



Judgment in Case C-431/17

Monachos Eirinaios v Dikigorikos Syllogos Athinon

The Greek legislation prohibiting a monk who has the status of lawyer in another Member State from registering at the bar, on account of the incompatibility between the status of monk and the profession of lawyer, is contrary to EU law

On 12 June 2015, Monachos Eirinaios (Monk Irenaeus), a monk at the Holy Monastery of Petra which is in Karditsa (Greece), requested the Dikigorikos Syllogos Athinon (Athens Bar Association, Greece; ‘the DSA’) to enter him on the special register of the Athens Bar as a lawyer having acquired that professional status in another Member State, namely in Cyprus. The DSA rejected the application on the basis of the national provisions relating to the incompatibility between practice of the profession of lawyer and the status of monk, taking the view that those provisions also apply to lawyers wishing to practise in Greece under their home-country professional title. Monachos Eirinaios challenged that decision before the Symvoulio tis Epikrateias (Council of State, Greece).

It was in that context that the Symvoulio tis Epikrateias asked the Court of Justice whether the prohibition on a monk of the Church of Greece being registered as a lawyer with the competent authority of a Member State other than that in which he obtained his professional qualification, in order for him to practise in that Member State as a lawyer under his home-country professional title, is compatible with EU law.

In today’s judgment, the Court interprets Directive 98/5/EC,¹ the purpose of which is to facilitate practice of the profession of lawyer on a permanent basis in a self-employed or salaried capacity in a Member State other than that in which the professional qualification was obtained. The Court notes that **the directive establishes a mechanism for the mutual recognition of the professional titles of migrant lawyers wishing to practise under the professional title obtained in the home Member State**, harmonising fully the preconditions for exercise of the right of establishment conferred by the directive.

Thus, the Court has already held that **the presentation to the competent authority of the host Member State of a certificate attesting to registration with the competent authority of the home Member State is the only condition to which registration of the person concerned in the host Member State, enabling him to practise there under his home-country professional title, may be subject**. The national legislature cannot add further conditions to the preconditions for registration with the competent authority of the host Member State. Indeed, a distinction should be drawn between, on the one hand, registration with the competent authority of the host Member State, which is subject solely to the condition of presentation of a certificate attesting to registration with the competent authority of the home Member State, and, on the other, the practice itself of the profession of lawyer in the host Member State, in respect of which the lawyer is subject to the rules of professional conduct applicable in that Member State.

¹ 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 1998 L 77, p. 36).

The Court finds that **rules of professional conduct**, unlike those concerning the preconditions for registration, **have not been harmonised and may therefore differ considerably between the home Member State and the host Member State**. In that regard, the Court states that it is permissible for the national legislature to prescribe such guarantees provided that the rules laid down for that purpose do not go beyond what is necessary in order to attain the objectives pursued.

The Court points out, however, that, **in order for the rules of professional conduct applicable in the host Member State to be in compliance with EU law, they must in particular comply with the principle of proportionality, which means that they are not to go beyond what is necessary in order to attain the objectives pursued**. It is for the Symvoulio tis Epikrateias to carry out the necessary checks in respect of the rule regarding incompatibility at issue.

The Court concludes that **national legislation which prohibits a monk who has the status of lawyer, and who is registered as a lawyer with the competent authority of the home Member State, from registering with the competent authority of the host Member State in order to practise there under his home-country professional title is contrary to the directive**.

NOTE: A reference for a preliminary ruling allows the courts and tribunals of the Member States, in disputes which have been brought before them, to refer questions to the Court of Justice about the interpretation of European Union law or the validity of a European Union act. The Court of Justice does not decide the dispute itself. It is for the national court or tribunal to dispose of the case in accordance with the Court's decision, which is similarly binding on other national courts or tribunals before which a similar issue is raised.

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The [full text](#) of the judgment is published on the CURIA website on the day of delivery.

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