



EUROPEAN LAWYERS ASSOCIATION

# NEWSLETTER

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*Rotterdam, Delfshaven with Pilgrim Fathers' Church*

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## A WORD FROM THE EDITOR

Dear ELA members,

And so... it has finally happened! The UK is out of the Union or ... is it? Yesterday, the BBC compared the Brexit to eggs and cheese, they come in “soft” and “hard” versions. (No jokes of a sexual nature please, this is Britain after all!)

Immediately following the vote, our beloved pound sterling felt the effects of the exit. In less than 24 hours, all of us were 18% poorer. Not a bad start!

Now that Shakespeare’s most famous question has been answered, the answer is ... “Not to be” after all. So Britain thinks “it is nobler to take arms against a sea of troubles and, by opposing them, end them, to die, to sleep ... no more” (1)

It is at this point that the words of another literary genius (Miguel de Cervantes Saavedra) come to mind: “Genio y figura hasta la sepultura” (2) (3)

*(1) “Hamlet” by William Shakespeare*

*(2) “A leopard never changes its spots”*

*(3) “El Ingenioso hidalgo Don Quijote de La Mancha”  
by Miguel de Cervantes Saavedra*



## Break down the Wall!

Dear friends,

Has the world gone mad?

It seems that a wind of intolerance and isolationism is blowing over politics and parts of society lately.

The UK voted to leave the EU. We/the media allowed people like Nigel Farage to run a nasty anti-migration campaign and blame Brussels for all sorts of societal challenges which mostly had nothing to do with the EU.

Well-thought, informed debates could barely be found; positive messages from Europe were simply not broadcasted. Instead we were shown headlines with untruths and populist slogans. And here we are now, Brexit looming, hate crime having increased and a very divided country – Scotland and Northern Ireland in favour of remaining in the EU. I very much recommend Stelios' article in this Newsletter which provides some excellent insights on Brexit and its possible consequences.

And then there is the US!?! Donald wants to build a wall between the US and Mexico, and surprise, surprise, Mexico has to pay for it. His astonishing reasoning found on his official website is as follows:

*'Conclusion: Mexico has taken advantage of us in another way as well: gangs, drug traffickers and cartels have freely exploited our open borders and committed vast numbers of crimes inside the United States. The United States has borne the extraordinary daily cost of this criminal activity, including the cost of trials and incarcerations. Not to mention the even greater human cost. We have the moral high ground here, and all the leverage. It is time we use it in order to Make America Great Again.'*

(<https://www.donaldjtrump.com/positions/pay-for-the-wall>)



**Sabrina Jenquin**  
Chairwoman, ELA  
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Well, in the ELA, we break walls! We debate, cooperate and open our minds. We welcome all ages, nationalities, backgrounds and personalities. The Organising Committee of the European Lawyers Programme in Edinburgh have started exploring avenues to expand the reach of the Programme. Contact has been made with the Estonian, Hungarian, Czech and Austrian Bar Associations and we have received interest from Ukraine and US candidates.

The Board will discuss these new opportunities at the next **Board meeting held in Rotterdam on 22 October 2016**. All members are welcome to join the meeting or if you can't make it and would like to contribute please e-mail Asun or me.

So, has the world gone mad? I truly don't believe so. The world is full of positive, kind and inclusive people. We just need to make sure that their voice is heard over and above the few who cause distress and upset. Let's keep debating societal issues with an open mind, let's disagree respectfully but overall let's keep meeting each other!

I look forward to seeing many of you in **Rotterdam (21-23 October 2016)** and nearly all of you in Berlin on **25-28 May 2017**.

All the best,

**Sabrina Jenquin**

**ELA Chairwoman**



# to Brexit or not to Brexit?



## CROSS-BORDER PRACTICE AS A LAWYER IN EUROPE: MAKING SENSE (?) OF BREXIT

### Contents:

- A. EYLS in London and Edinburgh,
- B. The London Law Firms and EYLS,
- C. The Expansion of London Law Firms to Europe (and the World),
- D. A View from Scotland, U.K.,
- E. A View from Greece,
- F. Transition and Potential Effects of Brexit,
- G. General Observations and Evaluation.

