
Practical Guide for EU, EEA and Swiss Lawyers on Service and Establishment

BELGIUM

SEPTEMBER 2018

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If an error is identified, please bring it to the attention of the CCBE which will correct it, where appropriate.

This table essentially contains information from the association of Flemish speaking Bars OVB (Orde van Vlaamse Balies), in particular from the Dutch-speaking bar of Brussels, and the association of French and German Speaking Bars OBF (Ordre des Barreaux Francophones et Germanophones).

Structure	Information received
1. Establishment	
1.1. Registration with Host Bar	<p>A European lawyer must register with the local Belgium Bar on the list of European lawyers ("EU-List").</p> <ul style="list-style-type: none">- The lawyer must use the standard application form for registration (e.g. this form can be downloaded from the NOAB website).- The application form must be accompanied by a number of documents identified in the form. <p>In particular, the lawyer must provide the Bar Council with a certificate attesting his/her registration with the Bar of his/her Member State of origin. The certificate shall mention all disciplinary proceedings that have been commenced in the home member state. The certificate may not be more than three months old.</p> <ul style="list-style-type: none">- The applicant lawyer must also provide evidence of existing professional indemnity insurance. <p>European lawyers who are members of a Bar must pay a membership fee (2017 - NOAB: 1800 €;</p> <p>-French Bar of Brussels: calculated by reference to half of their professional income in Belgium and abroad, after deduction of bailiff expenses, legal expenses and costs of associated lawyers: e.g.:</p> <ul style="list-style-type: none">- From €150,000.01 up to €200,000: €2,780- From €200,000.01 up to €300,000: €3,189 <p>No other fees (except for social security and so on)</p>

	Relevant national provisions in reference to Article 3 Directive: Title I bis of Book III of Judicial Code, art. 477quinquies
1.2. Title	<p>A lawyer on the EU-List must exercise the profession of lawyer under his/her home-country professional title.</p> <p>Relevant national provision in reference to Article 4 Directive 98/5:</p> <ul style="list-style-type: none"> - Title I bis of Book III of Judicial Code, art. 477quinquies
1.3. Salaried practice	<p>The lawyer practice by a lawyer registered on the EU-list is incompatible with remunerated employment relations or activities, whether in the public or private sector, unless they do not jeopardise the lawyer's independence and the dignity of the Bar (Art. 477sexies, §4, Judicial Code).</p> <p>OBFGB/barreau de Bruxelles: salaried practice is allowed.</p> <p>OVB does not allow for salaried practice, see article 142 of the Code of Ethics for Lawyers: "Article 142 (art. III.2.10.1)"</p> <p>A lawyer exercises his profession as a self-employed person, to the exclusion of any relationship of subordination."</p>
1.4. Legal Form and Shareholding	<p>European lawyer who is a member of a law firm in his or her home Member State may carry out his or her professional activities in Belgium in a branch or subsidiary of that foreign law firm. However, where the fundamental rules governing that grouping in the home Member State are incompatible with the fundamental rules laid down by Belgian laws or regulations, the latter rules shall prevail insofar as compliance therewith is justified by the public interest in protecting clients and third parties.</p> <p>Notwithstanding the above, the Council of the Bar with which a European lawyer is registered may refuse to allow a lawyer to practice in Belgium in his or her capacity as member of a grouping in which some members are not lawyers. In this context, Article 477octies, §5, al. 2 of the Judicial Code provides that a grouping includes members who are not lawyers if at least one of the following conditions is satisfied:</p> <ul style="list-style-type: none"> a) the capital of the grouping is held entirely or partly by persons who do not have the status of lawyer within the meaning of the provisions of the Judicial Code; b) the name under which it practices is used by persons referred to in a); c) the decision-making power in that grouping is exercised, as a matter of law or practice, by persons referred to in a). <p>Legal forms and shareholdings which are allowed:</p> <p>« Société privée à responsabilité limitée unipersonnelle » for solo lawyers (art . 4.14 §2 of OBFGB Code of deontology)</p> <p>Any form of common legal form if civil nature, i.e. :</p> <ul style="list-style-type: none"> - « sociétés en nom collectif » - « sociétés en commandite simple » - « sociétés coopératives », or - « sociétés privées à responsabilité limitée » <p>See art. 4.17 of of OBFGB Code of deontology</p> <p>See chapters V.1-V.3 of the OVB Code of Ethics for lawyers (on the organization of the office)</p>

