

CCBE response to the European Commission's "call for evidence" on the Single Market Strategy

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1. Background

In response to the European Council's call for a horizontal strategy for the single market by June 2025, the Commission plans to present *"a strategy for a modernised and deeper single market that promotes the cross-border provision of services and cross-border movement of goods. It will strive to ensure the existing rules are fully implemented, to remove existing regulatory and administrative barriers and to prevent new ones."*¹

The **Council of Bars and Law Societies of Europe** (CCBE), which represents the interests of the legal profession across Europe, welcomes the opportunity to contribute to the European Commission's call for evidence on the Single Market Strategy.

The consultation, which has a broad scope, aims to obtain information, among a wide range of stakeholders, on the functioning of the single market, including on: *"barriers to the free movement of goods and services in the single market and possible ways of addressing them; regulatory and administrative challenges in the single market and potential policy actions to address them; the horizontal governance of the single market and the enforcement of its rules, and possible initiatives to improve them. Particular attention will be paid to the perspective of SMEs"*.

The European Commission has, for many years, rightly focused on addressing obstacles to free movement within the single market, notably with regard to business services and access to certain regulated professions. In recent years, this issue has been the subject of several initiatives², such as the adoption of the [Proportionality Test Directive](#) (2018/958), which affects the regulation of regulated professions, and more recently, an ongoing evaluation of the [Professional Qualification Directive](#) (2005/36/EC). The Commission has also provided Member States with guidance on the recognition of third country qualification for accessing certain services within the internal market. However, this guidance has not included detailed analysis or an assessment of the potential impact on regulated professions.³

Among the problems to be tackled, the call underlines (*Problem the initiative aims to tackle*): *"The services sector is key to economic competitiveness, not least for Europe's industry (accounting for approximately 40% of its value added). However, despite some improvements, around 60% of the types of barriers service providers faced 20 years ago are still present today. Economically significant services, such as **business services**, construction, or retail services are not reaching their full potential. **Access to over 5 700 regulated professions remains restricted by Member States**, making it necessary to have professional qualifications formally recognised. Moreover,*

¹ [Single market strategy 2025](#)

² CCBE statement : Regulation of professions: Member states' national action plans and proportionality in regulation

³ COMMISSION [RECOMMENDATION](#) of 15.11.2023 on the recognition of qualifications of third-country nationals

authorisation and declaration regimes complicate cross-border services provision and investments.”

The CCBE has taken good note of the conclusions of the Letta and Draghi Reports on the challenges facing the single market today. With regard to the mobility of professionals, the CCBE welcomed the conclusions contained in the Letta Report, which noted that certain regulated professions are more justified than others, while also calling (among other things) for a fair mobility and simplification of processes.

The future single market strategy will entail several initiatives in the area of services, which have yet to be determined.

The CCBE’s present response carefully takes into account the ambition of the Council and the Commission to tackle persisting barriers in the Single Market which pose obstacles to the real life needs of operators in the market.

While noting that the legal profession is not explicitly referenced in the call for evidence, we wish to highlight the following points.

2. Mobility of lawyers – a legal framework specific to the legal profession already exists

The sector-specific directives (Directives 77/249 and 98/5), commonly known as the Lawyers’ Directives enable the legal profession to enjoy a higher degree of freedom to practice and within the EU compared to other professions. They enable lawyers to provide cross-border services and establish themselves in other Member States, while duly recognising the diversity of existing legal systems.

The adoption of these directives essentially addressed the complexities of the mobility of lawyers in achieving recognition and mobility through a **specific and automatic recognition system**, while maintaining the necessary standards and safeguards inherent to the practice of the legal profession.

This *lex specialis* guarantees that lawyers can effectively exercise their profession across borders (within the EU, EEA and Switzerland) and ensures the smooth cross-border practice of law while upholding the profession’s core values and ethical standards. The CCBE has played a key role in achieving such a genuine free movement for lawyers across the EU, and it continues to do so by engaging actively in supporting legally and practically its implementation.

