
COMPARATIVE NOTE ON NATIONAL REGIMES OF SPECIALISATION

December 2015

INTRODUCTION

Rules related to lawyers' specialisation in the European Union are diverse. Please note that the term specialisation used in this paper refers to specific rules regulating the award of the title of specialist to fully qualified lawyers¹.

Most European jurisdictions (34) do not have a specific specialisation regime; however lawyers can often indicate their preferred areas of practice. 10 jurisdictions have a specialisation regime: Belgium (OBFG), Croatia, France, Germany, Italy, Portugal, Slovenia, Switzerland, the United Kingdom (solicitors in both England and Wales, and Scotland). Such jurisdictions tend to have precise rules regulating the bestowing and use of a specialist's title, usually expecting specialists to have an extensive practical and theoretical experience in the field in question.

Indeed, countries with a specialisation regime require between three and ten years of practical experience, but not all regimes require so many years of practice in their chosen field. However, candidates have to demonstrate extensive experience of the field in all of the jurisdictions. To that end, some countries have adopted precise rules (for example, a fixed amount of cases), and others are more flexible. In order to assess the experience of a lawyer in their chosen field, examiners may look at the complexity of cases, the role of the candidate in the cases, the complaints and claims record of the applicant, etc.

Moreover, the assessment will usually include the candidate's theoretical knowledge in the field. It may cover the candidate's participation in compulsory training programmes, his/her academic titles (e.g. a PhD in the field, or a Professorship), or any publications of relevant academic articles.

In rare cases, the specialisation regime allows for alternatives to practicing *as a lawyer* in the field. This is the case in France, where lawyers may demonstrate their extensive experience of the field with publications, activities, and works they undertook in the field for (at least) four years. Another example is in Italy, where lawyers may be awarded the title of specialists after taking a two year, 200 hour-long training programme, and passing an exam.

The award of the title is decided upon review of the candidate's application by a panel, usually composed of members of the Bar. In some jurisdictions, candidates must sit an oral and/or written exam before being awarded the title of 'specialists'.

In terms of continuous training, lawyers usually have to undertake yearly training in their specialised field once they are awarded the specialist title, and are sometimes legally required to keep up-to-date with the latest developments in the field in question.

The number of specialisation fields varies, but it usually is around 20. Across all the jurisdictions surveyed, the most common fields are: family law, criminal law, commercial law, labour law, social law, intellectual property law, tax law, IT law, banking law, administrative/public law, and law of insurance.

¹ In one jurisdiction – Georgia – trainee lawyers can choose to become specialists already at the stage of initial training.

	Fields of specialisation	Maximum amount of specialisations allowed	Prior practice required / Additional requirements to prior practice		Alternative to practice in the field (e.g. exam/academic work)	Requirement of continuous training or other after the award of the title?
Belgium - OBFG	22 groups of fields ² , and 74 fields	2	5 years	Extensive knowledge and experience of the field ³	No	Specialists have to follow the developments of the field, including as part of continuous training ⁴
Croatia	21	N/A	3 years (see additional requirements: (a)/(b)) or 5 years (see additional requirements: (c)/(d))	(a) holding a PhD in Law, and publication of 2 professional articles in the field; or (b) having been a Professor of Law, a judge, or a legal adviser, working in the field for at least 5 years, and publication of 2 professional articles; (c) publication of 3 professional articles; or (d) through their scientific work, contribution to legislation or legal understanding of the field	No	N/A
France	26	2	4 years	No	Activities, works or publications in the field (for four years)	Half the annual continuous training time must be devoted to the field (or 10 hours per field per year in the case of a double specialisation)
Germany	21 (soon to be 22)	2	6 years, and at least 3 years of registration with the local bar where the lawyer would like to obtain the specialisation	A minimum amount of cases – the exact amount varies depending on the field + 120 hours of theoretical training in the field	No	15 hours of training annually.
Italy	18	2	8 years (including 5 years in the field) ⁵	A minimum amount of 15 cases a year	Written and oral exam, as part of a 2 years-long training (min. 200 hours)	The specialists' expertise will be assessed every three years.
Portugal (2011)	7	N/A	10 years	Public verbal examination (unless the candidate shows manifest and well-known specific expertise)	No	Every five years, specialists shall demonstrate the practice exercised and the training completed.
Slovenia	N/A	N/A	5 years of practice in the field	Holding a University title of a "specialist" or "master of laws" in the particular field	Holding a title of assistant senior lecturer, associate professor, full professor at the faculty of Law, with an expertise in the field	N/A
Switzerland	6	2	5 years (with extensive knowledge of the field)	Min. 120 hours of specialisation training, followed by an exam (written and oral). The lawyer can only register for specialisation training after demonstrating 4 years of important practical experience ⁶ in the field.	If the candidate shows great knowledge in the field and extensive practice as a legal professional other than a lawyer, the minimum practice (as a	Continuing training, as well as practice, is required of the specialist so s/he does not lose her/his title. Every ten years, the specialist lawyer has to apply to get her/his licence renewed.