1.5. Joint Practice	Article 477octies §§ 1 to 4 of the Belgian Judicial Code deals with the joint practice of lawyers. The joint practice is allowed.
1.6. Areas of Activity	<p>A lawyer on the EU-List may carry out the same professional activities in Belgium as fully qualified members of the Belgian Bars. In particular, a lawyer on the EU-list may give legal advice on the law of his or her home Member State, the law of the European Union, international law and Belgian law.</p> <p>The European lawyer is not subject to any mandatory pro bono assignments.</p> <p>He or she may also carry on activities relating to the representation and defense of clients in the Belgian courts provided that he or she acts in court in cooperation with a fully qualified lawyer who is enrolled on the Tableau of Lawyers.</p> <p>Also, prior to the hearing (civil or criminal court), the fully qualified lawyer must introduce the European lawyer to the President and judges comprising the court.</p> <p>Like any fully qualified lawyer on the Tableau, a European lawyer may plead and file briefs of arguments before any court, except the Belgian Supreme Court (Cour de Cassation) where the law requires the intervention of a Supreme Court lawyer for claims in civil and commercial matters. Furthermore, a lawyer wishing to intervene before the Supreme Court in criminal matters must be the holder of a certificate attesting formation in cassation proceedings in criminal matters.</p> <p>The remuneration of the fully qualified lawyer who assists the European lawyer will be agreed between them or will be established by the Belgian lawyer within reasonable limits. There are no official fee schedules.</p> <p>Relevant national provision:</p> <ul style="list-style-type: none"> - Title I bis of Book III of Judicial Code, art. 477sexies
1.7. Practice Rules	<p>A lawyer on the EU-List shall mention on all documents and supporting instruments, including electronic mail, used in his/her professional activities: a) the Bar where he or she is registered (e.g. NOAB of French Bar of Brussels); b) his or her home-country professional title; c) the professional body of which he or she is a member in his/her home Member State or the judicial authority before which he or she is entitled to practice pursuant to the laws of his/her home Member State.</p> <p>The professional title and information mentioned above must be expressed in the official language or official languages of the home Member State of the lawyer and at least in the language or languages of the judicial district in which the Bar with which the lawyer is registered is located.</p> <p>Relevant national provisions:</p> <ul style="list-style-type: none"> - Code of Deontology OBFG art. 4.6 to 4.13 - See also in particular chapters III.1 – III.1.9 (relation with clients) and chapters III.2 – III.2.11 (relation with other lawyers) of the OVB Code of Ethics for Lawyers.
1.8. Principle of Double Deontology	In the exercise of his or her professional activities, a lawyer on the EU-List of the NOAB/French Bar of Brussels shall be subject to the rules of professional conduct of Belgium, in particular the professional Codes of the OVB (Orde van Vlaamse Balies - Flemish Bar Association) and the NOAB or the OBFG (Ordre des Barreaux Francophone et Germanophone. The lawyer shall also remain subject to

