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The Bologna Declaration and Free Movement of European Union Citizens in the Fields of Legal Education and the Legal Profession – Observations in Finland

1. Introduction

The Bologna Declaration and the principle of free movement, as well as the right of establishment of the European Union, support each other and are closely related.

According to the Declaration, the function of the education area is to promote citizens' mobility and employability. In this respect, however, the Bologna Declaration seems to be restricted to mobility of students, teachers, researchers and administrative staff of universities. Nevertheless, the significance of the Declaration can be seen in a broader context.

Uniformity of university degrees is one of the main objectives of the Declaration. European degrees should be uniform, comparable and easily readable everywhere. Why is it important?

There is no doubt that there is the point of increasing the international competitiveness of the European system of higher education. This is, however, rather a universal point of view. In the framework of the European Union, the important point of the uniformity of degrees is its serving function. First, uniformity of degrees is a necessary precondition

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for recognising and approving degrees earned in another EU member state. It is difficult to compare different degrees. Second, the recognition of foreign degrees is a necessary precondition for the realisation of free movement and the right of establishment as principles of the European Union. This is not only a matter of mobility of students or free access to study and training opportunities. Instead, the mobility of graduates and free access to jobs for them is an important point, and is the focus of attention here.

The European Union's principles can be implemented with the help of uniform university degrees. Uniform degrees seem to create the necessary means of the principles but, on the other hand, not the sufficient means.

In the area of European Union's law, the uniformity of university degrees is a precondition of the recognition of professional qualifications. In practice, it is very difficult for a person to move to and establish themselves in another European country if her or his workmanship and professional qualifications earned in her or his home country are not recognised in the host country. In this respect, the recognition of foreign university degrees is an important matter. It is no wonder that the recognition of foreign professional qualifications and degrees has been the subject of special attention in EU law.

Implementation of the Bologna Declaration is voluntary. However, the European Union principles of free movement and the right of establishment are legally enforceable. They are parts of EU law.

Here, we pay attention only to the degrees provided by the law schools of Finnish universities. As the point of departure, in order to be a lawyer in Finland a person needs a conventional Finnish graduate degree in law and, more precisely, a conventional master's degree. This is the general law degree containing courses in all fields of law. The Bachelor's degree (a candidate degree) does not provide this competence. Specialised Master's degrees are excluded in a large scale, as well. In addition, degrees from universities of applied sciences, that is polytechnics, do not meet this requirement. This is the starting point in the estimation and recognition of foreign degrees, too.

As far as lawyers are concerned, implementation of the European Union's recognition norms on professional qualifications and degrees encounters important exceptions and restrictions. There are many insurmountable obstacles to adopting the principle of free movement and the right of establishment. Uniformity of degrees is not helpful if there are strong hindrances in recognising the degrees.

2. Adoption of the Bologna Declaration

The Sorbonne Joint Declaration was the outcome of the celebration of the 800th anniversary of the University of Paris in 1998. The education ministers of France, Italy, the United Kingdom and Germany signed the declaration and called other member states of the European Union as well as other European countries to join the European Higher Education Area. Very soon, the following year, the initiative and approach was confirmed and formalised by 29 European countries in Bologna.

Finland signed the Bologna Declaration and has been a member of the European Higher Education Area since the Bologna meeting, that is since 1999.

The historical background and development of Finnish academic education has to be recognised in order to understand the implementation process in Finland. Like in other European countries before the Bologna process, academic degrees have been developed in an independent way, that is as national processes. On a large scale, the development has been influenced by practical professional reasons.

In Finland, academic education has been a response to practical professional needs. Very often, academic courses contain training for specific professional skills and practices performed in certain professions. On the other hand, as a rule, an academic degree is the sufficient requirement of professional skills. As a rule, no separate professional degrees or exams are needed or known.

