

Changed circumstances

- legal business became more internationalized and business oriented also for small att. offices, individual attorneys
- new types of lawyers, new methods of "production", legal products, finances, marketing... increased cross border types of work
- differences among legal orders (except principles like norms) ... still increase
- and... national attorneys 'regulatory frameworks differ greatly (sic!)

Modes / types of att. legal services

- 1 cross border transfer of service only
- 2 recipient moves (goes) to the MS of the lawyer

- 3 a lawyer moves to the MS of the recipient to perform service(s)
- 4 a lawyer establishes in the host MS

A look to the up-to-date development

1970-1990

pages to the

from 2000 on...

- discrimination

- indirect discrimin.

(cases Van Binsbergen, Klopp, Reyners...)

- dir. 77/249 (lawyers' services)

- access to the market approach

1990 - 2000

- indistinctly applicable rules

(cases like Säger, Gebhard...)

- recognition apart from secon. law

(Vlassopoulou...)

competition law influences

(Wouters, Cipola...)

- dir. 98/5 (establis.)

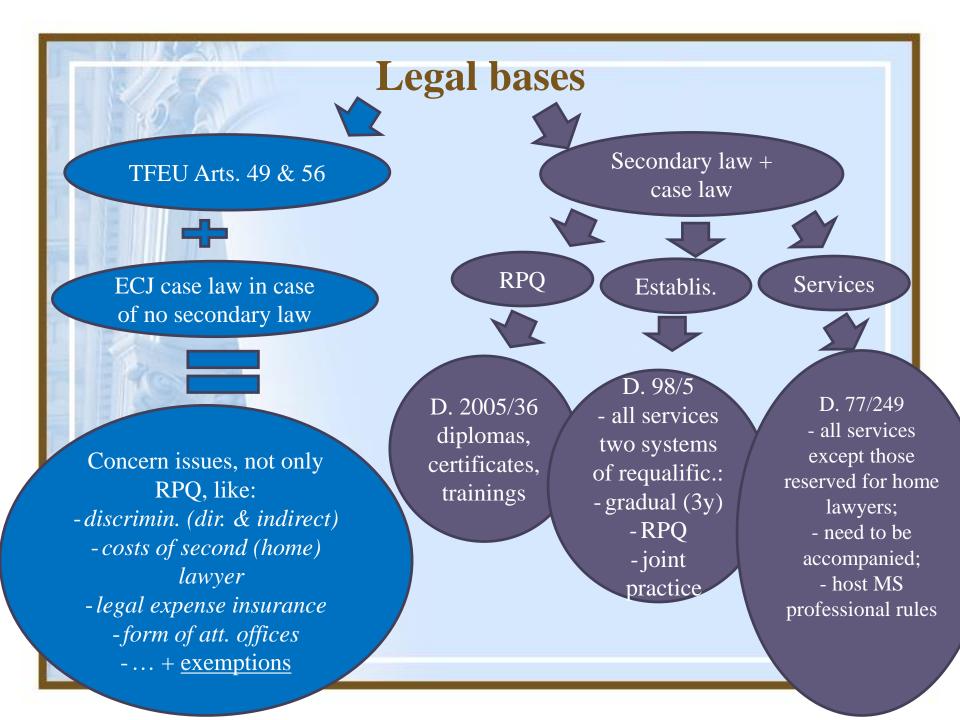
dir. 89/84 (RPQ)

- dir. 2005/36 + changes (PQ)

- dir. 2006/123 – Services Directive

- Open issues:

- double deontology
- insurance
- salaried practice
- new organisations of law firms
- Requalification of partially trained lawyers



Remaining challenges

- Double deontology
 - 18% experienced difficulties
 - main difficulties in diff. mandatory rules
- Insurance
 - professional indemnity insurance ...coverage/costs differs
 - legal expense insurance... local lawyers are usually less costly
- Salaried practice (in-house counsels increase)
 - no professional privilege in 17 MS
 - significant obstacle: infor. might loses the confiden. in case of cross border activities



- legal form requirements are frequent
- freedom of establishment (49) is limited with
 D. 98/5
- cooperation lawyers/non-lawyers can be limited/forbidden in the host MS without any justification in case of non-discrimination

Requalification

- gradual integration (3y) what exactly is effective/regular pursuit?
- RPQ of partially trained lawyers
 (Morgenbesser, Peśla) & partially practice rights... point of departure: host MS requirements

To conclude...

- being established is the safest way, but this is neither easy, not always a reality, nor a goal
- a legal business development overtakes rules on (the liberalization) the free movement of lawyers
- harmonisation is still missing abuses are possible (*Koller*, *Peśla?!*)...further regulatory intervention at the EU level would be wellcomed, but...
- without the harmonization, the conflict of law rules would be needed (not a perfect solution)