

Provision of Legal Assistance by Foreign Lawyers in the Republic of Poland

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10 February 2003,

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see:

Article 51.

The Act shall enter into force six months after its promulgation, with the exception of Article 13–17, Article 21–41, Article 43, Article 45(5)–(6), Article 46(4), and Article 46(6), which shall enter into force on the date the Republic of Poland becomes a member of the European Union.

Provision of Legal Assistance by Foreign Lawyers in the Republic of Poland Act¹

of 5 July 2002

SECTION I

GENERAL PROVISIONS

Article 1.

1. The Act sets out the terms and conditions for provision of legal assistance in the Republic of Poland by foreign lawyers.

2. Legal assistance shall mean activity within the scope corresponding to the powers of an advocate or an attorney at law and shall include, in particular, giving legal advice, rendering legal opinions, drafting proposed legislation, and appearing before courts and authorities.

Article 2.

The terms used herein shall have the following respective meanings:

- 1) “foreign lawyer” – a lawyer from the European Union or a lawyer from outside the European Union;

¹ Within the scope of its regulation, this Act transposes the Council Directive 77/249/EEC of 22 March 1977 to facilitate the effective exercise by lawyers of freedom to provide services (*Official Journal of the European Union* L 78, 26.03.1977, p. 17, as amended; *Dz. Urz. UE Polskie wydanie specjalne [OJ Special edition in Polish]*, Chapter 6, Volume 1, p. 52, as amended) and Directive 98/5/EC of the European Parliament and of the Council of 16 February 1998 to facilitate practice of the profession of lawyer on a permanent basis in a Member State other than that in which the qualification was obtained (*Official Journal* L 77, 14.03.1998, as amended; *Dz. Urz. UE Polskie wydanie specjalne*, Chapter 6, Volume 3, p. 83, as amended).

- 2) “lawyer from the European Union” – a person who is a national of a Member State of the European Union, authorized to practice his or her profession under one of the professional titles awarded in a Member State of the European Union set out in Annex No. 1 hereto;
- 3) “lawyer from outside the European Union” – a person who is not a national of a Member State of the European Union, authorized to practice his or her profession under one of the professional titles referred to in subsection 2 or any other person who, under a professional title awarded in a non-Member State of the European Union, is authorized to practice a profession that corresponds to the profession of an advocate or an attorney at law in terms of education and powers, as well as basic rules for its organization and practice;
- 4) “cross-border service” – one-time or temporary activity in the area of legal assistance carried out in the Republic of Poland by a foreign lawyer who practices on a permanent basis in another state;
- 5) “practice on a permanent basis” – permanent and systematic provision of legal assistance by a foreign lawyer in the Republic of Poland;
- 6) “home state” – the state in which a foreign lawyer acquired the right to use one of the professional titles referred to in subsections 2 and 3.

Article 2a.

The provisions of this Act governing lawyers from the European Union shall apply, *mutatis mutandis*, to persons who:

- 1) are nationals of the Member States of the European Free Trade Association (EFTA) – parties to the Agreement on the European Economic Area or in the Swiss Confederation who are authorized to practice the profession under one of the professional titles awarded in those states set out in Annex No. 2 hereto, or under one of the professional titles awarded in the Member States of the European Union set out in Annex No. 1 hereto;
- 2) are nationals of the Member States of the European Union, authorized to practice the profession under one of the professional titles awarded in the Member States of the European Free Trade Association (EFTA) which are parties to the Agreement on the European Economic Area or belong to the Swiss Confederation set out in Annex No. 2 hereto.

SECTION II

PRACTICE OF THE PROFESSION ON A PERMANENT BASIS

Chapter 1

Common Provisions

Article 3.

By way of reciprocity, unless international agreements ratified by the Republic of Poland or provisions of international organizations in which the Republic of Poland is a member provide otherwise, foreign lawyers shall be authorized to practice on a permanent basis pursuant to the terms set out in the provisions of this section upon entry to one of the rolls of foreign lawyers maintained by, respectively, circuit bar councils or councils of circuit chambers of attorneys at law, hereinafter referred to as the “roll.”

Article 4.

1. Lawyers from the European Union who intend to provide legal assistance within the scope corresponding to the profession of an advocate and lawyers from outside the European Union whose professional title authorizes them to practice a profession corresponding to the profession of an advocate shall be entered to the roll maintained by the circuit bar councils.

2. Lawyers from the European Union who intend to provide legal assistance within the scope corresponding to the profession of an attorney at law and lawyers from outside the European Union whose professional title authorizes them to practice a profession corresponding to the profession of an attorney at law shall be entered to the roll maintained by the councils of circuit chambers of attorneys at law.

3. (Repealed).

Article 5.

1. The roll shall consist of a part to which lawyers from the European Union are entered and a part to which lawyers from outside the European Union are entered.

2. The following data on foreign lawyers shall be disclosed on the roll: first name and surname, date and place of birth, place of residence, address, registered office, and professional title awarded in a foreign lawyer’s home state. In addition, the name and address of a grouping to which a foreign lawyer belongs in his or her home state, and the name of the competent authority in that home state which has issued a certificate stating that the foreign lawyer is registered as a person authorized to practice the profession under one of the titles referred to in Article 2(2) or Article 2(3) shall also be disclosed on the roll.