This is the case even in the field of law. As a rule, the national academic qualification, that is Master's degree in Law, is a sufficient indication of professional skill, for instance, in the cases of civil servants and private corporations. Master's degree in law is traditionally known as the degree providing competence to act as a judge. As such, it creates sufficient preconditions to start working as a lawyer. The specific skills needed in a judge's work are achieved by working as a court intern and as a presenting official or as a younger member of a court.¹

¹ Court training (training on the bench) is, however, in practice, a necessary step in a court career. On the other hand, it includes working in local or other courts during the practicing period. Master's degree in law is required. On the other hand, Degree in International and Comparative Law does not provide a competence to be appointed as an intern (Act on Court Practicing, section 3.2). Court training has been a popular way of advancing to other judicial roles, such as that of an advocate. Therefore, many Finnish lawyers have the title Master of Laws, trained on the bench. See also Government Bill 2016:7, p. 26, 30, 39, 111 and 125.

In order to become a member of the Finnish Bar Association, a lawyer has to pass a special examination. Only a member of the Bar is allowed to use the professional title 'advocate'. On the other hand, membership presumes working experience as well, such as practicing for at least two years as a lawyer in an advocate's office, that is the performance of an advocate's

On the other hand, the European educational and academic tradition has been uniform to a large degree. In the past, the strong historical tradition united European universities without any declarations or treaties. European universities share common academic forms. In most cases, national and professional reasons have modified the content and details of academic education rather than its forms. If this were not the case, the voluntary implementation of the Bologna principles could not have been possible.

3. Adoption of the Bologna Principles in the field of Finnish legal education

As a rule, the principles of the Bologna Declaration were adopted in 2005 in Finnish universities. In some respects, it has been easy to adopt them. In other respects, there are obvious difficulties. Not all the principles of the Bologna Declaration have been realised in Finland.

In the field of law, the requirement for a system of easily readable and comparable degrees has been met with the help of new names for the degrees.² Traditionally, the higher, that is the Master's or graduate degree has been called 'candidate', which was known as 'Bachelor' in other academic fields. It was a confusing title even in Finland. Today, the graduate degree is called 'Master of Laws' both in Finnish and English.

However, the Finnish name of the lower degree, that is the undergraduate degree, is still the traditional 'Notary of Law' instead of Bachelor. Nevertheless, it is translated as 'Bachelor of Laws' in English.³

work (Advocates Act, Section 3). Accordingly and in practice, working as an advocate for several years precedes membership of the Bar.

² Today, there are four law schools equipped with the right to provide graduate degrees in law in Finland. They are part of the universities of Helsinki, Turku, Lapland and Eastern Finland. In addition, Åbo Akademi University has the right to provide undergraduate law degrees. Its students continue their studies at the University of Turku's Law School. All law schools have the right to provide the degrees of Licentiate of Laws and Doctor of Laws. However, in practice, the degree of Licentiate of Laws is seldom provided.

There are only public universities maintained mainly with the help of direct state finance in Finland. However, Finnish universities are independent corporations (persons in law, Universities Act, Sections 1.3 and § 5.1). Today, the number of Finnish universities is 14.

³ Previously, the undergraduate degree in law was an independent degree. Students were selected separately. They could not continue studying and earn the graduate degree. This is no longer the case, however. Accordingly, there were and still are people working with the title notary of law, for instance, as lower civil servants and secretaries in courts and advocate offices. In this respect, Finnish development has been contrary to the principles of the Bologna Declaration.

Today, the undergraduate degree in law contains 180 ECTS credits and the graduate degree contains 120 ECTS credits.⁴ They are the two basic cycles in studying law. Access to the second degree requires completion of the first. The standard and ideal length of the undergraduate degree is three years and two years in the case of the graduate degree. The third cycle is the doctoral degree. Access to the third cycle requires completion of the second cycle.⁵

Finnish students participate in ERASMUS exchange programmes on a large scale, and there are many foreign exchange students in Finnish law schools.

All this is in line with the Bologna Declaration.