### Highlights:

1. **“The U.K. (London) law firms have probably benefited most (out of all the EU legal professions) from the Single Market.”**
2. **“It was British society at large that was unhappy about the freedom that E.U. laws gave to E.U. citizens to set up home or to obtain employment or set up business in the U.K. In June 2016 the British voted to leave the E.U.”**
3. **“... was the June 2016 Brexit referendum vote a well calculated risk or a self-inflicted injury to the U.K?”**

## A. European Young Lawyers Scheme (EYLS) in London and Edinburgh.

Back in 1974, a year after the U.K joined the EEC, King's College London set up a European Law Centre in the capital. Its first director was Professor Alexandros Chloros, who subsequently became the first Judge to be nominated by Greece to become a member of the European Court (1).



Prof. Chloros was also the first director of the European Young Lawyers Scheme (EYLS or “the Scheme”), at King's College from 1975 to 1979. Dr. Martin Dockray succeeded Prof. Chloros in running the EYLS from 1980 onwards. The College of Law in London subsequently took over the running of EYLS in England from King's College. Peter Burbridge was appointed to be in charge.

In Edinburgh a similar six-monthly scheme for fewer participants also ran from 1976 to 2006 (2).



In the year 2006 the British Council, acting on behalf of the UK Government, ceased to fund the Scheme. One would assume that the British Council was required to slash its expenses and direct its resources towards the promotion of cultural and economic pursuits in

different regions of the world (e.g. India), rather than towards legal practice and Europe.

When the British Council's budget and priorities could no longer support the Scheme, neither in London nor Edinburgh, the Scottish Government provided funding for a new scheme. This was limited to an induction to the legal practice in Scotland. It commenced in the year 2009; Edinburgh University was engaged to administer the new scheme, which was named "European Lawyers Programme" (ELP). Recruitment of the annual participants was undertaken by the European Lawyers Association (ELA), with assistance from the British Council (3).

The Scottish Government funding came to an end by the year 2011. Thereafter a similar but substantially shorter scheme (from six months down to three months), has continued to run in Scotland. This Scheme is privately sponsored to cover the cost of certain activities. It was rescued by The Faculty of Advocates and it is also hosted by them. It runs annually from April to June. The Scheme is run and supported by the Faculty of Advocates, ELA, and a few devoted professionals. The result is a Programme which provides a group of up to ten lawyers, with a two-week induction course in the legal system of Scotland and the practice of advocacy for a period of two and a half months. European young lawyers -or "Eurodevils", as they are commonly known- are placed with Junior and Senior Advocates as well as Court of Session Judges (the highest court in Scotland) in order to experience the legal system in practice.



## B. London Law Firms and EYLS.

Lawyers from any E.U./E.E.A member state or from Switzerland can provide temporary legal services in any of those states, by virtue of article 49/EC and Directive 77/249 EEC. Further, they can establish a permanent practice in such other states by virtue of Article 43 EC and Directive 98/5/EC or by virtue of Professional Recognition Qualifications Directive 2005/36/EC.

By the year 2006, London law firms, who in the 1970s and 1980s were viewing the E.U. states as a prospective new market, had largely exploited the freedom of movement within the E.U. They had set up extensive networks of their own offices in most E.U. major business centres, mostly thanks to the institutional framework set up by the E.U. treaties and Directives. As a result, there ceased to be a market need for the London based firms of solicitors or correspondingly any demand upon the British Council/Government to fund EYLS, for any further recruitment of young legal professionals from the rest of Europe.

Moreover, by the year 2006, a number of law students from other E.U. states had pursued undergraduate legal studies in the U.K.; this provided a new pool of young graduates, educated in English language in the U.K., mostly in English common law. In addition, in 2006 the Law Faculty of King's College London in coordination with Law Faculties in Germany and France (later expanded to Italy and Holland), established a new undergraduate programme and commenced offering legal studies aimed at recruiting trilingual law graduates in three of these participant Universities.

This programme, also named European Lawyers Programme (ELP), would seem to have provided an alternative pool of young law graduates, though truly not young legal **professionals**, who had been trained across national borders and had been well educated in three European jurisdictions, for recruitment by the London law firms (4).



### C. The Expansion of London Law Firms to Europe (and the World).

When considering the market structure of its most successful industries, it is important for the UK to be aware of which sectors of the economy generate the most added value. OECD statistics show that the UK service industries generate 52% of the added value (the latest data available refers to 2011) in UK total exports.