3. The detailed manner in which the roll is to be maintained shall be set out in by-laws adopted by the Polish Bar Council and the National Council of Attorneys at Law.

Article 6.

1. Entry to the roll shall be made on application by an interested party.

2. A foreign lawyer applying for entry to the roll maintained by a circuit bar council shall submit an application to the council competent for the foreign lawyer's future registered office, as indicated on the application or – if the foreign lawyer is to practice under an employment relationship – to the council competent for the registered office of the future employer, as indicated on the application.

3. The application shall be accompanied by:

1) a certificate issued by a competent home-state body confirming that a person applying for entry is registered in that home state as authorized to practice the profession under one of the professional titles referred to in Article 2(2) or Article 2(3); the authority to which the application is submitted may refuse to accept the certificate if more than three months have elapsed from the date it was issued;

2) a document confirming the nationality of the applicant for entry.

4. The application for entry shall be made in Polish. Any remaining documents – with the exception of the document referred to in subsection 3(2) – not drawn up in Polish, shall be submitted along with a translation into Polish, certified by a sworn translator.

Article 7.

1. Entry to the roll as well as removal from the roll shall be decided upon by a circuit bar council or a council of the circuit chamber of attorneys at law. Entry may be refused only if the interested party does not meet the criteria set out herein.

2. The proceedings and resolutions on entry to the roll or removal therefrom adopted by the circuit bar councils shall be governed by the provisions of Article 12, Article 46, Article 68, Article 69, Article 69a, and the provisions of subsection 6 of the Law on Advocates of 26 May 1982 (Dz. U. of 2015, item 615, 1064, 1224, 1255, and 1311, and Dz. U. of 2016, item 1579) applied *mutatis mutandis*. The proceedings and resolutions on entry to the roll or removal therefrom adopted by councils of circuit chambers of attorneys at law shall be governed by the provisions of Article 29, Article 291, Article 31, Article 311, and Article 312 of the Attorneys at Law Act of 6 July 1982 (Dz. U. of 2016, item 233 and 1579), applied *mutatis mutandis*.

3. Notwithstanding the reasons set out in provisions listed in subsection 2, removal from the roll shall also be effected where a foreign lawyer is permanently or temporarily deprived of the right to practice the profession – referred to in Article 2(2) or Article 2(3) – in the foreign lawyer's home state or where the foreign lawyer has been entered to the roll of advocates or the roll of attorneys at law.

4. In order to determine whether the profession an applicant for entry to the roll is authorized to practice in the applicant's home state corresponds to the profession of advocate or legal

adviser, the council referred to in subsection 1 may request that the Minister of Justice provide the council with the text of the relevant foreign law. The council may also put in a request to the Minister of Justice where the application of reciprocity referred to in Article 3 by the home state of the applicant for entry to the roll is to be determined.

5. Circuit bar councils and circuit chambers of attorneys at law shall notify the competent authority in a foreign lawyer's home-state of the entering of the foreign lawyer to the roll, refusal of entry, or removal from the roll, without delay.

Article 8.

In the course of practicing on a permanent basis, a foreign lawyer entered to the roll shall use his or her professional title awarded in the foreign lawyer's home state expressed in the official language thereof with indication of the professional body of which the foreign lawyer is a member in his or her home state or of the judicial authority before which the foreign lawyer is authorized to appear in accordance with the home-state's law, as well as information on whether he or she practices on a permanent basis within the scope corresponding to the profession of an advocate or a legal adviser. To that end, the roll to which the foreign lawyer has been entered shall be indicated along with the authority that maintains the roll.

Article 9.

1. A foreign lawyer who in his or her home state belongs to a grouping whose purpose is to pursue joint practice in the area of providing legal assistance shall be authorized to use the name of the grouping alongside his or her professional title.

2. A foreign lawyer shall be obliged to inform the authority that maintains the roll to which the foreign lawyer has been entered of his or her belonging to a grouping referred to in subsection 1. Such information shall indicate the name of the grouping, its form of organization and address, and – upon the request of the authority that maintains the roll – the first names and surnames of other members of the grouping.

Article 10.

1. Depending on the roll to which a foreign lawyer has been entered, the foreign lawyer shall be subject to disciplinary responsibility pursuant to provisions on disciplinary responsibility of advocates or disciplinary responsibility of attorneys at law.

2. In lieu of the penalty of suspension from discharging the professional duties of an advocate or the penalty of suspension of the right to practice the profession of a legal adviser, the penalty imposed shall be suspension of the right to provide legal assistance in the Republic of Poland for a period of three months up to five years. In lieu of the penalty of expulsion from the bar or

the penalty of disbarment from the profession of a legal adviser, the penalty imposed shall be prohibition against providing legal assistance in the Republic of Poland.

3. A disciplinary court shall serve copies of the following without delay upon the competent authority in the foreign lawyer's home state:

- 1) an indictment or a motion of the authorized disciplinary counsel to institute disciplinary proceedings accompanied by information on the rights arising out of subsection 4;
- 2) decisions and orders issued in the course of disciplinary proceedings;
- 3) appeals.

