result and must provide further details to substantiate his objections in writing no later than two months after the publication of the test result.

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<sup>5</sup> Rechtsverordnung

- (4) If the objections are not in conformity with paragraphs (1) to (3), they will be rejected by the examination authority. In all other cases they will be transmitted to the respective examiners for them to evaluate their assessment.

#### **§ 24** **Repetition of the examination**

It is possible to repeat the examination.

### Part 5 Temporary provision of services

#### **§ 25** **Temporary activity**

- (1) A European lawyer may, provided he provides services in accordance with Article 50 of the Treaty Establishing the European Community, pursue the activities of a lawyer in Germany temporarily, in keeping with the following provisions (European lawyer providing services).
- (2) Paragraph (1) does not apply to European lawyers who must not exercise the profession of lawyer because
1. they are not admitted to the profession for one of the reasons set out in § 7, Nr. 1, 2, 4 to 6 of the Federal Lawyers' Act and there is no possibility of appeal; or, the admission has been revoked for one of these reasons and in accordance with § 14 (2), Nr. 1 of the Federal Lawyers' Act and the revocation is incontestable, as long as the reason for the non-admission or the revocation persists,
  2. the admission has been revoked in accordance with § 14 (2), Nr. 2 of the Federal Lawyers' Act, and the revocation is incontestable,
  3. they have been sanctioned, with final and binding effect, with exclusion from the legal profession in accordance with § 114 (1), Nr. 5 of the Federal Lawyers' Act.

If a European lawyer is forbidden, in accordance with § 70 of the Criminal Code<sup>6</sup>, § 132a of the Code of Criminal Procedure<sup>7</sup> or § 150 of the Federal Lawyers' Act, to exercise the legal profession, paragraph (1) shall not apply for the duration of the prohibition. If a person is forbidden to represent clients as provided for by § 144 (1), Nr. 4, § 150 or § 161a of the Federal Lawyers' Act, paragraph (1) shall not apply to the activities covered by the prohibition to represent.

#### **§ 26** **Professional title, proof attesting status of lawyer**

- (1) Regarding the use of the professional title, § 5 (1) and (2) sentence 2 applies *mutatis mutandis*.
- (2) Upon request, the European lawyer providing services has to furnish the Bar which is competent according to § 32 (4), the court or authority before which he appears, with proof that he is entitled to exercise the profession in the home State. If this request is made, he may pursue the activities covered in this Part of the Law only after proof has been provided.

#### **§ 27** **Rights and duties**

- (1) In the context of the representation or defence of a client in legal proceedings or before an administrative authority, the European lawyer providing services has the status of *Rechtsanwalt* and in particular the same rights and duties, insofar as these are not related to Bar membership or to the lawyer's office. Limitations of the authority to represent clients which result from the requirement that a lawyer must be admitted to a particular court, only apply to the representation of clients before the Federal Supreme Court of Justice<sup>8</sup>. In cases on appeal in the division for civil matters at the Higher Regional Courts<sup>9</sup>, where the principle of exclusive admission according to §

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<sup>6</sup> Strafgesetzbuch

<sup>7</sup> Strafprozeßordnung

<sup>8</sup> Bundesgerichtshof

<sup>9</sup> Oberlandesgerichte

25 of the Federal Lawyers' Act applies, he may only represent a client before that court if he did not represent that client in proceedings in the first instance.

- (2) A lawyer pursuing other activities shall comply with the rules applicable to a German *Rechtsanwalt*; he shall in particular fulfil the professional duties ensuing from § 43, § 43a, § 43b and § 45 of the Federal Lawyers' Act. These rules are applicable only insofar as they are not inseparably linked with the establishment as a lawyer in Germany, insofar as they are of general importance and can therefore be adhered to, and insofar as the requirement to respect these rules is justified with a view to ensuring the proper exercise of a lawyer's activities and to safeguarding the reputation and position of trust, which the status of lawyer requires.