According to Dr. Angus Armstrong, *“trading in services is fundamentally different to trading in goods. The right to establish firms in overseas markets, the use of the same rules and regulations, mutual recognition of providers and free movement of labour are all necessary to be part of a single market for services exports”*. (5)

After the U.K. joined the E.U. (then EEC) in 1973 the development of cross-border legal practice by London law firms in Europe grew gradually. Small offices were opened in Paris and Brussels. Their numbers and size grew in the 1980s.

According to Mr. Dominic Carman, access to a reunited Germany and Eastern European legal markets substantially expanded the growth of English law firms in E.U. states and further in Europe. Many businesses in a number of European jurisdictions, together with non U.K. banks which financed them, became clients of English law firms. Today, English law firms are reported to be significant legal service providers in France and Germany. They have significant operations in Spain and Italy, and they are significant advisers on EU law in Brussels (6)

The right to establish a practice in a new host state under home state title under Directive 98/5/EC has been relatively widely used. In the year 2008, Dr. Julian Lonbay reported that the most popular destinations were:

- a. France (over 700 lawyers) and
- b. Belgium (well over 500 lawyers), with
- c. the UK (over 300 lawyers) and
- d. Switzerland (over 200 lawyers) following up.

Establishment by becoming licensed in and joining the profession of the new host state, under Article 10 of Directive 98/5/EC, was less popular; here the UK took the lead with over 90 lawyers (from 23 different states), followed by Poland, Switzerland, and Ireland with figures in the 30s. (7)

In accordance with the data provided by the Solicitors Regulation Authority (SRA), in 2016 there were 2,872 individual solicitors and 119 London firms of solicitors based outside England and Wales. They were located in the rest of E.U. It is of note, however, that the SRA data groups the other two U.K. major legal jurisdictions, namely those of Scotland and Northern Ireland, together with the rest of E.U.

As per further particulars provided by SRA, out of that total of 2,872 Solicitors, 1,526 would appear to run practices in the rest of the E.U. The balance thereof would be allocated as follows: 686 solicitors appear to maintain practices in Scotland, 206 in Northern Ireland, 47 in Gibraltar, 168 In Guernsey and 248 in Jersey.

From the rest of the E.U., there were 679 Registered European Lawyers based in England and Wales, mostly in London. This contrasts with the much higher number of 1,526 English Solicitors who, as noted above, seem to be based in the rest of the E.U.

The City UK's Legal Services 2016 report, released in July 2016, estimates that the United Kingdom accounts for around 10 per cent of the global market for legal services, second only to the US. It is also the largest market in Europe, accounting for around a fifth of its legal services fee revenue. London, in the U.K., is reported to be the world's most international market for legal services. In addition, the free access it offers foreign firms, from the rest of EU and the world at large, has seen over 200 foreign law firms from around 40 jurisdictions establish offices in London.

*"The UK is the leading global centre for the provision of international legal services and dispute resolution, employing over 314,000 people and bringing significant benefits to the wider economy. Securing this position should be a priority for the forthcoming Brexit negotiations. This means maintaining the strongest possible trading links with the EU and beyond and ensuring the UK remains a globally attractive place in which and from which to do business."*

([www.thecityuk.com/research/uk-legal-services-2016-report/](http://www.thecityuk.com/research/uk-legal-services-2016-report/)) (8)

Besides, new trends have emerged in the legal services offered at a global level. The London legal firms have expanded to or merged with U.S., German and other law firms, in the Middle East (UAE and Qatar), in the Far East (Hong Kong, Singapore et.al.) and beyond. Global expansion of English law firms is probably well reflected in the data shown below:

Solicitors, with England and Wales practicing certificates, based abroad (by country, 2015):

1.	Hong Kong 955,	6.	Germany 292,
2.	United Arab Emirates 942,	7.	Australia 275,
3.	Singapore 721,	8.	France 271,
4.	US 448,	9.	Switzerland 256,
5.	Channel Islands 391,	10.	Belgium 159
		11.	Other 2,186.

Total Number of solicitors based abroad: 6,896. (9)

#### **D. A View from Scotland, U.K.**

“On an individual basis a number of Scottish-qualified lawyers have used the EU internal market to move to other member states. As of March 2016, there were 118 members (just over 1%) of the Law Society of Scotland who were based in an EU or EFTA jurisdiction, outside the UK.” (10)

Scottish law firms, though, were not truly a participant in this European expansion, to a scale comparable to the expansion of the London law firms into the rest of Europe, as noted above.

