

REGULATIONS ON THE STATUS OF A LAWYER

PREAMBLE

On 2 March 2005, the general meeting of the Flemish Bar Council adopted a resolution stating that a lawyer must always and exclusively practice his profession as an independent practitioner. This decision stems from the required independence that is a fundamental characteristic of the legal profession and is aimed at protecting the interests of clients and those searching for justice.

According to Articles 437 and 444 of the Belgian Judicial Code, the lawyer practices his profession freely and independently.

This basic fact excludes a lawyer from practising his profession under the authority of another lawyer or a third party who is not a lawyer. A lawyer may likewise not exercise authority over another lawyer.

It follows from this that a lawyer may not practice his profession as an employee. After all, it is a requirement of an employment contract that one person has the right to exercise authority over another.

The principles of independence and the exclusion of authority when practising as a lawyer were recently brought to the fore twice by the Belgian legislator as a result of the implementation of two European directives:

- On the implementation of Council Directive (EC) 77/249 of 22 March 1977 to facilitate the effective exercise by lawyers of freedom to provide services (Official Journal L 78 of 26 March 1977), Belgium used the right as granted in Article 6 of the Directive and determined that lawyers who are in a subordinate relationship with regard to a public or private person or entity, are excluded from representing or defending people in court (Article 477 (2) of the Belgian Judicial Code).
- On the entry into force of the Act of 22 November 2001 to facilitate the practice of the profession of lawyer and the establishment in Belgium of lawyers who are subjects of another EU Member State (Belgian Official Journal, 20 December 2001) – the federal law that transposes into national law the Directive of the European Parliament and of the Council of 16 February 1998 to facilitate the practice of the profession of a lawyer on a permanent basis in certain Member States other than the State in which the professional qualification was obtained (Official Journal L 77/36 of 14 March 1998) – the new articles 477 (2), §3 and 477 (5), §4 of the Belgian Judicial Code were brought into line with the wording of Article 437 of the Belgian Judicial Code.

SOLE ARTICLE

A lawyer must practice his profession as an independent practitioner, to the exclusion of any subordinate relationship.

Approved at the general meeting of the Flemish Bar Council of 08.06.2005.

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Entry into force on 30.09.2005.