Today, however, undergraduate degrees are, in practice, only an intervening stage in studying and earning the graduate degree. Students are selected with the help of passing an entrance examination and/or matriculation examination and they have the right to continue studying and earn Master's degree.⁶ In practice, students do not stop at the undergraduate degree stage without a compelling personal reason. That is, in practice, persons equipped with the undergraduate law degree do not establish themselves in the labour market and there are no longer any suitable jobs available for them.⁷

Finnish law degrees are closed, both in national and international terms. In practice, a student who earns a graduate degree in law has been selected with the help of the Finnish entrance selection of the same

The Finnish 'Notary of Law' as an academic degree should not be confused with the profession of public notary, as recognised to a large degree in continental Europe. In Finland, there is no such system of notaries. Nevertheless, the commission of notary is used in certain cases but it has a different and specific meaning. For instance, according to the Finnish Code of Real Estate, when a piece of real estate is sold with the help of a written deed, a notary shall attest the sale in the presence of all the signatories of the deed of sale when the transaction is made with the help of the traditional written document (Code of Real Estate, Chapter 2, Section 1.1). In addition, most often certain engineers act as notaries, besides lawyers.

⁴ Earlier, the contents of academic courses were measured with the help 'study weeks', that is some kind of standard and ideal number of weeks needed for the performance of a course.

⁵ In addition, the licentiate degree is recognised. Previously, most often, it was an intervening stage in doctoral studies. Today, however, most doctoral students earn doctoral degree directly without any intervening stages in practice. The standard and ideal length of doctoral studies is four years.

⁶ The principle of *numerus clausus* is applied when new students are selected to enter Finnish law schools. Only a given number of new students are selected with the help of specific selection. The number of selected persons is very low compared with the number of applicants. On the other hand, the rate of employment among new graduates in Master courses in law is high.

⁷ Instead, persons equipped with certain degrees provided by the universities of applied sciences, that is, polytechnics, can work in the roles previously occupied by notaries of law. Certain kinds of Bachelors graduating from universities of applied sciences have replaced the traditional notaries of law in the labour market.

law school and she or he has passed the undergraduate degree from the same law school. In principle, it is possible to achieve the undergraduate degree without specific selection, and it is possible to obtain the graduate degree with the help of undergraduate degree provided by an institute other than a law school. These are, however, rare exceptions. Even the graduate degree earned with the help of an undergraduate degree provided by another law school is a rare exception.

An even rarer exception is a graduate degree earned with the help of an undergraduate degree earned in a foreign country. This is no wonder, because the language of nearly all courses included in the degrees is Finnish or Swedish. However, it is difficult even for a Finnish or Swedish speaking person who has earned an undergraduate law in a foreign country to earn a graduate degree in law in Finland. The focus of the law courses is on Finnish law.

In this respect, student mobility has not yet taken place in Finland.

As a solution to the issues of language and student mobility Finnish law schools provide specific courses in English for exchange and other foreign students. In addition, they provide the Master's degree in International and Comparative Law and other similar international degrees. In practice, however, local Finnish students study Finnish law in Finnish and visiting students study international topics in English. Moreover, the international degrees are not recognised as proper law degrees in Finland. This applies even to Finnish students. For instance, they do not provide the competence to act as a judge or an advocate, as explained below.

4. Free movement and the right of establishment applied to lawyers

The free movement of citizens of the European Union is one of the fundamental principles of the EU (Treaty on European Union, TEU, Art. 3.2). The basic rules of the European Union on free movement and the right of establishment are provided in the Treaty on the Functioning of the European Union (TFEU). Freedom of movement for workers is secured within the EU (Art 45.1), and restrictions on the freedom of establishment of nationals of a member state on the territory of another member state are prohibited (Art. 49.1).

There are, however, important restrictions applied to civil servants in the TFEU. The article of free movement is not applied to employment in the public service (Art. 45.4), and the article of right of establishment is not applied to the exercise of official authority (Art. 51). Generally,

member states are free to restrict the right to appoint civil servants to their own citizens.⁸ As far as lawyers are concerned, the restriction has strong effects. For instance, about half of all Finnish lawyers work as civil servants and exercise official authority.