### § 28

#### Representation and defence in legal proceedings

- (1) In proceedings before the courts as well as in administrative proceedings relating to criminal offences, breaches of administrative regulations, misfeasance in office or professional misconduct, in which the client cannot conduct his case or defend himself, the European lawyer providing services may act as representative or as defending counsel only in conjunction with a *Rechtsanwalt*.
- (2) The *Rechtsanwalt*, in conjunction with whom he must act, must be authorised to represent or defend clients before the court or administrative authority in question. It is the *Rechtsanwalt's* duty to use his influence so that the European lawyer providing services fulfils the requirements of proper administration of justice when acting as representative or defending counsel.
- (3) There is no contractual relationship between the *Rechtsanwalt* and the client, unless the parties involved decide otherwise.
- (4) § 52 (2) of the Federal Lawyers' Act shall apply *mutatis mutandis* to the European lawyer providing services.

### § 29

#### Proof of work in conjunction, revocation

- (1) Proof of work in conjunction shall be submitted in writing when the first step before the court or the administrative authority is taken.
- (2) A revocation of the conjunction shall be declared in writing to the court or the administrative authority. It has effect only for the future.
- (3) Any steps in respect of which conjunction is not proved at the time when they are taken, have no effect.

### § 30

#### Special rules for defence cases

- (1) A European lawyer providing services may not visit a client held in custody following a court order or an order of an administrative authority in criminal proceedings, unless accompanied by the *Rechtsanwalt* with whom he is working in conjunction in accordance with § 28 (1), and cannot correspond with that client except through that German lawyer. An agreement has to be established with the *Rechtsanwalt* concerning visits and correspondence.
- (2) The court or the administrative authority may allow unaccompanied visits or direct correspondence, provided this does not constitute a security risk.
- (3) § 138a to § 138d, § 146, § 146a and § 148 of the Code of Criminal Procedure as well as § 26, § 27 (3), §29 (1) and § 31 (4) of the German Law on the Execution of Custodial Sentences<sup>10</sup> apply *mutatis mutandis* to the *Rechtsanwalt* working in conjunction.

### § 31

#### Service of documents in administrative and judicial proceedings

- (1) The European lawyer providing services shall designate a *Rechtsanwalt* authorised to accept service as soon as he starts acting in proceedings before the courts or administrative authorities. The designation is effected with respect to the administrative authority or the court. Service of

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<sup>10</sup> Strafvollzugsgesetz

documents intended for the European lawyer providing services shall be effected to the authorised *Rechtsanwalt*.

- (2) Where there is no designated *Rechtsanwalt* authorised to accept service of documents, the *Rechtsanwalt* working in conjunction with the European lawyer providing services in the proceedings mentioned in § 28 (1) is considered to be the authorised lawyer; if documents cannot be served to a lawyer established in Germany, documents will be served to the party.

### **§ 32 Disciplinary control, competent Bar**

- (1) European lawyers providing services are subject to the disciplinary control of the competent Bars. In particular, it is incumbent on the Council of the competent Bar:
1. to advise and instruct lawyers in questions relating to their professional duties;
  2. to control that professional rules are complied with and to exercise the right to reprimand a lawyer;
  3. to inform the competent authority in the home State about decisions taken with respect to the European lawyer providing services;
  4. to gather the necessary professional information concerning European lawyers providing services;
  5. to mediate, upon request, in cases of dispute between European lawyers providing services and *Rechtsanwälte*.
- (2) The Council may transfer the tasks enumerated in paragraph (1), subparagraphs 1 and 3 to 5 to individual Council members.
- (3) § 56, § 57, § 74, § 74a and § 77 of the Federal Lawyers' Act apply *mutatis mutandis*.
- (4) Competence of a Bar in disciplinary matters according to paragraph (1) is assigned depending on the State where the European lawyer providing services is established. Disciplinary control regarding European lawyers providing services is assigned as follows:
1. lawyers from Belgium and the Netherlands are subject to the Rechtsanwaltskammer Düsseldorf in Düsseldorf,
  2. lawyers from France and Luxembourg are subject to the Rechtsanwaltskammer Koblenz in Koblenz,
  3. lawyers from the United Kingdom, Ireland, Finland and Sweden are subject to the Hanseatische Rechtsanwaltskammer in Hamburg,
  4. lawyers from Italy and Austria are subject to the Rechtsanwaltskammer für den Oberlandesgerichtsbezirk München in Munich,
  5. lawyers from Denmark, Norway and Iceland are subject to the Schleswig-Holsteinische Rechtsanwaltskammer in Schleswig,
  6. lawyers from Liechtenstein are subject to the Rechtsanwaltskammer in Freiburg,
  7. lawyers from Greece are subject to the Rechtsanwaltskammer in Celle,
  8. lawyers from Spain are subject to the Rechtsanwaltskammer Stuttgart in Stuttgart,
  9. lawyers from Portugal are subject to the Rechtsanwaltskammer Oldenburg in Oldenburg.