4. At every stage of disciplinary proceedings, the authority referred to in subsection 3 may present the authority's position on the matter before the disciplinary court, and its representative may participate in the hearing even where held as a closed hearing.

5. In the events referred to in Article 85(1) of the Law on Advocates of 26 May 1982 and in Article 66(1) of the Attorneys at Law Act of 6 July 1982, the dean of a bar council who imposed the penalty of admonition on a foreign lawyer or the dean of the council of a circuit chamber of attorneys at law who issued a warning shall serve on the authority referred to in subsection 3 a copy of the notification of the imposition of the penalty of admonition or of the issuance of a warning, as well as a copy of the appeal, if filed.

Article 11.

1. A foreign lawyer shall be subject to mandatory professional liability insurance against damage inflicted in the course of providing legal assistance in accordance with the rules applicable to advocates or in accordance with the rules applicable to attorneys at law – depending on the roll to which the foreign lawyer has been entered.

2. A release from the obligation referred to in subsection 1 shall be granted to persons who can demonstrate that they are covered by insurance taken out or a guarantee fund provided pursuant to the laws of their home state, and that the conditions and coverage of such insurance or guarantee are equivalent to the conditions and coverage of the insurance referred to in subsection 1. Where the equivalence is only partial, a foreign lawyer shall be obliged to enter into a contract providing for additional insurance or additional guarantee.

3. A foreign lawyer shall be obliged to present proof of the insurance or guarantee referred to in subsection 2 annually to the authority that maintains the roll to which the foreign lawyer has been entered. Any submitted documents not drawn up in Polish shall be accompanied by a translation into Polish, certified by a sworn translator.

Article 12.

(Repealed).

Chapter 2

Foreign Lawyers from the European Union Practicing on a Permanent Basis

Article 13.

1. Lawyers from the European Union entered to the roll maintained by a circuit bar chamber shall be authorized to practice on a permanent basis within the scope corresponding to the profession of an advocate, whereas lawyers entered to the roll maintained by the council of a circuit chamber of attorneys at law shall be authorized to practice within the scope corresponding to the profession of a legal adviser.
2. Lawyers from the European Union shall have the choice of the roll.

Article 14.

Unless the law provides otherwise, a lawyer from the European Union entered to the roll maintained by a circuit bar council shall have the same rights and obligations as an advocate, whereas a lawyer entered to the roll maintained by the council of a circuit chamber of attorneys at law shall have the same rights and obligations as a legal adviser. This shall also apply to the obligation to abide by the rules of professional conduct.

Article 15.

1. A lawyer from the European Union entered to the roll maintained by a circuit bar council may practice on a permanent basis in a single-advocate office, advocates' joint office [*zespół adwokacki*], registered partnership, civil-law partnership, limited joint stock partnership, limited partnership, or professional partnership.
2. A lawyer from the European Union entered to the roll maintained by the council of a circuit chamber of attorneys at law may practice on a permanent basis within the framework of an employment relationship, under a civil-law contract, in a single-attorney-at-law office, registered partnership, civil-law partnership, limited joint stock partnership, limited partnership, or professional partnership.
3. The sole business object of the partnerships referred to in subsections 1 and 2 may be the provision of legal assistance. Partners in civil-law partnerships and professional partnerships may only be lawyers from the European Union, advocates and attorneys at law, tax advisors and patent attorneys, whereas partners in registered partnerships and general partners in limited joint stock partnerships may also be lawyers from outside the European Union.

Article 16.

1. Upon entry to the roll, a lawyer from the European Union becomes a member of the relevant chamber of advocates or the relevant chamber of attorneys at law.

2. As a member of a chamber of advocates or a chamber of attorneys at law, a lawyer from the European Union discharges all obligations and exercises all rights vested in members of the professional self-government, with the exception of the right to stand for election to the bodies of the self-government.

Article 17.

1. In the course of representing a client in proceedings in which applicable law requires the party to be represented by an advocate or a legal adviser, a lawyer from the European Union shall be obliged to cooperate with a person practicing one of these professions. Where representation by an attorney at law is not permitted, a lawyer from the European Union shall be obliged to cooperate with an advocate.

2. The detailed conditions for and manner of cooperation referred to in subsection 1 shall be set out in a contract concluded between a lawyer from the European Union and an advocate or a legal adviser. When concluding the contract the parties shall take into consideration that the purpose of cooperation is to enable the lawyer from the European Union to properly discharge the lawyer's obligations to the client and to the authority conducting the proceedings, and in particular to ensure that the lawyer abides by applicable laws governing the proceedings and rules of professional conduct.

3. Unless the parties have agreed otherwise, the contract referred to in subsection 2 shall not give rise to any obligations for the advocate or the attorney at law to the client of the lawyer from the European Union.

4. Upon his or her first action, a lawyer from the European Union shall be obliged to submit the contract referred to in subsection 2 to the authority conducting the proceedings. In the event of failure to fulfill this obligation, the authority shall set a deadline for the lawyer from the European Union to rectify the defect. The effects of failing to rectify the defect within the set deadline shall be governed by provisions on the lack of power of attorney or authorization to act as a defense counsel, applied *mutatis mutandis*.

