

Translation from German

**Federal Statute on the Free Movement of Services and  
Establishment of European Lawyers and on the Provision of  
Legal Services by Internationally Active Lawyers in Austria  
(EIRAG)**

**Part 1  
Scope of application**

**Section 1**

- (1) Parts 2, 3 and 4 of this Federal Statute regulate the exercise by lawyers of freedom to provide services and the establishment to practise the profession of lawyer in Austria of nationals of the Member States of the European Union and other countries that are parties to the Agreement on the European Economic Area and of the Swiss Confederation who are authorised to practise as a lawyer under any of the professional titles listed in the Annex to this Federal Statute (European Lawyers).
- (1a) The provisions of the 3. part are to be applied to nationals of the United Kingdom of Great Britain and Northern Ireland (United Kingdom) after its withdrawal from the European Union, to the extent these nationals have applied for the registration in the list of lawyers after three year-long effective and regular activity as established European lawyer in Austria or are to undergo the qualification examination provided in the 3. main piece of the 3. part before the 1. January 2021 and meet the requirements of Art. 10 of the Agreement on the withdrawal of the United Kingdom of Great Britain and Northern Ireland from the European Union and the European Atomic Community, official gazette no. L 029 of 31.01.2020, page 7; in case of the qualification examination the application for registration in the list of lawyers is to be filed the latest within one year after the successful passing of the examination. The same applies to nationals of the member states of the European Union and other member states of the Agreement on the European Economic Area as well as the Swiss Confederation, who were entitled on 31. December 2020 to exert the profession of lawyer in the United Kingdom under the professional title "Advocate", "Barrister" or "Solicitor" or, with reference to the qualification examination, had educational evidence entitling them to direct access to one of these professions.
- (2) Part 5 of this Federal Statute regulates the provision of legal services by lawyers who are nationals of a member state of the General Agreement on Trade in Services (BGBl. [Federal Law Gazette] No. 1/1995) and members of the professional organisation of that member state and authorised to practise as a lawyer in that country (home country) (internationally active lawyers, hereinafter referred to as "International Lawyers").
- (3) Where only the masculine form is used in this Federal Statute for describing natural persons it equally refers to both women and men. If a term is used for a specific natural person, the respective gender-specific form must be used.



## **Part 2**

### **Free movement of services**

#### **Section 2 - Temporary activity**

To the extent that they provide services as defined in Art. 50 TEC European Lawyers may temporarily practise in Austria in the same way as a lawyer who is listed in the Register of Lawyers of an Austrian Bar Association, however, they shall be subject to the restrictions resulting from the provisions of this Part (European Lawyers Providing Services).

#### **Section 3 - Professional title; Proof of authorisation**

- (1) European Lawyers Providing Services under the regime of free movement of services must use the professional title they are entitled to use in their state of residence (home country) under national applicable law and state the professional organisation of which they are members in their home country.
- (2) If they wish to provide services under the regime of free movement of services before a court or administrative authority in Austria, they must furnish evidence of their authorisation as defined in Section 1 at the request of the court or administrative authority. If required to do so, they may pursue their activities only after such proof has been furnished.
- (3) In connection with its supervisory duty as defined in Section 7(1) the competent Bar Association may also require European Lawyers Providing Services in Austria to furnish proof of their authorisation as defined in Section 1.

#### **Section 4 - Rights and duties**

- (1) When providing services in connection with representing or defending a client in the area of administration of justice or before public authorities, European Lawyers Providing Services shall have the status of a lawyer listed in the Register of Lawyers of an Austrian Bar Association, in particular the rights and duties of such a lawyer, unless they concern membership of a Bar Association or the law firm's registered office. Before their first activity in the circuit of an Austrian Bar Association they shall notify the respective competent Bar Association (Section 7(1)) thereof in writing.
- (2) When pursuing other activities of a lawyer, European Lawyers Providing Services shall comply with the rules for practising the profession of lawyer to the extent that they can be observed by them as lawyers providing services and only insofar as compliance with the same is justified from an objective point of view to warrant proper practice as a lawyer and respecting the dignity of the profession and taking account of incompatibilities.