The recognition of professional qualifications earned in a foreign country is an important precondition of cross-border movement and establishment in another country. According to Art. 53.1 of TFEU, the European Parliament and the Council shall issue directives for the mutual recognition of diplomas, certificates and other evidence of formal qualifications and for the coordination of the provisions laid down by law, regulation or administrative action in member states concerning the taking-up and pursuit of activities as self-employed persons in order to make it easier to happen.

The Council and the European Parliament put the article into effect with the help of the Directive on the Recognition of Professional Qualifications in 2005.⁹ The directive sets up a system for the recognition of professional qualifications in the European Union. In addition, it extends, under certain conditions, to the European Economic Area and Switzerland. The directive seeks to make labour markets more flexible, further liberalise services, encourage the automatic recognition of qualifications and simplify administrative procedures.

According to the directive and with certain restrictions, member states shall not restrict the free provision of services in another member state in the case of temporary service provision.¹⁰ In the case of permanent establishment, the directive provides automatic recognition for certain professions, whose minimum training conditions are harmonised at the European level, and automatic recognition for certain occupations. Recognition presupposes the harmonisation of degrees. The uniformity of European academic degrees and especially ECTS credits are important to the harmonisation.

Lawyers are not included in the regulations concerning temporary service provision or automatic recognition.¹¹ In addition, they are not included in the application area of the European professional card.¹²

⁸ See European Union Court of Justice, judgements in *Commission v Belgium*, paragraph 19, *Vougioukas v IKA*, paragraph 20 and *Alain Brouillard v Belgian State*, Paragraph 32.

⁹ Directive 2005/36/EC.

¹⁰ Directive 2005/36/EC, Title II.

¹¹ The automatic recognition of professions is applied to doctors, nurses responsible for general care, dentists, veterinary surgeons, midwives, pharmacists and architects. Professionals in crafts, trades and industry can request automatic recognition of their qualifications based on their professional experience.

¹² Amendment Directive 2013/55/EU.

Instead, lawyers are included in the system of mutual recognition of qualifications regulated by the directive. If access to or performance of a regulated profession in a host member state is contingent upon the possession of specific professional qualifications, the competent authority of that member state shall permit access to and performance of that profession, under the same conditions that apply to its nationals, to applicants possessing the attestation of competence or evidence of formal qualifications required by another member state in order to gain access to and pursue that profession on its territory.¹³ In certain cases the host member state can require the applicant to complete an adaptation period of up to three years or to take an aptitude test.¹⁴ The directive is without prejudice to the application of Articles 45.4 and 51 of TFEU concerning notably notaries.¹⁵

The directive does not affect the operation of specific directives regulating the temporary or permanent establishment of lawyers.¹⁶ While their qualifications are covered by Directive 2005/36/EC they also benefit from specific directives that introduce additional ways for them to provide cross-border services or establish in another member state of the European Union. These specific directives are Directive 77/249/EEC on Service Provision of Advocates and Directive 98/5/EC on the Permanent Establishment of Advocates. Nevertheless, the recognition of professional qualifications for lawyers for the purpose of immediate establishment under the professional title of the host member state should be covered by Directive 2005/36/EC.

5. Implementation of European Union legislation in Finland

The Directive on Recognition of Professional Qualifications (2005/36/EC) is implemented in Finland, first, with the help of the Act on the Recognition of Professional Qualifications, and later, after the amendment of the directive (2013/55/EU), with the help of the new Act on the Recognition of Professional Qualifications and amendments of certain other acts. The new Finnish Recognition Act is the direct and main implementation of the Recognition Directive. However, law degrees are excluded from the application scope of the new Recognition Act. It is

¹³ Directive 2005/36/EC, Art. 13.

¹⁴ Directive 2005/36/EC, Art. 14.

¹⁵ Directive 2005/36/EC, Introduction 41.

¹⁶ Directive 2005/36/EC, Introduction 42.

not applied in the case of a law degree as a competence requirement of an office or a post. In addition, the act does not apply to the recognition of professional qualifications that concern a post or a position with the police, the border guard or the defence forces (Section 2.1).