Chapter 3

Foreign Lawyers from outside the European Union Practicing on a Permanent Basis

Article 18.

A foreign lawyer from outside the European Union entered to the roll maintained by a circuit bar chamber shall be authorized, when practicing on a permanent basis, to provide legal assistance and render legal opinions pertaining solely to the domestic law of the foreign lawyer's home state as well as international law, within the scope corresponding to the profession of an advocate, whereas a foreign lawyer from outside the European Union entered

to the roll maintained by a the council of a circuit chamber of attorneys at law shall be authorized, when practicing on a permanent basis, to provide legal assistance and render legal opinions pertaining solely to the domestic law of the foreign lawyer's home state as well as international law, within the scope corresponding to the profession of a legal adviser.

Article 19.

In order to practice on a permanent basis, lawyers from outside the European Union may found:

- 1) registered partnerships, in which the partners are exclusively:
 - a) foreign lawyers, or
 - b) advocates, or
 - c) attorneys at law, or
 - d) tax advisors, or
 - e) patent attorneys;
- 2) limited joint stock partnerships or limited partnerships, in which the general partners are exclusively:
 - a) foreign lawyers, or
 - b) advocates, or
 - c) attorneys at law, or
 - d) tax advisors, or
 - e) patent attorneys.

Article 20.

1. In the course of practicing on a permanent basis, a lawyer from outside the European Union shall be subject to the conditions for practicing the profession and the rules of professional conduct applicable to advocates or applicable to attorneys at law, depending on the roll to which the lawyer has been entered.

2. A lawyer from outside the European Union shall pay dues to the circuit bar council or the council of a circuit chamber of attorneys at law that maintains the roll to which the lawyer has been entered in the amount of half the membership dues applicable to, respectively, advocates or attorneys at law.

Article 20a.

A lawyer from outside the European Union shall be obliged to submit annually to the authority that maintains the roll to which the lawyer has been entered a certificate issued by a competent home-state body confirming that the lawyer is registered in that home state as a person authorized to practice the profession under one of the professional titles referred to in Article 2(3).

SECTION III

ENTRY TO THE ROLL OF ADVOCATES OR THE ROLL OF ATTORNEYS AT LAW OF A LAWYER FROM THE EUROPEAN UNION OR A NATIONAL OF A MEMBER STATE OF THE EUROPEAN UNION HOLDING THE PROFESSIONAL QUALIFICATIONS REQUIRED TO PRACTICE THE PROFESSION UNDER ONE OF THE TITLES REFERRED TO IN ARTICLE 2(2)

Article 21.

Within the scope not regulated by the provisions of this section, the proceedings for entry to the roll of advocates or the roll of attorneys at law of a lawyer from the European Union or a national of a Member State of the European Union holding the professional qualifications required to practice the profession under one of the titles referred to in Article 2(2) shall be governed by the provisions of the Law on Advocates or Attorneys at Law Act.

Article 22.

1. A lawyer from the European Union or a national of a Member State of the European Union holding the professional qualifications required to practice the profession under one of the titles referred to in Article 2(2) may be entered to the roll of advocates or the roll of attorneys at law if the lawyer:

- 1) satisfies the conditions set out in Article 65(1) and Article 65(2) of the Law on Advocates of 26 May 1982 or Article 24(1)(3)–(5) of the Attorneys at Law Act of 6 July 1982;
- 2) is able to speak and write in Polish;
- 3) passes the aptitude test.

2. Where the professional qualifications of a lawyer from the European Union or a national of a Member State of the European Union referred to in subsection 1 have been obtained through education received in whole or predominantly outside the territory of the Member States of the European Union, entry to the roll of advocates or the roll of attorneys at law shall be additionally subject to the practice of the profession for at least three years under one of the titles referred to in Article 2(2) herein, confirmed by a competent authority of the Member State of the European Union that recognized these qualifications.

Article 23.

1. The application for entry to the roll of advocates or the roll of attorneys at law shall be accompanied by:

- 1) documents confirming that the candidate is a national of a Member State of the European Union;

- 2) a certificate issued by a competent authority of a Member State of the European Union confirming that the applicant holds the professional qualifications required in that state to practice the profession under one of the titles referred in Article 2(2), or confirming that the applicant is registered in that state as a person authorized to practice the profession under one of the professional titles referred to in Article 2(2); the authority to which the application for entry is submitted may refuse to accept the certificate if more than three months have elapsed from the date it was issued;
- 3) in the event referred to in Article 22(2) – a certificate issued by the competent authority of a Member State of the European Union confirming that the applicant has practiced the profession for at least three years in that state under one of the titles referred to in Article 2(2).

2. The application for entry shall be made in Polish. Any accompanying documents – with the exception of the document referred to in subsection 1(1) – not drawn up in Polish, shall be submitted along with a translation into Polish, certified by a sworn translator.

2a. The competent circuit bar council or the council of a circuit chamber of attorneys at law shall acknowledge receiving an application within one month of its receipt and shall notify the applicant, where appropriate, of the need to furnish any missing documents. The provisions of Article 64(2) of the Code of Administrative Procedure of 14 June 1960 (Dz. U. of 2016, item 23, 868, 996, and 1579) shall apply.