#### **Section 5 - *Einvernehmensrechtsanwalt* (Austrian lawyer acting in conjunction with the foreign lawyer)]**

- (1) In proceedings in which the party must be represented by a lawyer or in which a defence counsel must be called in, European Lawyers Providing Services may act as representative/counsel or defence counsel of a party only in agreement with a lawyer listed in the Register of Lawyers of an Austrian Bar Association [*Einvernehmensrechtsanwalt*].



That lawyer must ensure that the European Lawyer Providing Services will meet the requirements of proper administration of justice in the course of representation or defence. No contractual relationship will be established between the *Einvernehmensrechtsanwalt* and the client, unless the parties involved have stipulated otherwise.

- (2) Written proof of such agreement shall be furnished to the court when the initial procedural step is taken. Any revocation of the agreement shall be notified to the court in writing. Such revocation shall only have effect for the future. Procedural acts for which evidence of agreement is not available at the time they are taken shall not be deemed to have been taken by a lawyer. The *Einvernehmensrechtsanwalt* shall inform his Bar Association in writing about the fact that an agreement has been reached or of revocation of the same, if any.
- (3) Paragraphs 1 and 2 shall not apply if the European Lawyer Providing Services has passed the aptitude test which is regulated in the 3rd Main Part of Part 3.

## **Section 6 - Service of process**

For service of process in proceedings as defined in the first sentence of Section 5(1) European Lawyers Providing Services who have no place of delivery in Austria may be ordered to nominate a service of process agent for those proceedings within a period of at least 14 days of service of the order, which period shall be fixed at the same time. Persons who have no place of delivery in Austria may not be appointed process agents effectively. If no service of process agent has been nominated, the *Einvernehmensrechtsanwalt* shall be deemed the service of process agent.

## **Section 7 - Supervision; Disciplinary measures**

- (1) European Lawyers Providing Services under the regime of free movement of services shall be subject to supervision by an Austrian Bar Association (Section 23 of the Austrian Lawyers' Code [*Rechtsanwaltsordnung/RAO*]) and to disciplinary measures by the Disciplinary Board and the Austrian Supreme Court [*Oberster Gerichtshof/OGH*] in analogous application of the Disciplinary Code for Lawyers and Trainee Lawyers [*Disziplinarstatut für Rechtsanwälte und Rechtsanwaltsanwärter/DSt*], BGBl. No. 474/1990. Local jurisdiction of the Bar Association depends on the place where the services are rendered in Austria; jurisdiction in disciplinary proceedings depends on the place where the disciplinary offence was committed. However, if an *Einvernehmensrechtsanwalt* has been appointed, the Bar Association of which he is a member shall have jurisdiction.
- (2) Disciplinary sanctions and interim measures which restrict the lawyer's practice may be imposed only with effect for Austria. The disciplinary sanction of being deleted from the Register will be replaced by the prohibition against providing services in Austria.
- (3) Section 45 *DSt* shall apply only where the whereabouts of the European Lawyer Providing Services are unknown or where service of process on the lawyer abroad cannot be effected within a reasonable period of time.
- (4) Measures taken by the Bar Association according to Section 23 *RAO* concerning a European Lawyer Providing Services and decisions on instituting proceedings, decisions on interim measures and rulings issued against him in disciplinary proceedings shall be notified to the competent authority of the home country.

## **Section 8 - Establishing a law office in Austria**

European Lawyers Providing Services under the regime of free movement of services in accordance with the provisions of this Part shall not be listed in the Register of an Austrian Bar Association. They may operate an office in Austria only insofar as this is required to provide the temporary services. They must notify the Bar Association in writing of the fact that a law office has been established.

### **Part 3 Establishment**

#### **First Main Part** **Establishment under the professional title used in the home country**

### **Section 9 - Listing in the Register of Established European Lawyers**

European Lawyers may establish themselves permanently in Austria under the professional title used in their home country to practise the profession of lawyer subject to the restrictions resulting from the provisions of this Part, provided that they will be entered into the Register of Established European Lawyers upon application.

### **Section 10 - Application**

- (1) The application for being listed in the Register of Established European Lawyers shall be addressed to the committee of the competent Austrian Bar Association and shall state the address of the law office in Austria.
- (2) The following shall be enclosed with the application
  1. evidence of nationality of a Member State of the European Union or another country that is a party to the Agreement on the European Economic Area;
  2. a certificate issued by the competent authority in the home country confirming that the European Lawyer is a member of the profession; the Bar Association may require that the certificate is not older than three months at the time of presentation;
  3. proof of professional indemnity insurance or a guarantee as defined in Section 15.
- (3) The application and the documents to be enclosed shall - to the extent they originate from the applicant - be submitted in German; other documents shall be presented together with a certified translation, unless they are in German.