The CCBE underlines that a European lawyer can practice their profession, and meet with a client in another Member State and *does not need any specific permission*, provided they comply with the Lawyers Services Directive. Lawyers can establish themselves in another Member State at any time. (Any delays in the procedure often stem from incomplete documents or other problems on the side of the applicant). The bar of the host State (the competent authority) assists incoming colleagues until the application is complete. Incoming lawyers just need to comply with the Lawyers Establishment Directive, with *no additional national requirements*.

As a matter of fact, on various occasions, the Commission’s Directorates (e.g. Justice, Internal Market) have acknowledged that the Lawyers’ Directives work well and they do not require any amendment.

In this context, the CCBE strongly advocates that the Lawyers' Directives should be considered *lex specialis* in relation to any future legislative initiatives concerning the provision of services within the single market. This approach aligns with the European Commission's recent commitment to reduce administrative burdens and supporting small and medium enterprises (SME). The current specific regulatory **framework of the Lawyers' Directives is efficient, non-bureaucratic and functions effectively**; thus, it should not be subject to unnecessary modifications.

3. Lawyers' role in protecting the rule of law, ensuring access to justice for citizens and businesses, and protecting fundamental rights and freedoms

Lawyers play an essential role amongst professions as actors in the system of justice and by their contribution, lawyers play a key role in protecting the rule of law, ensuring access to justice for citizens and businesses, and protecting fundamental rights and freedoms. For the same reason, the legal profession can be subject to considerable pressure from the executive and legislative powers, as well as, on occasion, the judiciary, and non-State actors.⁴

The CCBE believes that the single market serves, not only as a driver for economic growth, but also as a powerful instrument for promoting EU values and the principles of the rule of law across Member States.⁵ Ensuring the independence of the legal profession as a cornerstone of the rule of law remains a fundamental mission of the CCBE. Ensuring a well-functioning single market also relies on strengthening consumer and business confidence in cross-border legal matters and transactions, to which the legal profession contributes. The CCBE would like to underline the critical importance of a well-functioning single market that upholds access to justice and legal certainty as core principles. The Commission has acknowledged the interplay between the protection of the rule of law and its contribution to the Single Market by recently including this aspect into the monitoring of its Rule of Law report.

The independence of lawyers is a corner stone of the rule of law. The profession play a significant role as intermediaries between consumers, businesses and authorities, assisting individuals and companies in asserting their rights, navigating complex legal procedures, and ensuring an efficient resolution of legal matters.

This role is particularly vital in cross-border situations, often involving multiple legal environments, where linguistic and cultural differences can pose significant challenges. Such legal assistance is enabled by the Lawyers' Directives that facilitate the cross-border provision of legal services (as outlined above).

⁴ [CCBE statement](#) on the occasion of the 30th anniversary of the UN Basic Principles on the role of lawyers

⁵ [CCBE statement](#) on the occasion of the 30th anniversary of the single market

4. Recent judgements from the Court of Justice of the European Union (CJEU) reaffirming the special position of lawyers in society

The special position of lawyers is constantly reaffirmed by the CJEU, most notably in various recent judgments⁶. These cases (e.g. C-623/22⁷ and C-432/23⁸) underline the specific safeguards applicable to the legal profession and its critical societal role, essential for the rule of law and access to justice.⁹

Any evaluation of the (national) rules governing the access to or exercise of the legal profession may initially appear restrictive. However, such rules can also be justified by broader objectives ('overriding reasons relating to the public interest' as recognised by EU law), which are primarily for the national legislatures to define.

On this, the CCBE wishes to draw attention to the recent judgment by the Court of Justice (Grand Chamber) in Case C-295/23¹⁰, delivered on 19 December 2024. This ruling provides further clarity regarding the interpretation of Directive 2006/123 on services in the internal market, reaffirming the need to respect the rules of the profession (independence, avoidance of conflict of interest) and the discretion left to Member States to regulate the profession.