Within Scotland the number of Registered European Lawyers under Directive (98/5/EC) by the Law Society of Scotland is less than ten (10) and those who have been admitted under the title of Solicitor in Scotland are less than five (5).

These small numbers for a period of more than thirty years may again be contrasted with the much higher number of 118 solicitors from Scotland based in the rest of E.U. in March 2016.

Further, the Law Society of Scotland does not seem to have any easily accessible data on those lawyers from European States who may have been admitted as a Solicitor in Scotland through the Intra UK Transfer Test. That number is estimated to be a small one.

## **E. View from Greece.**

In Greece too, a large number of English Solicitors have established sizeable legal offices/practices and continue to run them, despite the long running recession of the economy and wide spread unemployment there. More than ten English law firms maintain an active presence in Greece, mostly in Piraeus. The first of them set up local practice in the mid-1980s and most of the others from the mid-1990s onwards.



According to Solicitors Regulation Authority figures, several hundred solicitors work in Greece, including those at international firms Allen & Overy, Clyde & Co, Hill Dickinson, Norton Rose Fulbright, Reed Smith, Stephenson Harwood, TLT, and Watson Farley & Williams (11). By contrast with the above substantial English presence, there is only a single small branch of a Greek Law Firm in the U.K., namely Elias Paraskevas Law Firm, in London (12). In the past there were two small branches of Greek law firms in London (Tr. Koutalidis and Basil Patkos), whose presence was short-lived.

One would have expected society in Greece to be unhappy at the erosion and loss of substantial legal business to firms of solicitors from Britain, mostly due to E.U. regulations on the free movement of people within the E.U. and unrestricted provision of legal services. Firms of solicitors from London are not unhappy about their expanding share of profitable legal work gained in other E.U. states, including Greece.

It was British society at large that was unhappy about the freedom that E.U. laws gave to E.U. citizens to set up home or to obtain employment or set up business in the U.K. In June 2016 the British voted to leave the E.U. This was done reportedly in pursuit of restricting “mass immigration” of citizens from other E.U. states. In order to address and eliminate the fear and insecurity felt in England (outside London), and the U.K. at large, in relation to loss of jobs and businesses to lawful migrants from the E.U., they voted for the U.K to exit the E.U.

It remains to be seen what the outcome of the Brexit negotiations will be. One perhaps likely outcome will probably be that the U.K. shall fall out of the Single Market (cease to be a member of either the E.U. or the E.E.A.)

## **F. Transition and Potential Effects of Brexit.**

Shortly after the EU Referendum, Eilidh Wiseman, President of the Law Society of Scotland, informed practitioners in Scotland that their day to day practice would not yet be affected.

She added: *“We will closely monitor the UK government’s negotiations with the EU as they develop during this transitional period through to the implementation of the final agreement and consider the potential impact on solicitors’ businesses and practice rights, on the domestic legislative process and on our future interaction with the EU”* (13).

The President of the Law Society of England and Wales, Robert Bourns, on 20th July 2016 took a more bullish approach:

*“English contract law is largely unaffected by EU law because it derives from common law. If there are specific terms in contracts which relate to EU law or where UK domestic law might be expected to change, the flexibility of English contract law is such that it will allow the contract to adapt. The bottom line is that English and Welsh solicitors, our law firms, and our judges can be relied on and are the best. English contract law is used across the world because it offers certainty, stability and predictability. None of this changes because of Brexit.”* (14).

Current practices pursuant to the liberal cross-border practice of the legal profession under the E.U. rules may well now be on course for a radical change in the U.K.

Access to the Single Market for the legal profession is provided by the lawyers’ Directives (a. temporary provision of services – 772/49/EEC, b. permanent establishment – 98/5/EC and c. recognition of professional qualifications 2005/36/EC). These allow lawyers to practise across borders temporarily or permanently using their home title in the jurisdiction where one gained one’s title, and to practise within other EU/EEA states or in Switzerland. Another Directive and several European Court of Justice decisions permit access to the professional title of other member states on easy terms.

The system established for temporary services is reported to be working well. Lawyers from all jurisdictions regularly use it without any difficulties. As registration is not required, however, there are no data available for temporary cross-border services (7).

Any Brexit generated change may affect U.K. lawyers in other E.U. states, as well as the comparatively fewer E.U. legal firms or practitioners who have established a professional presence in the U.K.