### **Section 11 - Listing procedure**

- (1) If the applicant has fulfilled the requirements of Section 10, he shall be listed in the Register of Established European Lawyers. Trustworthiness as defined in Section 5(2) RAO shall not be checked in advance. If listing is intended to be denied, a prior hearing of the applicant shall take place. Section 5a RAO shall be applied *mutatis mutandis*.
- (2) The Bar Association shall notify the competent authority of the home country of the listing.
- (3) The notification and publication duties to be observed in Austria which are regulated in Section 5(5) RAO shall apply *mutatis mutandis* to listing in the Register of Established

European Lawyers. Established European Lawyers shall also be included in the directories of lawyers published by the Austrian Bar or the relevant Bar Association.

### **Section 12 - Professional title**

- (1) Established European Lawyers must use the professional title they are entitled to use in their home country according to their applicable national law. Anybody who is entitled to use the professional title of "*Rechtsanwalt*" or "*Anwalt*" shall, in addition, state the professional organisation of which he is a member in his home country.
- (2) Established European Lawyers shall immediately notify the Bar Association of any suspension or expiration of the authorisation to practise as a lawyer in their home country, any change of the professional organisation of which they are a member in their home country, as well as of any change in their professional title in the home country.

### **Section 13 - Professional status**

- (1) Established European Lawyers have the status of a lawyer who is listed in the Register of Lawyers. However, they shall not be authorised
  1. to be elected as an officer of the Bar Association, the Austrian Bar, the Disciplinary Board or as lawyer judge [*Anwaltsrichter*] or bar prosecutor [*Kammeranwalt*];
  2. to train trainee lawyers;
  3. to be appointed legal aid lawyer, legal aid defence counsel or *ex officio* defence counsel; accordingly, Established European Lawyers are not entitled to use the lump-sum remuneration for their retirement, occupational disability or surviving dependants' pension.
- (2) To the extent it seems necessary in the interest of the established lawyer concerned or his client in case of temporary disability of the established European lawyer to exert the profession because of illness or absence as well as in case of expiration or suspension of the right to exert the lawyer's profession in the country of origin, sections 34a and 34b RAO are to be applied accordingly.

### **Section 14 - *Einvernehmensrechtsanwalt***

In proceedings in which a party must be represented by a lawyer or in which a defence counsel must be called in, Established European Lawyers must act in conjunction with an Austrian lawyer as defined in Section 5. This shall not apply where the European Lawyer has passed the aptitude test which is regulated in the Third Main Part.

### **Section 15 - Professional indemnity insurance**

- (3) Established European Lawyers shall be exempt from the duty to take out and maintain professional indemnity insurance as defined in Section 21a RAO if they provide evidence to the Bar Association of an existing insurance contract or guarantee that complies with the regulations of the home country and is equivalent to insurance as defined in Section 21a RAO with respect to its terms and conditions and coverage and also covers his professional activities in Austria. If such insurance is not equivalent, supplementary insurance shall be

taken out or a supplementary guarantee shall be obtained to ensure coverage that meets the requirements of Section 21a *RAO*. Section 21a(2) *RAO* shall apply *mutatis mutandis*.

- (4) In the case of paragraph 1 Established European Lawyers must enter into a contractual agreement with the foreign insurer or the foreign professional guarantee fund putting it under an obligation to make the notifications to the competent Bar Association as regulated in Section 21a(6) *RAO* and provide evidence thereof to the Bar Association; otherwise its obligation to provide coverage shall continue.