The CCBE promotes the significant principles offered by this ruling. The CCBE also recognises that some challenges remain in addressing the digital transformation, particularly in a profession which involves a public service component and is closely linked to the administration of justice. The CCBE particularly supports its members in their efforts to address the digital transformation of the legal profession in compliance with deontological obligations such as professional secrecy, lawyers' independence and prohibition of conflicts of interest.

As an example, in 2022, the CCBE, in collaboration with the European Lawyers Foundation (ELF), examined the challenges of Artificial Intelligence (AI) tools in legal practice. This research ultimately aimed to improve lawyers' understanding of AI and other emerging IT technologies, and to provide practical advice on the selection and use of appropriate tools. Supported by the European Commission (DG Justice) under the AI4Lawyers project, the initiative delivered three key resources: 1) An [overview of the 'average state of the art'](#) of IT capabilities among lawyers and law firms in the EU ; 2) Assessing [opportunities and barriers](#) in using natural language processing tools in small and medium-sized law practices and 3) a practical [guide on AI use by lawyers and law firms in the EU](#).

These publications remain valuable resources for legal professionals, facilitating the integration of AI into legal practice while upholding ethical standards.

⁶See **Judgment of 8 December 2022**, Orde van Vlaamse Balies and Others, [C-694/20](#), paragraph 28 and the case-law cited: Lawyers are assigned the *fundamental role in a democratic society of defending litigants*, which entails, on the one hand, that any person is to be able, without constraint, to consult a lawyer whose profession encompasses, by its very nature, the giving of independent legal advice to all those in need of it and, on the other, the correlative duty of the lawyer to act in good faith towards his or her client.

⁷ See **Judgment of 29 July 2024**, [C-623/22](#) – The Court confirmed that the confidentiality of the relationship between a lawyer and his or her client enjoys very specific protection, which relates to the *special position occupied by a lawyer in the judicial organisation of the Member States and to the fundamental task entrusted to him or her and which is recognised by all the Member States*. The Court also highlighted that such a conception reflects the legal traditions common to the Member States and is also to be found in the legal order of the European Union.

⁸See **Judgment of 26 September 2024**, [C-432/23](#) – The ruling confirmed that legal advice provided by a lawyer on matters of company law – in this case on setting up a corporate investment structure – *falls within the scope of the strengthened protection of exchanges between lawyers and their clients*. Legal advice of a lawyer is covered, whatever the area of law it regards, by the reinforced protection provided by Article 7 of the Charter to the communications between the lawyer and their client.

⁹ See, in particular, [CCBE statement](#) on the occasion of the 30th anniversary of the single market : “*in comparison with other sectors, in the area of legal services, regulation may be justified by many considerations. It serves to protect consumers and other market participants by ensuring access to justice and the right to a fair trial by a lawyer who is independent of governmental and other third-party influences and interests. Thus, what can be seen as a restriction, may be a measure justified and proportionate to an objective pursued.*”

¹⁰ See **Judgment of 19 December 2024**, [C-295/23](#), paras. 62-80.

5. Conclusion

The CCBE remains committed to supporting initiatives that are grounded in key safeguards that take into account the essential role played by lawyers in society. The CCBE views the Lawyers' Directives as an adequate framework, allowing lawyers to easily serve clients, including business clients, on a cross-border basis or to establish themselves, without unnecessary bureaucracy, in any Member State, if they wish to do so. The Lawyers' Directives are an example of proper EU regulation serving wider public interest goals, that is efficient and SME friendly, balancing the needs of the Single Market with the protection of citizens, businesses, and the administration of justice.

Finally, the CCBE and its specialised Committees welcome the Commission's ongoing efforts to streamline and simplify existing European regulations, particularly with regard to potentially overburdened obligations. The CCBE stands ready to support the Commission in its analysis of these initiatives. It is generally recognised that the growing complexity of regulations is often seen as a significant factor contributing to the increased need for legal assistance and rising legal costs for businesses across Europe.