By way of illustration, the entry and annual renewal of one's qualification as a licensed lawyer in Greece is restricted by law to those who are citizens of Greece or of another E.U. or E.E.A. state. The EEA includes all the EU member states plus Norway, Iceland, and Liechtenstein. These states must comply with most of the EU Single Market laws by adopting appropriate national measures. They have access to the benefits of the Single Market, including the rules on free movement of lawyers.

If the U.K. ceased to be an E.U. State, and did not retain the status of an E.E.A. state through E.F.T.A., English solicitors who are presently practising in Greece would cease to qualify and would thus be unable to practise in that jurisdiction.

On this premise, English law firms, which have been operating widely throughout the EU for the last few decades, would have to re-establish their right to operate offices in EU countries. Individual lawyers, in particular, would have to take measures to continue to practise in the rest of the European Union.

Tina Williams, a senior partner at Fox Williams, a City of London law firm, has stated: "*We expect to be very busy restructuring law firms and advising lawyers who do not want to be confined to practising solely in England and Wales,*". She speculated that London could "lose ground to Dublin" as a hub for professional services firms. (15)

Law firms/individual lawyers will be looking to minimise risk while maximising opportunity. How they could do that in such regulatory uncertainty remains to be seen.

The U.K. (London) law firms have probably benefited most (out of all the EU legal professions) from the Single Market.



## **G. General Observations and Evaluation.**

At a broader level, an observer in the U.K. could have also pointed-out that:

### **I. On the one hand:**

- a. The U.K. had opted to keep the Pound as its national currency, declining to adopt the Euro.
- b. The U.K. had maintained immigration controls of its own. These were more restricting than those applicable amongst most of the other E.U. member states (the U.K. is not a party to the Schengen Agreement).
- c. The British who have emigrated outside the U.K. are not commonly called migrants. They are called “expatriates”, as if migration from the U.K to the rest of Europe, and to the world, was insignificant.
- d. The E.U. flag rarely flew on public buildings in the U.K.,
- e. The “Leave Campaign” placed at the heart of its agenda:
  - i. the elimination of a lawful but “perceived” “mass immigration” of citizens from other E.U member states to the U.K. and
  - ii. achieving freedom from the restrictions on British sovereignty imposed by E.U. laws and the European Court of Justice.

### **II. On the other hand:**

- a. The U.K. was the second largest economy/market in the E.U.
- b. The U.K. maintained a valuable commercial network in markets outside the E.U., though remote, such as Canada, Australia and New Zealand.
- c. U.K law firms, or rather London law firms, seem to have expanded globally beyond the geographical region of Europe and to have established a competitive presence there too.
- d. The civil service in the U.K. seems to be well qualified and experienced in dealing with the tasks assigned to them in a competitive framework; the civil service is capable of supporting whatever course the Government of the day sets for it to pursue, provided its staff numbers are sufficiently increased. And provided the Government of the day has a feasible road map to lead the U.K. through.



From the legal profession's point of view, was the June 2016 Brexit referendum vote a well calculated risk or a self-inflicted injury to the U.K?

Reportedly in mid-August, the British Government having concluded voters would not accept the cost of Single Market membership (EU immigration, EU rules and EU budget payments) was possibly looking for a deal mirroring Canada's free trade agreement with the EU, plus "a bespoke add-on for services". Other reports cited the Norwegian and Swiss models, as suitable objectives in a Brexit opt-out.

At this stage, one may endorse a question raised back in 1974, though in a very different set of circumstances, by U.S. Senator J.W. Fulbright, then Chairman of the Committee on Foreign Relations in the U.S. Senate:

*"How can people and politicians be gotten to do what they ought to do, and what usually very well know they ought to do, rather than do nothing, or do what is convenient or comfortable for the moment?"*

As of the beginning of September 2016 one can hardly adopt any conclusive position. The above selective and limited historical and contemporary review, though, might assist the reader to form a view on this challenge to the right of law firms and individual lawyers to practice outside their own home state within the geographical area of Europe, E.U. and EFTA. Such practice across national borders is currently regulated by E.U. Directives and the respective complying domestic legislation in all E.U. and EFTA states, prior to the Brexit becoming effective. What next?

We seem to live in interesting times (16).