### **Section 16 - Joining a partnership or company of lawyers**

- (1) Where Established European Lawyers are no members of an association for joint practice, they may practise as Established European Lawyers (Section 12) also jointly under the legal form of a partnership or company of lawyers as defined in Sections 1a and 21c *RAO*; Sections 1a, 1b, 21a, 21c to 21g *RAO* shall apply to such a partnership or company *mutatis mutandis*. Where Established European Lawyers are members of an association for joint practice in their home country, they shall notify the Austrian Bar Association thereof. They shall state the name of the association and its legal form. The Bar Association may require them to provide additional expedient information about the association concerned.
- (2) When providing legal services, Established European Lawyers may also use the name of an association for joint practice (European partnership or company of lawyers) of which they are a member in their home country and may jointly practise as lawyers also as a branch of that partnership or company, of which, however, only persons as defined in Section 21c *RAO* may be members. In that case they shall also state the legal form of the association in the home country. They are the only ones who may be registered in the Business Register as authorised representatives and who may practise as lawyers in Austria under that branch. The modalities of joint practice shall be subject to Sections 21c to 21g *RAO*.
- (3) For registration of an Austrian branch of a European partnership or company of lawyers in the Business Register and for any other registration relating to that branch a statement of non-objection to the relevant entry by the competent Bar Association shall be submitted. An objection may only be raised if the intended registration is in violation of the law; the second sentence of Section 5(2) and Section 5a *RAO* shall apply *mutatis mutandis*.
- (4) If the authorisation to practise as a lawyer in Austria of the only registered authorised representative expires, the branch shall be cancelled *ex officio*.

### **Section 17 - Supervision; Disciplinary measures**

- (1) Established European Lawyers shall be subject to supervision by the Austrian Bar Association (Section 23 *RAO*) and to disciplinary measures by the Disciplinary Board and the Austrian Supreme Court [*Oberster Gerichtshof*] in analogous application of the Disciplinary Code for Lawyers and Trainee Lawyers [*Disziplinarstatut für Rechtsanwälte und Rechtsanwaltsanwärter/DSI*].
- (2) Disciplinary sanctions and interim measures which restrict the lawyer's practice may be imposed only with effect for Austria.
- (3) Before disciplinary proceedings are instituted, the Disciplinary Board shall immediately notify the competent authority of the home country, including all expedient details, and shall also inform the same about the course of the disciplinary proceedings, in particular by sending them the decisions on the institution of proceedings, decisions on interim measures

or rulings in disciplinary matters. This shall apply *mutatis mutandis* to measures taken by the Bar Association in accordance with Section 23 RAO. In appellate proceedings the competent authority of the home country shall be given an opportunity to comment. Representatives of the competent authority of the home country shall have the right to attend disciplinary hearings.

- (4) Any suspension or expiration of the authorisation to practise the profession of lawyer in the home country shall immediately trigger a temporary or final ban on the person concerned to provide services as an Established European Lawyer.

## **Second Main Part**

### **Listing in the Register of Lawyers after three years of practice**

#### **Section 18 - General prerequisites**

- (1) Anybody who provides evidence as defined in Section 19 of effective and regular provision of services as an Established European Lawyer in Austria in the field of Austrian law, including Community law, shall be listed in the Register of Lawyers (Section 1(1) RAO) upon application.
- (2) Effective and regular provision of services means that the profession has actually been practised without interruption. When calculating the duration of effective and regular activities, times of interruption shall not be counted. Interruptions due to events of everyday life shall, however, be disregarded.
- (3) When assessing interruptions as defined in paragraph 2, the competent Bar Association shall consider all circumstances of the specific case and take the reason, duration and frequency of the interruptions into account.

#### **Section 19 - Evidence of activities**

- (1) The person applying to be listed in the Register of Lawyers shall provide evidence of the number and type of legal cases of Austrian law he has handled and of the duration of his activities. He shall provide the Bar Association with all information and documents which is/are suitable as evidence. The Bar Association may ask the applicant to explain his information and documents orally or in writing.
- (2) As evidence of legal cases of Austrian law handled by him the lawyer shall present case lists which shall normally include the case number, the subject matter, the period of time, type and scope of the activities and the current status of the proceedings. In addition, anonymised sample work, such as briefs or appeals, shall be presented at the Bar Association's request.
- (3) Section 10(3) shall apply *mutatis mutandis* to the applicant's information and documents.

#### **Section 20 - Listing in the Register of Lawyers in the case of shorter activity in the field of Austrian law**

- (1) Anybody who has provided services effectively and regularly as an Established European Lawyer in Austria for at least three years but has handled cases of Austrian law for a shorter

period only shall also be listed in the Register of Lawyers upon request, provided that he provides evidence of his ability to continue such activities in the way regulated in paragraph 2.