	<p>the rules of professional conduct of the Bar of his/her home state. In case of conflict between rules of conduct, the host state rules, i.e. the OVB and NOAB-rules, override the home state rules.</p> <p>Relevant national provisions:</p> <ul style="list-style-type: none"> - Title Ibis of Book III of Judicial Code, art. 477sexies §2
1.9. Disciplinary proceedings	<p>Before initiating disciplinary proceedings against a European lawyer, the President of the Bar (Stafhouder/Bâtonnier) shall inform the competent authority of the home Member State, providing it with all relevant details, in particular with regard to the disciplinary file, the applicable rules of procedure, and the time limits for lodging appeals.</p> <p>Relevant national provisions:</p> <ul style="list-style-type: none"> - Title Ibis of Book III of Judicial Code, art. 477sexies
1.10. Insurance (professional indemnity insurance, social security, etc.)	<p>Professional Indemnity Insurance: NOAB: Lawyers registered on the EU-List must cover their professional liability in Belgium by an insurance under the conditions set by the Bar Council. E.g. at present, the professional liability is collectively insured by the NOAB for its members in the amount of 2.500.000 EUR per damage event. The existence of an insurance or guarantee they concluded in their Member State of origin will be taken into account, insofar as such insurance or guarantee is obligatory according to home State rules and is equivalent in terms of coverage and modalities to the one taken out in Belgium.</p> <p>Social security: A lawyer who is established in Belgium under his home country title (i.e. is registered on the EU-List) is subject to the social security system of the place where he carries out his activities, i.e. Belgium. The social security contributions collected by the social security institutions cover the three social status sectors: pension, family allowance, and sickness and invalidity insurance.</p> <p>Relevant national provisions:</p> <ul style="list-style-type: none"> - Title Ibis of Book III of Judicial Code, art. 477sexies §3
1.11. Fees	<p>There are no official fee schedules.</p> <p>Relevant national provisions :</p> <ul style="list-style-type: none"> - Art. 446ter Judicial Code
1.12. Continuing Legal Education	<p>NOAB: A lawyer registered on the EU-list is subject to the same continuing legal education obligations as a fully qualified lawyer registered on the Tableau of Lawyers of the NOAB.</p> <p>Lawyers freely compose their annual continuing legal education program. They must demonstrate having obtained 16 credits per judicial year. Lawyers on the EU-list may therefore invoke permanent education undertaken in their home Bar association to meet local (Belgian) requirements.</p> <p>French Bar of Brussels: The continuing legal education rules are set forth in the Digest of professional rules of conduct (Recueil des règles professionnelles) available at the secretariat of the Bar. It should be noted that lawyers freely compose their continuing legal</p>

	<p>education programs, but that they must prove having obtained an average of 20 credits per calendar year, calculated over a period of three years.</p> <p>Relevant national provisions:</p> <ul style="list-style-type: none"> - Chapter 7 of OBFG Code of Deontology - See chapter II.3 of the OVB Code of Ethics for Lawyers
1.13. Bar membership	<p>EU lawyers registered at a Belgian Bar (the so-called “list E”) have exactly the same rights and duties as Belgian attorneys, including the right to have trainees (at the same conditions as Belgian attorneys) or to handle legal aid cases.</p> <p>See articles 477bis et seq. of the Judicial Code.</p>
1.14. Conditions for the Acquisition of the Title of a ‘National Lawyer’	<p>Three years’ practice under home State professional title in Belgium (Article 10 of Directive 98/05/EC – Article 477nonies Judicial Code) or</p> <p>Establishment via the Professional Qualification Directive: Aptitude Test (see more details below point 3.2)</p> <p>The fulfilment of the three years’ practice is checked by the Bar Council on basis of number and nature of the cases handled by the candidate.</p> <ul style="list-style-type: none"> - See art. 477nonies Judicial Code
2. Services	
2.1. Under home title & representation before courts	<p>Service under your home title – before courts and administrative authorities</p> <p>He or she may also carry on activities relating to the representation and defence of clients in the Belgian courts provided that he or she acts in court in cooperation with a fully qualified lawyer who is enrolled on the Tableau of Lawyers.</p> <p>Relevant national provisions in relation to Article 4 Directive 77/249 :</p> <ul style="list-style-type: none"> - Title Ibis of Book III of Judicial Code, art. 477sexies
2.2. Deontology	<p>Both rules of professional conduct of the home country and of Belgium must be fulfilled.</p> <p>Title Ibis of Book III of Judicial Code, art. 477sexies §2</p>
2.3. Fees	<p>There are no official fee schedules.</p> <p>Art. 446ter Judicial Code</p>
3. Acquisition of the national lawyer’s title	
3.1. Via Establishment Directive	<p>See above point 1.14</p>

