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Judgment of the Court in Case C-295/23 | Halmer Rechtsanwaltsgesellschaft

A holding by purely financial investors in a law firm may be prohibited

Such a prohibition is justified in order to ensure the independence of lawyers

A Member State may prohibit holdings by purely financial investors in the capital of a law firm. Such a restriction on the freedom of establishment and the free movement of capital is justified by the objective of ensuring that lawyers can exercise their profession independently and in compliance with their professional conduct obligations.

The German law firm Halmer Rechtsanwaltsgesellschaft is challenging before the Higher Bavarian Lawyers' Court (Germany) a decision of the Munich Bar Association of 9 November 2021 which revoked its registration with the bar association on account of the fact that an Austrian limited liability company acquired shares ¹ in it for purely financial purposes. Under the German legislation applicable at the time, only lawyers and members of certain liberal professions could become a member in a law firm ².

The Higher Bavarian Lawyers' Court put questions to the Court of Justice regarding the compatibility of that legislation with EU law.

The Court replies that **EU law** and, more specifically, the free movement of capital and the Services Directive ³, which gives concrete expression to freedom of establishment, **do not preclude** national legislation which prohibits shares in a law firm from being transferred to a purely financial investor ⁴ and which provides, in the event of that legislation being infringed, for the firm's registration with the bar association to be revoked.

That restriction on the freedom of establishment and the free movement of capital is justified by overriding reasons relating to the public interest. A Member State is entitled to conclude that a lawyer would not be able to exercise his or her profession independently and in compliance with his or her professional and ethical obligations if that lawyer were part of a firm, certain members of which are persons who act exclusively as purely financial investors, without practising as a lawyer or exercising another profession subject to comparable rules. Such a restriction does not go beyond what is necessary to attain the objective pursued.

NOTE: A reference for a preliminary ruling allows the courts and tribunals of the Member States, in disputes which have been brought before them, to refer questions to the Court of Justice about the interpretation of EU law or the validity of an EU act. The Court of Justice does not decide the dispute itself. It is for the national court or tribunal to dispose of the case in accordance with the Court's decision, which is similarly binding on other national courts or tribunals before which a similar issue is raised.

Unofficial document for media use, not binding on the Court of Justice.

The [full text and, as the case may be, an abstract](#) of the judgment is published on the CURIA website on the day of delivery.

Press contact: Jacques René Zammit ☎ (+352) 4303 3355.

Images of the delivery of the judgment are available on ['Europe by Satellite'](#) ☎ (+32) 2 2964106.

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¹ More specifically, 51 of the 100 shares.

² By a modification of the Federal Lawyers' Code which took effect on 1 August 2022, that possibility was extended to apply to members of other liberal professions.

³ [Directive 2006/123/EC](#) of the European Parliament and of the Council of 12 December 2006 on services in the internal market.

⁴ Which does not intend to exercise a certain professional activity within that firm.