- (2) In this case the applicant shall, in addition to the evidence defined in Section 19, provide the Bar Association with all information and documents which are suitable as proof of his knowledge and professional experience in Austrian law. Section 10(3) shall apply *mutatis mutandis*. In a meeting the Bar Association shall then check whether he effectively and regularly practised as an Established European Lawyer in Austria in the field of Austrian law and whether he is able to continue such activities in future. The applicant's professional practice and his other expertise in Austrian law shall be discussed.
- (3) When rendering its decision, the Bar Association shall take into account the type and scope of the professional activities as well as the entire knowledge and all professional experience in Austrian law, attendance at courses and seminars about Austrian law, including the professional standards for lawyers.

### **Section 21 - Passing of an aptitude test by Established European Lawyers**

Established European Lawyers shall at any time, independent of the prerequisites regulated in this Main Part, be listed in the Register of Lawyers upon application if they have passed the aptitude test regulated in the Third Main Part. Then the local Bar Examination Commission [*Rechtsanwaltsprüfungskommission*] which has jurisdiction over the place of the Established European Lawyer's registered office in Austria shall be in charge of the examination.

### **Section 22 - Right to appeal**

Section 5a RAO shall apply *mutatis mutandis* to the applicant's right to appeal against decisions of the committee of the Bar Association which are rendered pursuant to this Main Part.

### **Section 23 - Professional title after listing in the Register of Lawyers**

Established European Lawyers who have been listed in the Register of Lawyers according to the provisions of this Main Part shall be entitled to use the professional title of their home country (Section 12) in addition to the professional title of "*Rechtsanwalt*".

## **Third Main Part**

### **Listing in the Register of Lawyers after having passed an aptitude test**

### **Section 24 - Prerequisites**

- (1) Nationals of Member States of the European Union and other countries that are parties to the Agreement on the European Economic Area and of the Swiss Confederation who have obtained evidence of formal qualifications which shows that the holder has fulfilled the professional requirements for direct access to a profession which is listed in the Annex to this Federal Statute shall be listed in the Register of Lawyers (Section 1(1) RAO) upon application if they have passed an aptitude test.



- (2) For the purposes of paragraph 1 evidence of formal qualifications means diplomas, certificates and other evidence of qualifications as defined in Directive 2005/36/EC. Evidence of formal qualifications based on education and training that was not mainly obtained in the European Union or in the European Economic Area shall entitle the holder to establish himself as laid down in paragraph 1 if he has actually and lawfully practised a profession which is listed in the Annex to this Federal Statute for at least three years and this is certified by the Member State of the European Union or the country that is a party to the Agreement on the European Economic Area which issued or recognised the evidence of formal qualifications.

### **Section 25 - Purpose of the aptitude test**

The aptitude test is a state examination exclusively limited to the applicant's professional knowledge with the aim of assessing his ability to pursue the profession of lawyer in Austria. The aptitude test must take account of the fact that the applicant is qualified to practise the profession of lawyer in a state that is a Member State of the European Union or a country that is a party to the Agreement on the European Economic Area.

### **Section 26 - Bar Examination Commission**

- (1) The aptitude test shall be taken before a panel of the Bar Examination Commission (Section 3 of the Austrian Bar Examination Act [*Rechtsanwaltsprüfungsgesetz/RAPG*], *BGBI.* No. 556/1985).
- (2) Jurisdiction of the Bar Association shall depend on the applicant's home country. Accordingly,
1. the Bar Examination Commission at the Higher Regional Court Vienna [*Oberlandesgericht Wien*] shall have jurisdiction for applicants from the Kingdom of Denmark, from the Federal Republic of Germany, from the Republic of Finland, from the Republic of Poland, from the Kingdom of Sweden, from the Republic of Hungary, from the Republic of Iceland and from the Kingdom of Norway;
  2. the Bar Examination Commission at the Higher Regional Court Graz [*Oberlandesgericht Graz*] shall have jurisdiction for applicants from the Greek Republic, from the Republic of Italy, from the Republic of Croatia, from the Republic of Malta, from the Republic of Portugal, from the Republic of Slovenia, from the Kingdom of Spain and from the Republic of Cyprus;
  3. the Bar Examination Commission at the Higher Regional Court Linz [*Oberlandesgericht Linz*] shall have jurisdiction for applicants from the Republic of Bulgaria, from the Republic of Estonia, from the French Republic, from the Republic of Latvia, from the Republic of Lithuania, from Romania, from the Slovak Republic and from Ireland;
  4. the Bar Examination Commission at the Higher Regional Court Innsbruck [*Oberlandesgericht Innsbruck*] shall have jurisdiction for applicants from the Kingdom of Belgium, from the Grand Duchy of Luxembourg, from the Kingdom of the Netherlands, from the Czech Republic, from the Principality of Liechtenstein and from the Swiss Confederation.