² 'Droit des personnes', 'Droit des biens', 'Responsabilité, assurances, circulation routière', 'Droit de la construction', 'Droit judiciaire', 'Sociétés et personnes morales', 'Droit commercial', 'Droit des transports', 'Droits intellectuels', 'Droit social', 'Droit fiscal', 'Droit humanitaire', 'Droit international', 'Droit de l'Union européenne', 'Droit des technologies de l'information et de la communication', 'Médiation', 'Droit médical', 'Droit des médias', 'Droit du sport', 'Autres matières'.

³ Article 4.48 of the Deontology Code: « Le titre de spécialiste s'apprécie sur la base de tous les éléments démontrant l'existence, dans le chef de l'avocat, de connaissances théoriques et d'une pratique spécifique, tels que titres universitaires ou scientifiques, formations reçues, participations à des séminaires ou congrès, stages auprès d'un spécialiste ou au sein d'une entreprise ou une institution dans le domaine de la spécialisation, publications, charges de cours, affaires traitées, témoignages de compétences, etc. »

⁴ Article 4.49 of the Deontology Code : « [L'avocat spécialiste] doit suivre l'évolution de la ou des matières concernées, notamment dans le cadre de la réglementation concernant la formation continue. »

⁵ A condition que l'avocat n'ait pas fait l'objet : (i) de sanctions disciplinaires définitives, autre que le simple avertissement, pour violation des devoirs de compétence et de formation continue ; (ii) d'une révocation du titre de spécialiste dans les 2 dernières années.

⁶ Article 8(6) of the Règlement sur les Avocats Spécialistes: « Pour acquérir et porter le titre d'avocat spécialiste FSA, le candidat doit remplir les conditions suivantes : [...] Démontrer une expérience pratique particulièrement importante dans la spécialisation choisie »

Article 10a : « Une telle expérience est notamment présumée au regard des heures consacrées à la spécialité, du nombre de cas traités en tant qu'avocat dans ce domaine, des activités annexes dans un tribunal, une autorité ou dans une fonction particulière telle que notaire. Il sera également tenu compte du mode de résolution et de la complexité de chaque cas traité. »