<p>3.2. Via Professional Qualification Directive</p>	<p>Pass the aptitude test (Articles 13-14 Directive 2005/36 on recognition of professional qualifications - Articles 428bis-decies Judicial Code)</p> <p>As regards the registration to the French and German-speaking Bar (OBFG):</p> <ul style="list-style-type: none"> - test content - Civil law and procedure - Criminal law and procedure - another matter to choose between : Public law, Administrative law, Trade law and Social law - Deontology - test cost - The test is free (for those who are already attorneys in their country, not for those who are just graduated and do not have the title yet in their home country) - any useful information on how to prepare it - https://avocats.be/sites/default/files/texte_etranger.pdf <p>As regards OVB:</p> <ul style="list-style-type: none"> - Test content: - This examination consists of a written section (civil law, including civil procedure, criminal law, including criminal procedure, and a subject chosen from among public law, administrative law, tax law, commercial law or labour law)) and an oral section (ethics and the subjects that you did not pass in the written examination section). In accordance with article 428quater, §1 of the Belgian Judicial Code the professional competence examination is organised in Dutch. - The location of the local bars can be found on www.advocaat.be. - Test cost: - 370 € <p>Useful information: https://www.advocaat.be/DipladWebsite/media/DipladMediaLibrary/Documenten/buitenlands%20diploma/buitenlands-diploma-ENG.pdf</p>
<h4>4. Practicalities</h4>	
<p>4.1. Practical information</p>	<p>You can find information on the court system, addresses, contacts and opening hours of all courts under: https://www.rechtbanken-tribunaux.be/fr</p>
<p>4.2. National organisation</p>	<p>Two “federal” structures ;</p> <ul style="list-style-type: none"> - “Orde van Vlaamse Balies” (Flemish) umbrella organisation of the 13 Flemish local bars, (see map and contact details here) and - “Ordre des Barreaux francophones et germanophone (French and German-speaking) umbrella organisation of the 11 French-speaking local bars and of the German-speaking bar (see map and contact details here).

<p>4.3. Reference to national legislation with other languages available + links</p>	<p>See the relevant part of the Judicial Code in English, OVB Code of Ethics (Dutch), OVB Code of Ethics (French), OVB Code of Ethics (English)</p>
<p>4.4. Reference to existing national guides</p>	<ul style="list-style-type: none"> - Law : Judicial Code which regards lawyers from art. 428 to art. 508/25 - Code of deontology OBFG - Vade-mecum OBFG <p>Brussels Bar : see Vademecum</p>
<p>4.5. Reference to services available for lawyers in that jurisdiction</p>	<p>The Belgian legislation is available for anybody on www.belgiquelex.be</p>
<p>4.6. Contact information</p>	<p>Contacts to and information on the organization of the Brussels Bars are available under:</p> <ul style="list-style-type: none"> - http://www.barreaudebruxelles.info/index.php/fr/avocats/foreign-lawyers - http://www.baliebrussel.be/en/foreign-lawyers/how-register-the-dutch-brussels-bar - Bars associations: http://www.avocats.be/ & https://www.advocaat.be - Bars: FR: http://www.avocats.be/fr/carte-des-barreaux - OVB: https://www.advocaat.be/Vlaamse-Balies <p>National Contact point the EU, EEA or Swiss lawyer should contact for information at national level:</p> <ul style="list-style-type: none"> - OBFG : info@avocats.be - +32 2 648 20 98 - OVB: info@advocaat.be - +32 2 227 54 70