Law degrees were included in the application scope of the 2007 Recognition Act. During the preparation of the 2015 Recognition Act, a different interpretation of the implementation of the directive was adopted. According to it, offices or other posts in the public sector are not professions which should be regulated by the new act. In addition, recognition of a law degree does not mean competence to work in a certain post but to work in any post with the qualification requirement of a law degree.¹⁷

The solution was recognised in the report on the regulation of professions in member states given by the Commission in accordance with Article 59 of the Recognition Directive. Support for the interpretation was also provided with the help of TFEU Article 51. The articles of TFEU on the right of establishment do not apply to the exercise of official authority. Formal recognition of degrees is most significant in the public sector, that is offices and posts of state-run and other public organisations.

Accordingly, the Finnish Recognition Act does not apply to lawyers. Instead, a person who has a law degree earned in a foreign country and who needs to show her or his competence to work in an office with the qualification criteria of a Finnish law degree can get a recognition decision according to the new Act on the Official Competence Provided by Degrees Earned in a Foreign Country. The act is applied when a qualification requirement of an office or a post is a certain degree and if it is not a case regulated by the 2015 Recognition Act.¹⁸ The new Official Competence Act is an indirect implementation of the Recognition Directive.

It is an established Finnish interpretation that a certain degree as a regulated competence requirement of an office or a post means a degree earned in Finland; that is a degree granted by a Finnish university. According to the Official Competence Act, a corresponding degree earned in a foreign country can be paralleled with the Finnish degree with the help of a recognition decision of the Finnish National Board of Education.¹⁹ In the case of an affirmative decision, the degree earned abroad provides, as a rule, the same competence as the Finnish degree.

¹⁷ Government Bill 2015:22, p. 22 and 28.

¹⁸ Official Competence Act section 1 and Government Bill 2015:22, p 49.

¹⁹ Official Competence Act Section 6.

In addition to the treaties and regulation of the European Union, Finland has joined the Nordic treaties on the common Nordic labour market.²⁰

6. Competence to work as a lawyer in Finland

Private Finnish companies and other corporations are free to employ persons equipped with domestic or foreign degrees regardless of the recognition or parallel regulation, when the appointed persons come from a member state of the European Union or the European Economic Area or Switzerland. On the other hand, in the case of lawyers, traditions are strong. Normally, a person equipped with a Finnish law degree is appointed when it is a case of a conventional lawyer's post. In the case of the need for expertise in international trade or law, or the law of a certain foreign country, persons equipped with foreign degrees are employed.²¹

The situation is different in the case of offices and other public posts. The regulated competence requirements, that is demands for certain degrees are applied. As the point of departure, a person coming from a foreign country can start working as an officer or in another public post with the help of the recognition decision according to the Official Competence Act explained above. There are, however, many exceptions, restrictions and specific regulations applied to many traditional offices of lawyers. Similar rules are applied in the cases of advocates.

The competence to be appointed to the most important offices of the Finnish state is restricted to Finnish citizens (Act on State Officers, Section 7). This is the most general exception and it can be justified with the help of Article 51 of TFEU. The right of establishment does not apply

²⁰ The general agreement concerning the common Nordic labour market (with protocol) was signed in Copenhagen on 6 March in 1982. It took effect on 1 August 1983 and replaced the previous general agreement of 22 May 1954. In addition, the specific agreement on the Nordic labour market for persons who have received higher education for at least three years was signed in Copenhagen on 24 October in 1990 and took effect on 9 May in 1998. According to Art. 2 of the specific agreement, a person who has obtained and still has a license, permit or other equivalent form of legal recognition as a professional on the basis of one of the professional courses covered by the agreement in a Nordic Country shall be entitled, in accordance with the conditions laid down, also to obtain such recognition in the other Nordic Countries. The treaties are effective between Denmark, Finland, Island, Norway and Sweden.