3. An application for entry shall be considered within four months of its submission, including all the required enclosures, and – in the event referred to in Article 30(2) – without delay after determining the result of the re-taken aptitude test.

Article 24.

The circuit bar council competent to adopt a resolution on the entry to the roll of advocates or the council of a circuit chamber of attorneys at law competent to adopt a resolution on the entry to the roll of attorneys at law may contact the competent professional body or other competent authority in the state of the applicant's origin in order to verify whether a candidate satisfies the conditions referred to in Article 22(1)(1).

Article 25.

The aptitude test shall be limited to verifying the level of a candidate's professional knowledge in order to assess the candidate's ability to practice the profession of an advocate or an attorney at law in view of the requirements set for advocates or attorneys at law who practice their profession in the territory of the Republic of Poland.

Article 26.

1. The aptitude test for candidates for entry to the roll of advocates shall be administered by the examination boards referred to in Article 75a of the Law on Advocates of 26 May 1982, whereas for candidates for entry to the roll of attorneys at law – by examination boards referred to in Article 33¹ of the Attorneys at Law Act of 6 July 1982.

1a. In order to administer the aptitude test, the examination boards shall draw up a list of issues which, on the basis of a comparison of the scope of education required in the Republic of Poland with the scope of education received by the candidate, are not covered by the diploma or other document confirming the professional qualifications held by the candidate. The aptitude test shall cover issues that are essential to the practicing of the professions of advocate or attorney at law in the Republic of Poland, of which the candidate has not demonstrated mastery. The issues shall be selected with due regard to the professional qualifications held by the candidate required in the Member State of the European Union to practice the profession under one of the titles referred to in Article 2(2).

2. The Minister of Justice shall determine, by way of ordinance, the by-laws for administering the aptitude test for candidates for entry to the roll of advocates or attorneys at law, having regard to the need to define:

- 1) the territorial jurisdiction of each examination board,
- 2) the manner of organizing the administrative and technical support for the examination boards,
- 3) the manner in which the dates of aptitude tests are set and announced,
- 4) the conditions for and manner of administering the written and oral parts of the aptitude test, and in particular:
 - a) the objective scope of the aptitude test,
 - b) the duration of the aptitude test,
 - c) the manner of grading each part of the aptitude test,
 - d) the manner of documenting the aptitude test's conducting – taking into consideration the need for proper, timely, and effective administration of the aptitude test and for ensuring impartiality during the examination board's operations.

Article 27.

(Repealed).

Article 28.

1. The aptitude test shall be administered in Polish and shall consist of a written part and an oral part.

2. The written part shall cover the topics not covered by the diploma or other document confirming the professional qualifications held by the candidate, which have been identified on the basis of a comparison of the scope of education required in the Republic of Poland with the scope of education received by the candidate.

3. The oral part shall cover issues concerning the organization and operation of the professional self-government, the conditions for practicing the profession, and the rules of professional conduct.

4. In order to be admitted to the oral part of the aptitude test, a candidate shall have to receive a passing grade in at least one subject on the written part. In the event of receiving a failing grade in both subjects on the written part, the entire test shall be considered failed.

Article 29.

1. The board shall consider the aptitude test passed or failed, taking into account the grades a candidate has received in each subject on the written part and on the oral part of the test.

2. The board shall consider the aptitude test failed where a candidate has received a failing grade in at least two subjects. Receiving a failing grade in one of the subjects shall not preclude passing the aptitude test if the board deems that the grades received by the candidate in the remaining subjects provide reasonable grounds to believe that the candidate is fit to practice the profession.

Article 30.

1. The result of the aptitude test shall not be subject to appeal.

2. In the event of a failing score on the aptitude test, upon the application of the candidate submitted within two weeks of announcing the test score, the test shall be repeated no more than once and no sooner than after the lapse of six months from completing the previous test.

Article 31.

1. A circuit bar council competent to adopt a resolution on the entry to the roll of advocates or the council of a circuit chamber of attorneys at law competent to adopt a resolution on the entry to the roll of attorneys at law shall waive the requirement of passing the aptitude test upon the lawyer's application if the lawyer can demonstrate that for a period of at least three years he or she has actively and uninterruptedly engaged in the practice on a permanent basis of law in force and effect in the Republic of Poland, including European Union law, in accordance with the terms specified in the provisions of chapters 1 and 2 of section II.

2. Uninterrupted practice on a permanent basis shall mean practice without any interruptions, with the exception of those arising out of events and requirements of day-to-day life.

3. In order to demonstrate the active and uninterrupted practice on a permanent basis referred to in subsection 1, a lawyer from the European Union shall attach to the application for waiving the requirement of passing the aptitude test a list of cases the lawyers has handled, which shall include their case file numbers or other reference numbers, subject matter, duration, and actions undertaken in the course of each case.

4. The competent circuit bar council or the competent council of a circuit chamber of attorneys at law may summon a lawyer from the European Union to appear in person in order to provide additional information or explanation regarding the practice on a permanent basis referred to in subsection 1.