### **§ 33 Disciplinary jurisdiction regarding lawyers, duties relating to the provision of information, service of documents**

- (1) Regarding the fulfilment of his professional duties, the European lawyer providing services is subject to the jurisdiction of the disciplinary tribunals for the legal profession. The competent local disciplinary tribunal is the tribunal at the seat of the Bar exercising disciplinary control in accordance with § 32.
- (2) § 9 and § 10 apply *mutatis mutandis*.

**§ 34**  
**Sanctioning of professional misconduct**  
**by the disciplinary tribunals,**  
**provisional measures taken by the**  
**disciplinary tribunals**

Regarding sanctions applied by the disciplinary tribunals in the event of professional misconduct and provisional measures taken by these courts, the European lawyer providing services is subject to the provisions of Part 6 and Part 7 of the Federal Lawyers' Act and the following provisions:

1. the prohibition according to § 114 (1), Nr. 4 and the provisional measures according to § 150 (1) and § 161 a must only apply to the territory of the Federal Republic of Germany;
2. exclusion from the legal profession is replaced in § 114 (1), Nr. 5, § 114a (3) sentence 1, § 148 (1) sentence 1, §149 (1) sentence 1, § 150 (1), § 153 sentence 1, § 156 (1) and § 158, Nr. 1 by the prohibition to provide services in Germany;
3. notification as provided for by § 160 (1), § 161a (2) shall be made to all Land administrations of justice;
4. § 160 (2) and § 161 shall not be applied.

**§ 35**  
**Contesting administrative acts**

Administrative acts, issued in accordance with the provisions of this Part of the Law, may be contested in accordance with § 223 of the Federal Lawyers' Act. If an application for issue of an administrative act according to these provisions is not decided upon, without good reason, within three months, § 223 (2) of the Federal Lawyers' Act shall apply.

Part 6  
Rules of procedure

**§ 36**  
**Certificates issued by the State**  
**from which the foreign national comes or by the State of origin**

Insofar as decisions in accordance with Part 1, Part 2 or Part 3 of the present Law require that

1. certificates or documents attesting to the fact that no serious professional misconduct, criminal offence or other reasons are known, which make the applicant's suitability for the profession of lawyer questionable,
2. certificates or documents attesting to the fact that the applicant has not been declared bankrupt,
3. certificates attesting to the physical or mental health,
4. certificates attesting to good character or repute

of the State from which the foreign national comes or by the State of origin be submitted or requested, a certificate or document in terms of Article 6 of Council Directive 89/48/EEC of 21 December 1988 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 (OJ EC L019, p. 0016), is sufficient.

**§ 37**  
**Co-operation with the competent authorities in other countries**

The Land administration of justice shall afford assistance if the competent authority of the State of origin requests such assistance with reference to Directive 98/5/EC of the European Parliament and of the Council of 16 February 1998 to facilitate practice of the profession of lawyer on a permanent basis in a Member State other than in which the qualification was obtained (OJ EC L 077, p. 0036).