²¹ According to the principles of the European Union, a citizen of a member state and her or his family are free to establish in Finland and work or carry on means of earning. This is also applied to the citizens of the member states of the European Economic Area and Switzerland. As far as more than three-month residence is concerned, there are, however, certain restrictions and persons residing have to register their residence (Aliens Act, Section 159).

to the exercise of official authority. The most important offices are, for instance, all leading officers of state departments, judges, prosecutors, bailiffs and other executive officers, and police officers. On the other hand, it is possible that a Finnish citizen equipped with a foreign degree can be appointed with the help of the recognition decision according to the Official Competence Act.²²

In addition, the competence to be appointed a judge is regulated with the help of specific rules. The regulation has been changed in an interesting way. First, together with the adoption of the Official Competence Act, strict rules were adopted (Act on Judicial Appointments, Section 11.1 and Amendment Act 4.12.2015/1392). An applicant had to be a Finnish citizen and had to have a conventional Finnish Master's degree in law.²³ The competence recognised according to the rules of the older Act on the Recognition of Professional Qualifications (2007), the Act on the Official Competence or corresponding older statutes and founded on degrees earned in a foreign country did not provide the competence to be appointed a judge. Briefly, a law degree earned in a foreign country was excluded.²⁴

Soon afterwards, however, a more liberal regulation on judges was adopted. During the following year, the Act on Judicial Appointments was repealed by the Act on Courts (Chapter 24, Section 2.1/6). The regulation is now the same compared with the regulation before the change enacted by Act 4.12.2015/1392. So, a return to the older rules took place. Naturally, a Finnish citizen who has a conventional Finnish law degree is competent to act as a judge. In addition, according to the new legislation, the Official Competence Act is applicable on judges. The competence of a Finnish applicant equipped with a foreign law degree is estimated as a part of the normal appointment procedure. However, the Finnish Master's degree in International and Comparative Law is still not recognised. It is not treated as a proper law degree.²⁵

In the case of advocates, the foundation of the right to provide services and the right to establish and work as an advocate in another member state of the European Union is founded on Directives 77/249/EEC and

²² See European Union Court of Justice, judgement in *Alain Brouillard v Belgian State*, Paragraph 33.

²³ Government Bill 2015:22, p. 55.

²⁴ Accordingly, a career in the field of Finnish jurisdiction on the basis of a foreign law degree was out of question. A judge could be only a person who was a Finnish citizen and who had earned a conventional Finnish graduate degree. This was the strictest exception and regulation.

²⁵ Act on Courts, Chapter 10, Section 1.1 and Government Bill 2016:7, p. 86.

98/5/EC. Many paragraphs of the Finnish Advocates Act as well as Rules of the Finnish Bar Association are implementations of the directives. In addition, the Directive on Recognition of Professional Qualifications is significant in this respect but its effect is restricted.

It is worth noting that the specific regulation on advocates is only applied in two respects in Finland. First, to membership of the Finnish Bar Association and the right to use the title 'Advocate'. Second, to serving as an attorney or counsel in a judicial proceeding, that is as a court barrister.

A person can be a member of the Finnish Bar Association and use the title 'Advocate', first, if she or he has earned the Finnish graduate degree in Law. However, even in this case, the Finnish Master's degree in International and Comparative Law is not recognised. Second, a person can become a member of the Bar if she or he has completed a law degree in a foreign country and has received a recognition decision by the Finnish National Board of Education according to the Official Competence Act, according to the older Act on the Recognition of Professional Qualifications or according to corresponding previous legislation and has completed the additional requirements required in the decision. In addition, there are other requirements, for instance, having reached the age of 25, having certain practical experience, and passing the advocate's examination (Advocates Act, Section 3.1).

The third alternative is, irrespective of the requirement for the Finnish or the corresponding and recognised foreign degree, that a candidate has earned the professional competence to act as an advocate in another member state of the European Economic Area. Even in this case, the candidate has to pass the advocates examination and meet the other additional requirements (Advocates Act § 3.2).

The fourth alternative is, irrespective of the requirement for the Finnish or the corresponding and recognised foreign degree, that a person has earned the professional competence to act as an advocate in another member state of the European Union. In this case, she or he has to have been registered in a specific register (the Finnish EU-register) for three years and has to have three years' practical experience in the work as an advocate in Finland (Advocates Act, Sections 3.3 and § 5b).