### **Section 27 - Admission to the aptitude test**

Upon the applicant's application the chairman of the Bar Examination Commission shall decide on admission to the aptitude test in agreement with the Bar Association at the place of the Higher Regional Court within four months of the date at which the applicant's complete file was submitted. The application for admission to the test may also be submitted to the Bar Association. The Bar Association shall promptly forward the application including the complete file to the competent Bar Examination Commission.

### **Section 28 - Application**

- (1) The following shall be enclosed with the application for admission to the aptitude test:
  1. the diplomas, certificates or other evidence of qualifications as defined in Section 24(2);
  2. evidence of the fact that the applicant has completed more than half of the minimum training period in a Member State of the European Union or a country that is a party to the Agreement on the European Economic Area, or a certificate confirming at least three years of professional practice in such a state;
  3. evidence of nationality of a Member State of the European Union or another country that is a party to the Agreement on the European Economic Area;
  4. a list of the elective subjects chosen;
  5. proof of payment of the examination fee;
  6. where applicable, certificates as defined in Section 29.
- (2) The application and the documents to be enclosed shall, to the extent that they originate from the applicant, be submitted in German; other documents shall be presented together with a certified translation.

### **Section 29 - Exemption from examination subjects**

The chairman of the Bar Examination Commission shall exempt the applicant from examination subjects in agreement with the Bar Association that is in charge according to Section 26 if the applicant proves that he has acquired the necessary knowledge of Austrian substantive law and procedural law in an examination subject during his previous education, training or professional activity.

### **Section 30 - Examination parts**

The aptitude test shall be comprised of a written examination and an oral examination. The test must be taken in German.

### **Section 31 - Written examination**

- (1) The written examination shall consist of two tests.
- (2) One test must be taken in the field of Austrian civil law. The candidate shall either draft an appeal against a decision of a court of first instance on the basis of court files or a statement of claims, a statement of defence and a decision on the basis of written information.
- (3) The other test shall at the candidate's choice be taken either in the field of Austrian criminal law or in the field of Austrian administrative law. If Austrian criminal law has been chosen,

an appeal against a decision of a court of first instance must be drafted on the basis of court files; if Austrian administrative law has been chosen, an appeal based on an administrative decision must be drafted or an appeal [*Revision*] against a decision of an administrative court, an extraordinary appeal [*Beschwerde*] as defined in Art. 144 of the Austrian Federal Constitutional Act [*Bundesverfassungsgesetz/B-VG*] or a petition of a party as defined in Art. 139(1) No. 4, Art. 139a, Art. 140(1) No. 1 (d) or Art. 140a *B-VG*.

### **Section 32 - Oral examination \***

- (1) Mandatory subjects of the oral examination:
  1. case study as part of legal counselling, enforcement of rights and defence of rights in the field of Austrian civil law, including cases from labour/employment law and social security law,
  2. case study as part of legal counselling, enforcement of rights and defence of rights in the field of Austrian business law and company law and
  3. professional standards for lawyers and the law on costs.
- (2) In addition, the candidate shall choose one of the following areas of expertise:
  1. case study as part of legal counselling, enforcement of rights and defence of rights in the field of Austrian criminal law,
  2. case study as part of legal counselling, enforcement of rights and defence of rights in the field of Austrian public law or
  3. case study and representation in Austrian tax law.
- (3) The candidate may not choose the same area of expertise for the written and the oral examination. If the candidate has not taken a written examination in the field of Austrian criminal law, he must choose the same for the oral examination.
- (4) The pertaining procedural laws shall also be examination subjects.

### **Section 33 - Repeating the aptitude test**

The aptitude test may be repeated twice.