	Fields of specialisation	Maximum amount of specialisations allowed	Prior practice required / Additional requirements to prior practice		Alternative to practice in the field (e.g. exam/academic work)	Requirement of continuous training or other after the award of the title?
					lawyer) can be reduced, but cannot be reduced to less than 2 years	
UK						
England and Wales (Solicitors)	Higher Courts Rights of Audience (Civil and Criminal ⁷)	N/A	No prior practice required.	Solicitors will have to pass the advocacy assessment before being able to apply for the 'Higher Courts Rights of Audience' assessment.	The assessment will test all parts of the standards for either the criminal or civil award. This will include procedure, evidence and ethics and an advocacy assessment by way of a case study or simulation. Candidates will be assessed separately for the civil award or the criminal award.	No continuous training.
	Insolvency Law	N/A	N/A	N/A	Individuals must pass the Joint Insolvency Examination to qualify as insolvency practitioners.	All insolvency practitioners are also subject to regular monitoring visits (at least once every six years, and more frequently if considered necessary) from their authorising bodies – the Insolvency Service, acting on behalf of the Secretary of State, and the RPBs. Monitors seek to establish that insolvency practitioners are adhering to the legislation, and to accepted standards such as Statements of Insolvency Practice (SIPs), the Insolvency Code of Ethics and the relevant rules and regulations of the authorising bodies.
Northern Ireland (Solicitors)	Children Order Panel	N/A	3 years	Written exam and interview following a two day training course.	N/A	Children Order Panel members must apply every 2 years to get their accreditation renewed.
Scotland (solicitors)	30 specialisations , including 28 specialisms, and two qualifications in mediation	No restriction	7 years (with significant experience ⁸ in the field during each of the 5 years preceding the application)	2 references from individuals with appropriate knowledge and standing in the area of specialism. No training is required, but any training undertaken will go towards demonstrating the lawyer's expertise. An interview may be required.		Specialists must apply every 5 years to get their accreditation renewed.

⁷ [QASA](#) (Quality Assurance for Advocates) is a joint scheme run by the Bar Standards Board, the Solicitors Regulation Authority and ILEX Professional Standards which is designed to regulate the quality of all advocates appearing in the criminal courts in England and Wales, whether they are barristers, solicitors, or legal executives. The introduction of the scheme was challenged but on 24 June 2015, the Supreme Court handed down its judgment upholding QASA as lawful and proportionate. Registration for advocates is currently suspended whilst a new timetable for implementation is being considered.

⁸ 'Significant experience' is assessed by the Panel taking into consideration activity over the last 5 years in, among other factors, the following areas in assessing applicant's fitness to be Accredited:

- (a) Proportion of time/chargeable hours spent in work in area of Specialism.
- (b) Complexity of cases. (Ideally submit 15 using the schedule style running to no more than 5 pages.
- (c) Role in those cases (lead solicitor, instructing Counsel, part of team etc).
- (d) Attendance at suitable training course (including in-house courses where appropriate). (Ideally details over the last 5 years concentrating on last 2 years)
- (e) Participation in teaching at training courses (including in-house courses where appropriate). (Ideally details over the last 5 years concentrating on last 2 years)
- (f) Authorship of books, articles, website and in-house materials.
- (g) Discipline, complaints and claims record.
- (h) References.
- (i) Other relevant matters.

Belgium - OFGB	Croatia	France	Germany	Italy	Portugal	Switzerland	UK - Scotland
<i>Droit commercial</i>	<i>Commercial Law</i>	<i>droit commercial, des affaires et de la concurrence</i>		<i>Droit commercial et des sociétés</i>			
<i>Sociétés et personnes morales</i>		<i>droit des sociétés</i>	<i>Handels- und Gesellschaftsrecht</i>	<i>Droit des entreprises en difficulté</i>			
Droit des personnes	Civil and Family Law	droit de la famille, des personnes et de leur patrimoine	Familienrecht	Droit de la famille		Droit de la famille	child law
			Erbrecht	Droit des successions		Droit des successions	family law
Droit judiciaire	Criminal law	droit pénal	Strafrecht	Droit pénal		Droit pénal	
<i>Droit de l'Union européenne</i>	<i>Law of the European Community</i>	<i>Droit international et de l'Union européenne</i>		<i>Droit de l'Union européenne</i>	<i>European and Competition Law</i>		
<i>Droit international</i>	<i>International Law</i>			<i>Droit international</i>			
	Administrative Law	droit public	Vergaberecht	Droit public	Administrative Law		public procurement law
			<i>Verwaltungsrecht</i>				
	Labour Law	droit du travail	Arbeitsrecht	Droit du travail et social	Labour Law	Droit du travail	employment law
Droit social	Law of Social Insurance	droit de la sécurité sociale et de la protection sociale	Sozialrecht				pensions law
<i>Droit des transports</i>	<i>Railway Transportation law</i>	<i>droit des transports</i>	<i>Transport- und Speditionsrecht</i>	<i>Droit de la navigation et des transports</i>			
			Verkehrsrecht				
Droits intellectuels	Law of Industrial Property	droit de la propriété intellectuelle	Gewerblicher Rechtsschutz	Droit de la propriété intellectuelle	Intellectual Property Law		intellectual property law
	Law of Copyright		Urheber- und Medienrecht				
<i>Responsabilité, assurances, circulation routière</i>	<i>Law of Insurance</i>	<i>droit des assurances</i>	<i>Versicherungsrecht</i>			<i>Responsabilité civile et droit des assurances</i>	
<i>Droit fiscal</i>	<i>Law of Taxation</i>	<i>droit fiscal et droit douanier</i>	<i>Steuerrecht</i>	<i>Droit fiscal</i>	<i>Tax Law</i>		