There are just few members of the Finnish Bar Association who have received the recognition decision with the help of a foreign law degree or who have got the membership with the help of the EU-register.²⁶

²⁶ According to the statistics of the Finnish Bar Association (in March, 2016), there are 20 members who have a foreign law degree and the recognition decision. They have got the membership between the years 2005 and 2015. The average is 1.8 members in a year.

There are specific rules for the role of barrister in Finland, that is acting as an advocate in a court.

In both civil and criminal cases, according to the Code of Judicial Procedure (CJP, 1.1.1734/4) an advocate, a public legal aid attorney or counsel who has obtained a special licence may serve as an attorney or trial counsel (CJP, Chapter 15, Section 2.1).

A person who has earned a law degree in a foreign county can act as an advocate (with the title 'Advocate') and be a member of the Finnish Bar Association in the ways explained above. A public legal aid attorney had to earn a graduate degree in law (Act on the State Legal Aid and Guardianship Offices, Section 7). The Master's degree in International and Comparative Law is not recognised. There is no mention of or reference to foreign degrees in the Act. According to a justified interpretation, a person equipped with a foreign degree can be appointed a public legal aid attorney with the help of the recognition decision according to the Official Competence Act. The licence can be granted to a person who has earned a Finnish graduate degree in Law, other than the Master's in International and Comparative Law, or a corresponding law degree from a foreign country that has been recognised in Finland.²⁷ Licences are granted by the Finnish Legal Counsel Board.²⁸

Alternatively, a person who is in employment or public service of a party in a law-suite and who has earned the Finnish graduate degree in law, other than the Master's degree in International and Comparative Law, an officer whose duties include serving as trial counsel in court proceedings, or a person who is in the service of a public authority and who has earned the Finnish Graduate Degree in Law, other than Master of International and Comparative Law, may serve as an attorney or trial counsel (CJP, Chapter 15, Section 2.2-3).

In addition, a person who is competent to work as an advocate in another member state of the European Economic Area or in another state that has an agreement with the European Union and its member

There are 19 persons who have the competence to practice as advocates in another member state of the European Union included in the Finnish EU-register between the years 2005 and 2015. Five of them have got the membership of the Finnish Bar Association, and four of them are still members of the association. In March, 2016, there were five persons included in the EU-register who were competent to practice as advocates in another member state of the European Union.

In addition, there were two persons adopted as members of the Finnish Bar Association according to the specific agreement on the Nordic labour market for persons with a higher education. Both of them are the members of the Swedish Bar Association and they became the members of the Finnish association in 2013 and 2014.

²⁷ A person can get the licence according to the Licensed Counsel Act, Section 2.1.1.

states on mutual recognition of the competence of advocates may serve as an attorney or trial counsel (CJP, Chapter 15, Section 2.5).

In certain simple cases, a person who is honest and otherwise suitable and competent for the task may serve as an attorney or trial counsel (CJP, Chapter 15, Section 2.4).

In criminal cases, according to the Criminal Procedure Act, a defender of or a trial counsel for the suspect is often appointed by the court. As a rule, the defender or trial counsel is a public legal aid attorney or an advocate. If there is no suitable public legal aid attorney or advocate available or there is another special reason for this, a licenced legal counsel can act as an appointed defender or trial counsel (Criminal Procedure Act, Chapter 2, Section 2.1).

In other respects, in the field of legal services and aid, that is acting as a solicitor, a lawyer who has earned her or his law degree in a foreign country can appeal for the right to act in Finland, granted by Directive 77/249/EEC on the Freedom to Provide Services in the Member States of the European Union and by Directive 98/5/EC on Facilitating Lawyer's Practice on a Permanent Basis in the Member States of the European Union.

Anyone entitled to practice advocacy in one of the states of the European Economic Area must, when pursuing a mandate in Finland, use the professional title used in her or his home member state, expressed in one of the languages of that state, with an indication of the professional organisation of which she or he is a member, or the court of law before which she or he is entitled to practise (Advocates Act, Section 5a).