Article 32.

1. Upon application by a lawyer from the European Union, the council referred to in Article 31(1) may waive the requirement of passing the aptitude test if the lawyer can demonstrate that for a period of at least three years he or she has actively and uninterruptedly engaged in practice on a permanent basis in accordance with the terms specified in the provisions of chapters 1 and 2 of section II, however for a period shorter than three years with respect to the law referred to in Article 31(1).

2. When adopting a resolution on waiving the aptitude test requirement, the council shall consider the scope and the subject matter of the previous practice of the lawyer from the European Union, as well as the lawyer's knowledge and experience in the area of Polish law, including participation in training therein.

3. The provisions of Article 31(2)–(3) shall apply *mutatis mutandis*.

4. The competent circuit bar council or the competent council of a circuit chamber of attorneys at law shall conduct an interview with the lawyer from the European Union in order to verify whether the lawyer has been actively and uninterruptedly engaged in practice on a permanent basis, particularly in the area of Polish law, and whether the lawyer is fit to engage in such practice in view of his or her knowledge and experience in the area of Polish law.

Article 33.

1. The resolutions of a circuit bar council and the resolutions of the council of a circuit chamber of attorneys at law on waiving the aptitude test requirement shall state the legal and factual reasons on which they are based.

2. A resolution denying waiver of the aptitude test requirement to a lawyer from the European Union shall be subject to appeal as follows:

- 1) a resolution of a circuit bar council – to the Polish Bar Council;

2) a resolution of the council of a circuit chamber of attorneys at law – to the National Council of Attorneys at Law.

3. The deadline for lodging an appeal shall be 30 days from the copy of the resolution being served.

Article 34.

A lawyer from the European Union entered to the roll of advocates or the roll of attorneys at law shall be authorized to use the professional title awarded in the lawyer's home state expressed in the official language thereof, alongside the title of advocate or the title of legal adviser.

Article 34a.

1. The provisions of this Act governing nationals of the Member States of the European Union holding the professional qualifications required to practice the profession under one of the titles referred to in Article 2(2) shall also apply *mutatis mutandis* to:

- 1) nationals of the Member States of the European Free Trade Association (EFTA) – parties to the Agreement on the European Economic Area or the Swiss Confederation holding the professional qualifications required to practice the profession under one of the titles set out in Annex No. 1 and Annex No. 2 hereto;
- 2) nationals of the Member States of the European Union holding the professional qualifications required to practice the profession under one of the professional titles awarded in those states, set out in Annex No. 2 hereto.

2. The provisions of section III shall apply *mutatis mutandis* to persons referred to in Article 2(1)(3)–(9) of the Rules Governing Recognition of Professional Qualifications Acquired in the Member States of the European Union Act of 22 December 2015 (Dz. U. of 2016, item 65).

SECTION IV

PROVISION OF CROSS-BORDER SERVICES

Chapter 1

Provision of Cross-border Services by Lawyers from the European Union

Article 35.

1. A lawyer from the European Union shall be authorized to provide cross-border services under one of the professional titles awarded in the lawyer's home state expressed in the official language thereof, with indication of the professional body of which the lawyer is a member in that home state or of the judicial authority before which the lawyer is authorized to appear in accordance with the home-state's law.

2. As part of the authorization referred to in subsection 1 a lawyer from the European Union may undertake any actions an advocate or an attorney at law is authorized to undertake.

Article 36.

1. In the course of providing cross-border services that consist in representing a client in proceedings before courts and other public authorities, a lawyer from the European Union shall be subject to the same conditions for practicing the profession as are applicable to an advocate or a legal adviser, with the exception of the conditions regarding place of residence and entry to the roll of advocates or attorneys at law.

2. A lawyer from the European Union shall be obliged to observe the rules of professional conduct applicable to advocates or applicable to attorneys at law, with due regard to the rules of professional conduct in force in the lawyer's home state. However, in the event that representation by an attorney at law is not permitted, a lawyer from the European Union shall be subject to the rules of professional conduct binding advocates, with due regard to the rules of professional conduct in force in the lawyer's home state.

Article 37.

1. In the course of providing cross-border services other than those listed in Article 36(1), a lawyer from the European Union shall be obliged to observe the conditions for practicing the profession in force in the lawyer's home state, with due regard to the conditions for practicing the profession applicable to advocates or attorneys at law, as long as observance of the latter conditions may be required of a person who does not practice on a permanent basis and where such observance is justified to ensure the proper discharge of professional duties and the preservation of the dignity of the profession.

2. The provisions of subsection 1 shall apply *mutatis mutandis* to the observance of the rules of professional conduct.

Article 38.

1. In the course of providing cross-border services that consist in representing a client in proceedings in which applicable law requires the party to be represented by an advocate or a legal adviser, a lawyer from the European Union shall be obliged to cooperate with a person practicing one of these professions. Where representation by an attorney at law is not permitted, a lawyer from the European Union shall be obliged to cooperate with an advocate.

2. The provisions of Article 17(2)–(4) shall apply *mutatis mutandis*.

Article 39.

