
CCBE

**CONSEIL DES BARREAUX DE
L'UNION EUROPEENNE RAT DER
ANWALTSCHAFTEN DER
EUROPÄISCHEN UNION CONSEJO DE
LOS COLEGIOS DE ABOGADOS DE LA
UNION EUROPEA CONSIGLIO DEGLI
ORDINI FORENSI DELL'UNIONE
EUROPEA RAAD VAN DE BALIES
VAN DE EUROPESE UNIE CONSELHO
DAS ORDENS DE ADVOGADOS DA UNIÃO
EUROPEIA SYMBOYΛIO ΤΩΝ
ΔΙΚΗΓΟΡΙΚΩΝ ΣΥΛΛΟΓΩΝ ΤΗΣ
ΕΥΡΩΠΑΙΚΗΣ ΕΝΩΣΗΣ RADET FOR
ADVOKATERNE I DEN EUROPÆISKE
FAELLESKAB EUROOPAN UNIONIN
ASIANAJAJALIITTOJEN NEUVOSTO
RAD LÖGMANNAFELAGA I
EVROPUSAMBANDINU RÅDET FOR
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EUROPEISKE FELLESKAP RÅDET FOR
ADVOKATSAMFUNDEN I DEN
EUROPEISKA UNIONEN COUNCIL OF
THE BARS AND LAW SOCIETIES OF THE
EUROPEAN UNION**

**INBOUND POSITION OF THE CCBE VIS-À-VIS REQUESTS FOR
LIBERALISATION FROM THIRD COUNTRIES (OUTSIDE THE EU)**

inbound position of the CCBE vis-à-vis requests for liberalisation from third countries (outside the EU)

Cross-border legal services were a very important and rather controversial issue in the negotiations that led to GATS 1994. At the centre of the controversy was mode 3, i.e. the delivery of legal services by a lawyer from a home country through a commercial presence in the host country. In many states the particular role of an independent lawyer either as advisor or as defender of the legal rights of citizens in the system of justice is recognised and the function of a lawyer and the core values and rules governing the legal profession have strong historic roots and are embedded in the legal and social system of many states. This fact which distinguishes the legal profession from other service providers made liberalisation of cross-border legal services under GATS 1994 quite difficult.

The CCBE in connection with GATS 1994 was not able to express a uniform inbound position, largely due to the afore described function and specificities of a lawyer in society. Probably the majority of CCBE member organisations accepted the so-called concept of the Foreign Legal Practitioner (FLP) under which the foreign lawyer is practising in the host country under his home title. However, a significant minority at that time rejected the FLP concept and instead followed the concept of full integration according to which the foreign lawyer can practice in the host country only after he has become a fully integrated member of the legal profession in the host country.

Today, in connection with GATS 2000, the CCBE member organisations are prepared to apply the FLP concept to lawyers from states outside the EU as follows, with the term "home country" standing for a EU Non-member State and the term "host country" standing for an EU Member State.

- a) The FLP is recognised by the host country on the basis of Art. VII GATS 1994, provided he is a member of a comparable independent regulated bar with a code of conduct in line with the code of conduct of the CCBE and its member organisations and has a sufficient and comparable education or experience obtained, requirements met or licences or certifications granted in his home country.
- b) The FLP registers as such with the bar and/or competent authorities of the host country.
- c) The professional conduct of the FLP in the host country is regulated under the ethical rules of the bar and/or competent authorities of the host country.
- d) The FLP may practice in the host country under his home title.
- e) The FLP may give legal advice under his home country law.
- f) The FLP is not permitted to representation in court.

- g) The FLP may associate with host country lawyers, to the extent permitted to them, for the joint exercise of the profession.

The afore described position of the CCBE is the minimum common position on which all CCBE member organisations are in agreement. It is entirely up to the individual EU Member States to decide how far they want to go in further liberalisation. In particular it is not the intention of the CCBE that any additional liberalisation should be removed that may already be in effect in any given EU Member State as a result of commitments undertaken in GATS 1994 or granted by mutual recognition or unilaterally in accordance with Art. VII GATS 1994, nor is it intended by the CCBE to preclude any additional liberalisation that any given EU Member State may be prepared to make in the future in the context of GATS 2000 or in accordance with Art. VII GATS 1994.

Already today, the inbound position of most if not all EU Member States is more liberal than the inbound position of many if not most other WTO Member States. The position described here will render the position of the EU Member States as regards foreign lawyers even more liberal. All of this should give particular weight to the requests for further liberalisation by other WTO Member States that are part of the outbound position of the EU and its Member States.