7. Conclusions

Finland is committed to the principles of the Bologna Declaration. As far as law degrees are concerned, the implementation of the Bologna Declaration has taken place in an efficient way in certain respects. There have been no specific difficulties in adopting the forms and structure of the uniform European degrees. On the other hand, mobility and the free movement of students have been realised only in a limited sense. In practice, the degrees are still closed both in international and national terms.

Participating in the ERASMUS exchange programme is popular with law students. It appears, however, that visiting foreign students do not participate in the same courses as local students in Finland. There are specific international courses and even degrees for visiting students. Normally, a visiting student merely carries out a number of international

courses. Nevertheless, specific international degrees are available both to visiting and local students. These Finnish degrees do not, however, provide the competence to act as a lawyer in Finland. Even a foreign degree, together with a recognition decision, provides better preconditions to act as a lawyer in Finland.

It is clear that here we meet a natural obstacle or at least a sizeable step that is specific to the field of law. The law is still different in each European country. The content of law, legal systematics and legal procedures are different. There are even differences in legal interpretation and reasoning. This is especially the case in the traditional fields of civil law and criminal law. Even in the framework of the European Union, we are still some distance away from a uniform European law and legal system. This is a fundamental fact for law students in all European countries.

As far as free mobility and the right of establishment as the principles and freedoms of European Union are concerned, we meet the same fact of differences. In addition, we meet other obstacles in the case of lawyers. Exercise of official authority is excluded from the freedoms of the European Union. Even the basic treaties of the EU recognise these restrictions. Member states have a legitimate interest in reserving a range of posts connected with the exercise of powers conferred by public law and the protection of general interests for their own citizens. Accordingly, all the most important offices are available only to the citizens of the local state.

As far as advocates are concerned, the freedom to provide services as well as the right to establish in a permanent way and practise as an advocate in another member state of the EU or the European Economic Area is the point of departure. This has received special attention in EU law for a long time. Nevertheless, there are barriers created by law to overcome and, in practice, it is not easy to start working as an advocate in a foreign host country with the help of a law degree and work experience earned in the home country. Legal systems are different in the true sense and, accordingly, an advocate has to learn a new legal system in order to practice as a conventional advocate in the host country.

In most cases, advocates and other lawyers who have moved to and established in another member country of the EU do not work in the same way as their colleagues in the host country. The reason for moving and establishing is expertise in international law or trade or the law of the home country where the person comes from and where she or he has earned her or his degree.

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THE BOLOGNA DECLARATION AND FREE MOVEMENT OF EUROPEAN UNION
CITIZENS IN THE FIELDS OF LEGAL EDUCATION AND THE LEGAL PROFESSION
– OBSERVATIONS IN FINLAND

Abstract: Finland is a member of the European Higher Education Area. The principles of the Bologna Declaration have become reality in certain respects. The form and structure of Finnish law degrees are uniform with the Bologna model. However, mobility and the free movement of students have only been realised in a limited sense. Finnish law degrees are still closed both in international and national respects.

Uniformity of degrees is treated here as a means to carrying out free movement and the right of establishment as the principles of the European Union. Uniformity of degrees is a necessary precondition in recognising degrees earned in another country. Without the recognition of the workmanship and degree earned in a home country, it is very difficult to establish oneself in a host country.

Both the basic treaties and the applicable directives of the European Union obligate member states to recognise degrees earned in other member states. There are, however, important exceptions and restrictions. Lawyers often work as judges, prosecutors, bailiffs and other officers. They are subject to exceptions and restrictions. As a rule, advocates have the freedom to provide services and establish themselves in a permanent way, and act as advocates in another member state. Even in this case, there are steps and restrictions. In practice, it is not easy to move to another member state and act as an advocate with the help of a law degree earned in the home state. Basically, the reasons for these difficulties are the differences between national legal systems.

Keywords: BOLOGNA DECLARATION, RECOGNITION OF DEGREES, FREE MOVEMENT OF EUROPEAN UNION CITIZENS