**§ 38**  
**Transmission of personal data**  
**relating to lawyers admitted in Germany**

- (1) In the event of withdrawal or revocation of the admission of a lawyer established in a European Union Member State or a signatory State to the Agreement on the European Economic Area under his original professional title, in accordance with § 14 of the Federal Lawyers' Act, the Land administration of justice shall inform the competent authority in the host State, with a view to the assessment of disciplinary measures.
- (2) The provisions contained in § 9 shall equally apply to lawyers admitted in Germany and established under their original professional title in other European Union Member States or signatory States to the Agreement on the European Economic Area.

**§ 39**  
**Fees**

For admission to the Bar in accordance with § 2 and for integration in accordance with § 11 and § 13, a fee of 250 Deutsche Mark respectively is charged, no matter if the European lawyer is admitted to one court or several courts simultaneously. § 192 (1) sentence 2, (2) and (3), as well as § 194 of the Federal Lawyers' Act shall apply *mutatis mutandis*.

Part 7  
 Authorisation, delegation of powers

**§ 40**  
**Authorisation**

- (1) The Federal Ministry of Justice is authorised to adapt the annex to § 1 by way of an ordinance with the force of law, which does not require the consent of the *Bundesrat*, if there are changes relating to the circle or the titles of the enumerated professions, or relating to the number of European Union Member States or the signatory States to the Agreement on the European Economic Area.
- (2) The Federal Ministry of Justice is authorised to make provisions by way of an ordinance with the force of law subject to the consent of the *Bundesrat*, regarding the details of the aptitude test, in particular with respect to
  1. compulsory and optional subjects,
  2. admission to the test,
  3. examination procedure,
  4. performance of the examinee,
  5. consequences of behaviour contrary to regulations,
  6. waiving certain parts of the examination,
  7. repeating the examination and the number of possible repetitions,
  8. levying a fee.

**§ 41**  
**Delegation of powers**

- (1) The Land administrations of justice may delegate powers which they have been given by the present Law to subordinate authorities.
- (2) The governments of the *Länder* are authorised to delegate, in full or in part, the tasks and powers given to the Land administration of justice according to Part 2, Part 3 and Part 6 of the present Law, to the Bars by way of an ordinance with the force of law. The governments of the *Länder* may transfer this authorisation to the Land administration of justice by way of an ordinance with the force of law.
- (3) § 224a (2) to (5) of the Federal Lawyers' Act applies accordingly.

Part 8  
Final provisions

**§ 42**  
**Application of provisions of the Criminal Code**

- (1) With respect to the application of the provisions contained in the Criminal Code regarding exemption from punishment in the event of failure to report planned criminal activity (§ 139 (3) sentence 2), disclosure of private secrets (§ 203 (1), Nr. 3, (3) to (5), § 204, § 205), excessive levying of fees (§ 352) and betrayal of clients (§ 356), European lawyers are treated like *Rechtsanwälte*.
- (2) For the protection of the professional titles enumerated in the annex to § 1, the provision on the protection of the professional title "Rechtsanwalt" contained in § 132 a (1), Nr. 2, (2) of the Criminal Code shall apply *mutatis mutandis*.

**Annex to § 1**

The profession of lawyer in European Union Member States and  
other signatory States to the  
Agreement on the European Economic Area

- Belgium	Avocat/Advocaat/Rechtsanwalt
- Denmark	Advokat
- Finland	Asianajaja/Advokat
- France	Avocat
- Greece	Δζηκηγόρος
- United Kingdom	Advocate/Barrister/Solicitor
- Ireland	Barrister/Solicitor
- Italy	Avvocato
- Luxembourg	Avocat
- Netherlands	Advocaat
- Austria	Rechtsanwalt
- Portugal	Advogado
- Sweden	Advokat
- Spain	Abogado/Advocat/Avogado/Abokatu
- Iceland	Lögmaur
- Liechtenstein	Rechtsanwalt
- Norway	Advokat