### **Section 34 - Analogous application of the Austrian Bar Examination Act [*Rechtsanwaltsprüfungsgesetz/RAPG*]**

For the rest, the Austrian Bar Examination Act shall apply to the aptitude test *mutatis mutandis*.

### **Section 35 - Listing in the Register of Lawyers**

- (1) After the candidate has passed the aptitude test he shall apply to the committee of the Bar Association which has jurisdiction over the circuit where he plans to establish his registered office for listing in the Register of Lawyers (Section 1(1) *RAO*) if he wants to establish himself in Austria to pursue the profession of lawyer. The committee's decision and the candidate's right to appeal shall be subject to Sections 5 and 5a *RAO*.

---

\*Section 32 *EIRAG* applies to applications submitted to the Bar Examination Commission after 30 June 2008.

- (2) For the purposes of Art. 6 of the Directive stated in Section 24(2) the certificate of the successfully passed aptitude test, a certificate of disciplinary good conduct as evidence of his trustworthiness, a certificate of non-bankruptcy and a police clearance certificate shall be enclosed with the application, which shall be submitted in German. Those certificates shall not date back more than three months at the time they are presented; a certified translation thereof shall be presented.

## **Fourth Main Part** **Oath**

### **Section 36**

When taking the oath required pursuant to Section 7 *RAO* prior to listing in the Register of Lawyers, there shall be no reference to civic honour or the promise of loyalty to Austria for persons who are no Austrian nationals. This shall also apply to listing in the Register of Established European Lawyers.

## **Part 4** **Cooperation; Correspondence with competent authorities; Titles**

### **Section 37 - Cooperation with the competent authorities in other countries**

- (1) The Bar Associations shall provide mutual administrative assistance if the competent authority of the home country requests such assistance with reference to Directive 98/5/EC, Directive 77/249/EEC, Directive 2005/36/EC, Directive (EU) 2015/849 or to Directive 2006/123/EC.
- (2) If the Bar Examination Commission receives a request for administrative cooperation from the competent authority of the home country by way of the Internal Market Information System (Section 2 No. 1 Austrian IMI Act [*IMI-Gesetz*]), the Austrian Federal Ministry of Justice shall support the Bar Examination Commission with regard to technical processing.

### **Section 37a - Contact**

- (1) In connection with the procedures to be followed and formalities to be fulfilled to be listed and to practise as a lawyer in Austria lawyers who wish to provide services in Austria as defined in Part 2 or to establish themselves in Austria as defined in Part 3 shall contact the Bar Association which has jurisdiction for the envisaged representation services/work as counsel or the planned registered office, which shall take the necessary measures as the contact for the purposes of Directive 98/5/EC and Directive 77/249/EEC. The contact may be effected electronically.
- (2) In addition, the Bar Association shall ensure that via its website information about
1. the prerequisites to be fulfilled to practise the profession of lawyer,
  2. the rights and duties of lawyers, including the particularities resulting from this Federal Statute, and



3. the aptitude test as defined in Part 3 of the Third Main Part of *EIRAG*, including the relating remedies and fees payable, will be accessible electronically and updated at regular intervals.

### **Section 38 - Prohibition against use of the term "European Lawyer" as a professional title or in advertising**

The term "European Lawyer" as used in this Federal Statute must not be used as a professional title or in advertising.

### **Section 39 - Authorisation to issue a regulation**

The Federal Minister of Justice is authorised to adapt the Annex to Section 1 by way of a regulation in the case of a change in the group or titles of the professions listed or in the group of Member States of the European Union or the countries who are parties to the Agreement on the European Economic Area.

## **Part 5 Provision of legal services by International Lawyers**

### **Section 40**

In Austria International Lawyers may provide legal services on a commercial basis like a lawyer who is listed in the Register of Lawyers of an Austrian Bar Association only in the form of providing legal advice on the national law of their home country and on international law, except for the law of the European Economic Area and the European Union, and, in doing so, shall be subject to the restrictions resulting from the provisions of this Part.

### **Section 41**

- (1) In order to provide a legal service as defined in Section 40, International Lawyers may only stay in Austria temporarily to provide a specific service at the request of a client. Section 8 shall apply *mutatis mutandis*.
- (2) The admissibility as well as the possible extent of participation of an internationally active lawyer in a company of lawyers, registered in the list of companies of lawyers of a bar, is governed by the obligations contracted by the Republic of Austria in international commercial agreements or similar international agreements, the shares and voting rights of the internationally active lawyers must not exceed the extent of altogether 25 % in any case. An extension of substantial privileges of the internationally active lawyer in Austria (section 40) is not linked with such participation.