1. A lawyer from the European Union representing a client in proceedings before courts and other public authorities shall be obliged to indicate the person authorized to receive the service

of pleadings in the Republic of Poland to the authority conducting the proceedings. In the event that a lawyer from the European Union cooperates with an advocate or an attorney at law pursuant to Article 38, the advocate or the attorney at law shall be presumed to be the authorized person.

2. In the event of failure to indicate the person authorized to receive the service of pleadings in the Republic of Poland, any pleading addressed to a lawyer from the European Union shall be served on the party the lawyer represents if such party has a place of residence or a registered office in the Republic of Poland. In all other cases, the pleading shall be left in the case files and shall thus be considered duly served. The authority conducting the proceedings shall be obliged to instruct the lawyer from the European Union about this procedure upon the first service.

3. The provisions of subsections 1 and 2 shall not apply to proceedings in which the service of pleadings on a lawyer from the European Union is governed by the Regulation (EC) No. 1393/2007 of the European Parliament and of the Council of 13 November 2007 on the service in the Member States of judicial and extrajudicial documents in civil or commercial matters (service of documents), and repealing Council Regulation (EC) No. 1348/2000 (*Official Journal of the European Union* L 324, 10.12.2007, p. 79).

Article 40.

1. Upon undertaking the first procedural action in court proceedings, a lawyer from the European Union shall be obliged to submit a document to case files confirming that the lawyer is registered in his or her home state as a person authorized to practice the profession under one of the professional titles referred to in Article 2(2) and to inform the dean of a circuit bar council or the dean of the council of a circuit chamber of attorneys at law competent for the court's registered office of engaging in the provision of a cross-border service.

2. A public authority other than a court before which a lawyer from the European Union undertakes an action, the dean of a circuit bar council, or the dean of the council of a circuit chamber of attorneys at law competent for the place the action is undertaken, may at any time request that a lawyer from the European Union submit the document referred to in subsection 1.

3. Should the document not be drawn up in Polish, the lawyer from the European Union shall attach a translation thereof into Polish, certified by a sworn translator.

Article 41.

1. For a culpable breach of the obligation to comply with the conditions for practicing the profession and the rules of professional conduct referred to in Article 36 and Article 37, a lawyer

from the European Union shall be subject to disciplinary responsibility pursuant to the provisions on disciplinary responsibility of advocates or on disciplinary responsibility of attorneys at law.

2. The provisions of Article 10(2)–(5) shall apply *mutatis mutandis*.

Chapter 2

Provision of Cross-border Services by Lawyers from outside the European Union

Article 42.

By way of reciprocity, unless international agreements ratified by the Republic of Poland or provisions of international organizations in which the Republic of Poland is a member provide otherwise, as part of providing cross-border services, a lawyer from outside the European Union shall be authorized to represent parties solely in civil proceedings where the parties are nationals of or belong to the state in which the lawyer is authorized to practice the profession.

Article 43.

A lawyer from outside the European Union providing services pursuant to Article 42 shall be governed by the provisions of Article 35(1) and Article 36–41 applied *mutatis mutandis*.

SECTION V

AMENDMENTS TO PROVISIONS CURRENTLY IN FORCE, TRANSITIONAL PROVISIONS, AND FINAL PROVISIONS

Chapter 1

Amendments to Provisions Currently in Force

Article 44.

The Code of Civil Procedure of 17 November 1964 (Dz. U. No. 43, item 296, of 1965 No. 15, item 113, of 1974 No. 27, item 157 and No. 39, item 231, of 1975 No. 45, item 234, of 1982 No. 11, item 82 and No. 30, item 210, of 1983 No. 5, item 33, of 1984 No. 45, item 241 and 242, of 1985 No. 20, item 86, of 1987 No. 21, item 123, of 1988 No. 41, item 324, of 1989 No. 4, item 21 and No. 33, item 175, of 1990 No. 14, item 88, No. 34, item 198, No. 53, item 306, No. 55, item 318 and No. 79, item 464, of 1991 No. 7, item 24, No. 22, item 92 and No. 115, item 496, of 1993 No. 12, item 53, of 1994 No. 105, item 509, of 1995 No. 83, item 417, of 1996 No. 24, item 110, No. 43, item 189, No. 73, item 350 and No. 149, item 703, of 1997 No. 43, item 270, No. 54, item 348, No. 75, item 471, No. 102, item 643, No. 117, item 752, No. 121, item 769 and 770, No. 133, item 882, No. 139, item 934, No. 140, item 940 and No. 141, item 944, of 1998 No. 106, item 668 and No. 117, item 757, of 1999 No. 52, item 532, of 2000 No. 22, item 269 and 271, No. 48, item 552 and 554, No. 55, item 665, No. 73, item 852, No. 94, item 1037, No. 114, item 1191 and 1193 and No. 122, item 1314, 1319 and 1322,

of 2001 No. 4, item 27, No. 49, item 508, No. 63, item 635, No. 98, item 1069, 1070 and 1071, No. 123, item 1353, No. 125, item 1368 and No. 138, item 1546 and of 2002 No. 25, item 253, No. 26, item 265, No. 74, item 676 and No. 84, item 764) shall be amended as follows: (amendments omitted).

Article 45.