**Stelios Deverakis, Athens Attorney at law and Registered European Lawyer, Edinburgh.**

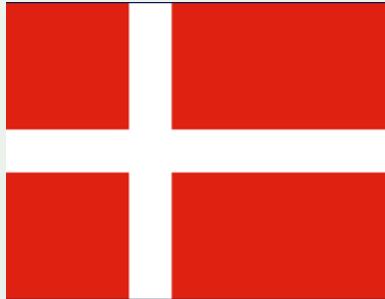
The author would like to acknowledge the assistance provided to him by the following colleagues in relation to their respective jurisdictions:

*For Scotland and ELA: Charles Mullin; for France: Sophie Larroque; for Germany: Henning Bahr; for Switzerland: Elias Bischof; and for Greece: Iro D. Bei.*

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<http://www.jonathanmitchell.info/2008/06/02/return-of-the-eurodevils/>
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<http://www.lawscot.org.uk/media/860525/EU-Referendum-web-2-.pdf>.
- (12). The Law Society Gazette, July 2015. This note about the presence of "several hundred solicitors.... in Greece" would seem incorrect. There are probably no more than a hundred English solicitors there and far fewer of them have an active practice certificate. Incorrect would also seem to be the reference to the law firm of Allen and Overy, as one of the English law firms which maintain a presence in Greece. They do not maintain an office in Greece.
- (13). Website of the Elias Paraskevas law firm: [www.paraskevaslaw.com](http://www.paraskevaslaw.com).
- (14). Law Society in London: <http://www.lawsociety.org.uk/support-services/brexit-and-the-legal-sector/>.
- (15) The Times, London, Monday, 27th June 2016.
- (16) An entry under the title "Most extreme reaction of the weekend" appeared on page 20 of The Daily Telegraph on Monday, 5th October 2015, following a rugby game defeat of the English team, (England being the host nation), against Australia (not Austria) in October 2015. This was the first time that a host nation had gone out at the group stage of a rugby tournament. The comment to the news was as follows:  
  
*"Why should we continue to pay for and support a tournament we're no longer in? We should shut the whole thing down immediately and if these nations want their so called "World Cup" let them have it elsewhere. This is not different from the anti-English bias at the Eurovision Song Context. Now they even let Italians and their sort on the X-factor. Time to quit the EU FOREVER."*  
  
Comment made on Mail Online.

## DENMARK CONSOLIDATES AND EXPANDS LEGISLATION ON EMPLOYMENT CLAUSES



The Danish Parliament aims to increase employee protection and incentivize employers to use less comprehensive employment clauses by passing the Employment Clauses Act. The law entered into force on January 1, 2016.

The most significant change is the outright prohibition of all non-solicitation clauses regarding attempts to induce employees to leave their employment. Employers can therefore no longer enter into agreements with their employees or other employers which limit the employees' ability to gain employment elsewhere. The sole exception to this, is agreements with a duration of no more than 6 months between the parties in business acquisitions.

Non-compete and non-solicitation clauses regarding customers and business partners were previously regulated by the **Salaried Employees Act**, which regulates the legal rights of employees primarily tasked with office work, sales, technical or clinical services not related to factory work, or supervision and management. While such clauses were used in fields not covered by the Salaried Employees Act, they were only subject to a general "reasonability" requirement in the **Contracts Act**. A number of provisions have been repealed and consolidated into the **Employment Clauses Act**, including the **Non-solicitation Clauses Act** as well as the provisions on non-compete and non-solicitation clauses in the **Salaried Employees Act**.

In addition to imposing a 12-month limit on a non-compete or non-solicitation clause, and a 6-month limit on a clause combining the two (a combined employment clause), the law enacts a new set of provisions on compensation for employees who are subject to any of the abovementioned clauses.

The compensation, which is calculated by reference to the salary of the departing employee, consists of a lump sum equivalent to two months' compensation to be paid out upon termination followed by monthly payments for the duration of the clause. A single non-compete or non-solicitation clause yields a monthly compensation equivalent to 40 percent of the monthly salary of the departing employee if the duration of the clause is 6 months or less and a monthly compensation equivalent to 60 percent of the monthly salary if the duration is 12 months or less. A combined employment clause yields a monthly compensation equivalent to 60 percent of the monthly salary. Previously, any clause would yield a monthly compensation equivalent to 50 percent of the monthly salary regardless of scope.