Belgium - OFGB	Croatia	France	Germany	Italy	Portugal	Switzerland	UK - Scotland
	<i>Law of Banking</i>	<i>droit bancaire et boursier</i>	<i>Bank- und Kapitalmarktrecht</i>	<i>Droit bancaire et du crédit</i>			<i>debt & asset recovery</i>
<i>Droit des technologies de l'information et de la communication</i>		<i>droit des nouvelles technologies, de l'informatique et de la communication</i>	<i>Informationstechnologierecht</i>	<i>Droit de l'informatique</i>			<i>freedom of information and data protection</i>
		<i>droit rural</i>	<i>Agrarrecht</i>	<i>Droit rural</i>			<i>agricultural law</i>
							<i>crofting law</i>
<i>Droit médical</i>		<i>droit de la santé</i>	<i>Medizinrecht</i>				<i>medical negligence law</i>
							<i>mental health law</i>
<i>Droit du sport</i>		<i>droit du sport</i>					
<i>Droit de la construction</i>		<i>Droit immobilier</i>	<i>Bau- und Architektenrecht</i>			<i>Droit de la construction et de l'immobilier</i>	<i>construction law</i>
	<i>Bankruptcy Law</i>		<i>Insolvenzrecht</i>				<i>insolvency law</i>
	<i>International Commercial Law</i>		<i>internationales Wirtschaftsrecht</i>				
<i>Droit des médias</i>			<i>Urheber- und Medienrecht</i>				
		<i>droit de l'environnement</i>		<i>Droit de l'environnement</i>			
<i>Droit des biens</i>				<i>Droit des biens</i>			
		<i>droit de l'arbitrage</i>					<i>arbitration</i>
		<i>droit des associations et des fondations</i>					<i>charity law</i>
		<i>droit des étrangers et de la nationalité</i>	<i>Fachanwalt für Migrationsrecht</i>				<i>immigration</i>
		<i>droit du dommage corporel</i>					<i>personal injury law</i>

Belgium - OFGB	Croatia	France	Germany	Italy	Portugal	Switzerland	UK - Scotland
		droit de la fiducie					trusts law
	Constitutional Law				Constitutional Law		
		droit des garanties, des sûretés et des mesures d'exécution		Droit des mesures d'exécution			

Unique specialisation fields:

- Belgium (OFGB): Droit humanitaire; médiation; autres matières.
- Croatia: Law of customs; maritime law; Private international law; law of international payments.
- France: droit de l'arbitrage; droit du credit et de la consommation; droit du dommage corporel.
- Germany : Miet- und Wohnungseigentumsrecht.
- Italy : ---
- Portugal : Finance law.
- Switzerland : ---
- UK (Scotland) : commercial leasing ; discrimination law ; incapacity & mental disability law; liquor licensing law; medical negligence (defender only); planning law; private client tax; professional negligence law