The Law on Advocates of 26 May 1982 (Dz. U. of 2002 No. 123, item 1058) shall be amended as follows: (amendments omitted).

Article 46.

The Attorneys at Law Act of 6 July 1982 (Dz. U. of 2002 No. 123, item 1059) shall be amended as follows: (amendments omitted).

Article 47.

In the Act Amending the Law on Advocates, the Attorneys at Law Act and Certain Other Acts of 22 May 1997 (Dz. U. No. 75, item 471 and No. 124, item 782 and of 1999 No. 75, item 853) Article 11 shall be deleted.

Chapter 2

Transitional and Final Provisions

Article 48.

Until the date of entry into force of Article 13–17 and Article 35–41, lawyers from the European Union shall be governed by the provisions of Article 18–20 and Article 42, applied *mutatis mutandis*.

Article 49.

Companies with foreign capital participation existing on the date of this Act's entry into force, founded with the object of providing legal assistance pursuant to the Companies with Foreign Capital Participation Act of 14 June 1991 (Dz. U. of 1997 No. 26, item 143, of 1998 No. 160, item 1063 and of 1999 No. 49, item 484 and No. 101, item 1178):

- 1) which, within the deadline set in Article 10(2) of the Act referred to in Article 47, have satisfied the conditions set out in Article 10(2) and Article 11(1)(1)–(2) of that Act or
- 2) founded pursuant to Article 11(1)² of the Act referred to in Article 47

- may continue to operate provided that within six months of this Act entering into force all shareholders or stockholders of these companies who are not advocates or attorneys at law obtain entry to the roll of foreign lawyers referred to in Article 3 and the companies bring their

² Repealed by Article 47 of the Provision of Legal Assistance by Foreign Lawyers in the Republic of Poland Act of 5 July 2002 (Dz.U. of 2002, No 126, item 1069), which entered into force on 10 February 2003.

form of organization and scope of activity in line with the provisions of Article 18 and Article 19 herein.

Article 50.

In the event that a company founded with the object of providing legal assistance pursuant to the Companies with Foreign Capital Participation Act carries out activity in breach of Article 49, the company shall be dissolved in a court judgment entered upon the motion of a circuit bar council or the council of a circuit chamber of attorneys at law.

Article 51.

The Act shall enter into force six months after its promulgation, with the exception of Article 13–17, Article 21–41, Article 43, Article 45(5)–(6), Article 46(4), and Article 46(6), which shall enter into force on the date the Republic of Poland becomes a member of the European Union.

ANNEXES

ANNEX No. 1

**LIST OF PROFESSIONAL TITLES AWARDED IN THE MEMBER STATES OF
THE EUROPEAN UNION CORRESPONDING TO THE PROFESSION OF
ADVOCATE OF ATTORNEY AT LAW**

- in the Republic of Austria - Rechtsanwalt,
- in the Kingdom of Belgium - Avocat/Advocaat/Rechtsanwalt,
- in the Republic of Bulgaria - Адвокат,
- in the Republic of Croatia - Odvjetnik/Odvjetnica,
- in the Republic of Cyprus - Δικηγόρος,
- in the Czech Republic - Advokát,
- in the Kingdom of Denmark - Advokat,
- in the Republic of Estonia - Vandeadvokaat,
- in the Republic of Finland - Asianajaja/Advocat,
- in the French Republic - Avocat,
- in the Hellenic Republic - Δικηγόρος,
- in the Kingdom of Spain - Abogado/Advocat/Advogad/Abokatu,
- in the Kingdom of the Netherlands - Advocaat,
- in the Republic of Ireland - Barrister/Solicitor,
- in the Republic of Lithuania - Advokatas,
- in the Republic of Latvia - Zvērināts advokāts,
- in the Grand Duchy of Luxembourg - Avocat,

- in the Federal Republic of Germany - Rechtsanwalt,
- in the Republic of Malta - Avukat/Prokuratur Legali,
- in the Portuguese Republic - Advogado,
- in Romania - Avocat,
- in the Slovak Republic - Advokát/Komerčný právnik,
- in the Republic of Slovenia - Odvetnik/Odvetnica,
- in the Kingdom of Sweden - Advokat,
- in the United Kingdom of Great Britain and Northern Ireland - Advocate/Barrister/Solicitor,
- in the Republic of Hungary - Ügyvéd,
- in the Italian Republic - Avvocato.

ANNEX No. 2

LIST OF PROFESSIONAL TITLES AWARDED IN THE MEMBER STATES OF THE EUROPEAN FREE TRADE ASSOCIATION (EFTA) – PARTIES TO THE AGREEMENT ON THE EUROPEAN ECONOMIC AREA OR IN THE SWISS CONFEDERATION, CORRESPONDING TO THE PROFESSION OF ADVOCATE OR ATTORNEY AT LAW

- in the Republic of Iceland - Lögmaur,
- in the Principality of Liechtenstein - Rechtsanwalt,
- in the Kingdom of Norway - Advokat,
- in the Swiss Confederation - Avocat/Advokat, Rechtsanwalt, Anwalt, Fürsprecher,
Fürsprech Avvocato.

Translated by *Marzena Lewandowski*