



EXECUTIVE SUMMARY OF THE REPORT ON “THE PRACTICE OF THE PROFESSION OF LAWYER IN SPAIN BY FOREIGNERS”¹

The purpose of this document is that the people in charge of processing the applications for membership of the different Spanish Bar Associations and those interested will rapidly have a clear idea of the most important aspects to be borne in mind regarding the practice of the profession of lawyer in Spain by foreigners.

1) NATIONALS OF A MEMBER STATE OF THE EUROPEAN UNION (EU) OR THE EUROPEAN ECONOMIC AREA (EEA)

Citizens of EU or EEA Member States may opt between two forms of practice:

A) PERMANENT PRACTICE (p. 2)

In their turn, the Bar Associations may have to deal with two cases:

1) Applicants are in their home-countries the equivalent of “*abogado*” (lawyer) in Spain (p. 2)

In this case, they will have two options:

a) Practice under the home-country professional title (p. 3)

This applies to those who already exercise the law profession in their home-country while being registered in their pertinent law association. Applicants in this situation who chose this way of practicing in Spain will, of necessity, have to be registered (not become members) in a Spanish Bar Association, where they will be indicated as “registered lawyers” in the pertinent list of registered lawyers while they shall be designated a registration number. When practicing the profession they shall always be required to do so with the express mention of their professional qualification (*solicitor, avvocato, Rechtsanwalt*, and so forth) and, in certain cases they shall have to practice in conjunction with a Spanish lawyer (p. 6).

The maximum timeframe for the Governing Body of the Bar Association to decide whether or not to register the applicant is two months. Should no decision have been notified after these two months, the registration shall be considered to be admitted (p. 5).

¹ The references that are indicated beside the page numbers refer to the main document, in which you will find detailed information on the paperwork involved, concepts, addresses and so forth.



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It is very important that within fifteen of the registration, the Bar Association in question should notify said registration to the General Council of Spanish Bar Associations while specifying the competent authority of the applicant's home Member State (p. 5). In those Autonomous Regions where an Autonomous Regional Council of Bar Associations is incorporated, the Bar Association in question shall send the notification of a registration to its Autonomous Regional Council, which shall then send said notification to the General Council of Spanish Bar Associations.

Three years after registration, Community lawyers may apply for their incorporation as a Spanish lawyer into the pertinent Bar Association (p. 7). To do this, in addition to complying with the pertinent requirements, they shall have to demonstrate that they have been effectively practicing law on a regular basis in Spain for at least said three years.

b) Application for the recognition of the professional qualification of lawyer and subsequent Bar membership (p. 8)

The authority for the recognition of a professional qualification of lawyer coming from the EU or the EEA is the Spanish Ministry of Justice. To become a member of a Bar Association, applicants shall submit the pertinent certificate issued by said Ministry verifying Spanish recognition of the professional qualification of lawyer.

We refer readers to page 8 of the main document where two other circumstances are indicated which, from their content, could imply that such circumstances are not applicable to the profession of lawyer.

2) **Applicants who only have the equivalent of a law degree in their home-country** (p. 11)

Applicants shall only be entitled to join a Bar Association if they have previously had their university qualification harmonised. The authority for the harmonisation of the qualification is the Spanish Ministry of Education. The only valid harmonisation to be entitled to become a member of a Spanish Bar Association shall be that applied to qualifications categorised as official university qualifications. Therefore, and this has to be pointed out in particular, the decision made by the Ministry that is submitted with the application for membership shall make express reference to the qualification of law degree.

We would also like to draw your attention to the following: Section 31.b) of the Spanish General Lawyers' Statute sets forth that the general duty of a lawyer is "To pursue his activity as a self-employed lawyer or as a salaried lawyer in another firm or company in the area of the Bar Association under whose jurisdiction he is established and under which he practices his profession habitually". Cases have been detected where a very large number of lawyers who had had their law degrees harmonised and



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had applied for registration in Spanish Bar Associations, who all indicated the same domicile of office but who later indicated a domicile in their home-countries for the purpose of notifications. This practice could amount to fraud on the part of certain people who, in order to avoid the specific paperwork and academic qualifications required to join a Bar Association in their own countries, avail of the possibility offered to them by Community law of joining a Bar Association in a third country and subsequently they apply there for their registration as Spanish lawyers. Then they avail of the manner indicated in the foregoing paragraph to end up becoming the equivalent of a lawyer in their home-countries. *The fraudulent use of a rule created to allow free movement and recognition of degrees and qualifications within the European Union cannot be permitted.*

The possibility of membership of a Bar Association as “non-resident” lawyer (whether practicing or not) refers to people who are members of a Spanish Bar Association, but who are also members of another Spanish Bar Association, in which area they normally practice law. *Membership as “non-resident” shall not be granted to somebody who is not registered as a member of another Spanish Bar Association beforehand: professional domiciles abroad shall therefore not qualify.*

B) OCCASIONAL PRACTICE (p. 14)

This would be the case of those who practice law on a permanent basis in another EU or EEA Member State and occasionally travel to Spain to pursue any of the following activities: consultation, legal advice or representation of a client in court. These visiting lawyers shall report to the Bar Association corresponding to the area in which they wish to render their services and address a letter to the dean of the Governing Body pursuant to the requirements set forth in section 5 of Royal Decree RD 607/1986. The Bar Association shall send a communiqué notifying the intended activity to a) the judge or chief justice before whom practice is intended and b) the General Council of Spanish Bar Associations.

No kind of membership or registration is required therefore the payment of a membership fee is not necessary.

These visiting lawyers may not open a firm in Spain. To practice before courts, tribunals and public institutions, to assist persons in custody or prisoners and to communicate with prisoners and convicts, they shall act in conjunction with a lawyer who is a member of a Spanish Bar Association (see p.16).



2) **THIRD-COUNTRIES NATIONALS** (p.17)

In these cases, to gain admission to the profession of lawyer in Spain, there are three conditions to be complied with:

1) **Harmonisation of the qualification obtained in the home-country** (p.17): The competent authority is the Spanish Ministry of Education. Obviously, those who have earned their qualification directly from a Spanish university are exempt from this step. We reiterate what is indicated above: the only valid harmonisation shall be that applied to qualifications categorised as official university qualifications.

2) **Dispensation from the Spanish nationality requirement** (p.19): this has to be done at the Spanish Ministry of Justice. We would point out that certain people are exempt from this step: family members of either EU or EEA citizens that are accompanying or meeting up with them, particularly their spouse or civil partner, their direct descendants or those of their spouse or civil partner (who are over the age of 21 and depend on them) and their direct ascendants, or those of their spouse or civil partner (who depend on them).

3) **Registration in a Spanish Bar Association** (p. 20): When applicants have completed the foregoing steps, they shall apply for membership of the Bar association corresponding to the area in which they establish their only or main professional domicile (the same steps). They may become members as practicing or non-practicing lawyers, and resident or non-resident (if they are already members of another Spanish Bar Association), since they shall be considered as lawyers for all purposes.

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