### **Section 42**

- (3) International Lawyers must use the professional title they are authorised to use in their home country under national applicable law and must state the place where they are admitted to the bar and the professional organisation of which they are members in their home country.



- (4) Before providing legal services in Austria as defined in Section 41, International Lawyers shall notify the competent Bar Association (Section 7(1)) in writing. Section 4(2) shall apply to International Lawyers *mutatis mutandis*.
- (5) Section 7 shall apply to International Lawyers *mutatis mutandis*. In connection with this supervisory duty the competent Bar Association may require International Lawyers to furnish evidence of their authorisation as defined in paragraph 1.

### Section 43

The term "International Lawyer" as used in this Federal Statute must not be used as a professional title or in advertising.

## Part 6

### Entry into force and transitional provisions from 1 January 2016

#### Section 44

- (1) Sections 27, 37 and 37a as amended by the Federal Statute *BGBI. I No. XX/2015* shall enter into force on 1 January 2016.
- (2) Section 31(3) as amended by the Austrian Act Amending Professional Law [*Berufsrecht-Änderungsgesetz/BRÄG*] 2016, *BGBI. I No. 10/2017* shall enter into force on 1 January 2017.
- (3) Sections 1 para 1a, 16 para 5 and 26 para 2 no. 3 as well as the modification of the exhibit to section 1, as amended by the Brexit-Accompanying Act 2019, *BGBI. I no. 25/2019*, enter into force at the time of the withdrawal of the United Kingdom of Great Britain and Northern Ireland from the European Union becoming effective, under the condition, that the withdrawal takes place without agreement on the withdrawal according to Art. 50 para 2 EUV. Section 26 para 2 no. 3 and the exhibit to section 1, in the version as amended up till this Federal Act, is to be continued to be applied to persons meeting the requirements according to section 1 para 1a, as amended by the Brexit-Accompanying Act 2019.
- (4) Sections 13, 37 para 1 and 41, as amended by the Austrian Act Amending Professional Law 2020, *BGBI. I no. 19/2020*, enter into force on 1. April 2020.
- (5) Sections 1 para 1a and 26 para 2 no. 3 as well as the modification of the exhibit to section 1, as amended by the Federal Act *BGBI. I no. 157/2020*, enter into force upon expiration of the day of the publication of this Federal Act. Section 26 para 2 no. 3 and the exhibit to section 1, in the version as amended up till this Federal Act, is to be continued to be applied to persons meeting the requirements according to section 1 para 1a, as amended by this Federal Act.

## Annex to Section 1

### **The profession of lawyer in the Member States of the European Union, other countries who are parties to the Agreement on the European Economic Area and the Swiss Confederation**

- in Belgium:	Avocat/Advocaat/Rechtsanwalt
- in Bulgaria:	АДВОКАТ
- in Denmark:	Advokat
- in Germany:	Rechtsanwalt
- in Estonia:	Vandeadvokaat
- in Finland:	Asianajaja/Advokat
- in France:	Avocat
- in Greece:	Dikigóros
- in Ireland:	Barrister/Solicitor
- in Italy:	Avvocato
- in Croatia:	Odvjetnik/Odvjetnica
- in Latvia:	Zverinats advokats
- in Lithuania:	Advokatas
- in Luxembourg:	Avocat
- in Malta:	Avukat/Prokuratur Legali
- in the Netherlands:	Advocaat
- in Poland:	Adwokat/Radca prawny
- in Portugal:	Advogado
- in Romania:	Avocat
- in Sweden:	Advokat
- in Slovakia:	Advokát/Komerčný právnik
- in Slovenia:	Odvetnik/Odvetnica
- in Spain:	Abogado/Advocat/Avogado/Abokatu
- in the Czech Republic:	Advokát
- in Hungary:	Ügyvéd
- in Cyprus:	Dikigóros
- in Iceland:	Lögmaur
- in Liechtenstein:	Rechtsanwalt
- in Norway:	Advokat
- in Switzerland:	Advokat, Rechtsanwalt, Anwalt, Fürsprecher, Fürsprech/Avocat/Avvocato