These new provisions on compensation are meant to serve as a motivation for employers to use shorter or less restrictive clauses while also allowing the employers to terminate clauses, thereby absolving themselves from having to pay a monthly compensation. If the employment contract is wrongfully terminated, any non-compete clause or the non-compete aspect of a combined employment clause is rendered invalid while the employee retains their right to a lump sum.

Clauses covered by the law are subject to general necessity and proportionality requirements, as well as a number of requirements regarding the length of employment and the degree of confidentiality or the fiduciary duty demanded by the position.

Non-solicitation clauses regarding attempts to induce employees to leave their employment currently in effect will remain valid until January 1, 2021, while any existing non-compete or non-solicitation clauses will be unaffected by the new law. New employment contracts are invalid to the extent that they are in violation of the law only, and employee rights granted by the law can only be waived by collective agreements between major labour unions and employers.

Although there are no fines imposed for non-compliance with the law, employers nevertheless have an interest in ensuring the validity of employment clauses going forward.





## MEMBER'S LIFE CHANGES—A BRIGHT FUTURE

**Alice Bermejo Silva, ELA Portuguese National Representative**

### **LIFE CHANGES ...**

When registering for the ELA XXXII Annual Meeting in Crete, I was far from guessing that it would lead to a total life-changing experience in the following months.

Indeed, through an opportunity that came across from a small talk with Antonio Toma, Asun Sueiro and Maria Luisa Perez while in Crete, I decided to step out of my comfort zone and to apply for a legal position within a bank, in Switzerland. I was successful and selected. As a result, I exchanged Lisbon for Zurich, private practice for in-house work; Family and Friends for new Friends; *bacalhau* for raclette; swimsuits for skis; S.L. Benfica for F. C. Zurich (I am joking of course - Benfica is still the best).



This has implied substantial adjustments but I am very happy with my move. To a large extent, this is due to the brilliant Team that warmly received me and the many wise and enjoyable people that I have been meeting. I am also very enthusiastic with my new position in the Cross Border Legal Team of a well respected swiss bank. Although previously I had a pretty captivating job (in a law firm in Lisbon, working mainly with Angola and Mozambique jurisdictions), my new role means a whole new different perspective which requires a change in one's mindset - in a good "life-quality-improvement" way.

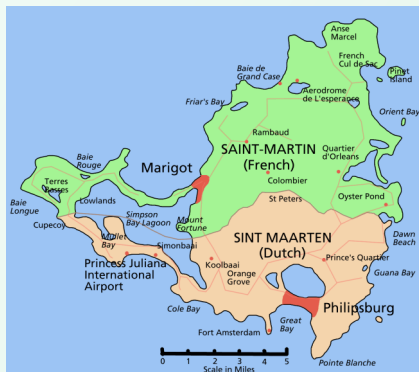
On top of that, I found Zurich a wonderful city to live in, where life runs smoothly with a touch of green here and there and a chocolate shop in every corner to make sweeter any (eventually) cloudy day. Please feel free to come by.



# MEMBER'S LIFE CHANGES—A BRIGHT FUTURE

**Stan van Liere, ELA Dutch National Representative**  
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## THE CARIBBEAN: LOVELY ST. MAARTEN!



As some of you know, I recently relocated from Amsterdam to the friendly island of St. Maarten. While this change of scenery may not be the most obvious one - in fact why would you possibly want to live on such a small and hot island (!) - let me take this opportunity to tell you a bit about the Caribbean and what it is like to work here as an attorney.

### The island

Though it may be small, St. Maarten has a lot to offer. The island is divided roughly 60/40 between France (53 km<sup>2</sup>) and the Kingdom of the Netherlands (32 km<sup>2</sup>). However, the Dutch side has a larger population. It is one of the smallest islands divided between two nations, a division dating back to 1648. Some other fun facts:

- St. Maarten is known as the melting pot of the Caribbean. It encompasses more than 120 nationalities.
- The capital of the Dutch St. Maarten is Philipsburg (where I work) and that of the French side is Marigot.
- The island has 37 pristine white sand beaches with azure waters.
- It is known as the culinary center of the Caribbean, the place to “Wine and Dine”. It holds more than 400 (!) restaurants.

If you do want to escape the island due to a sudden case of “island fever”, you can do so by making a trip to one of the many other surrounding islands. If you want to spot the rich and famous go to St. Barts, when looking for the most beautiful beaches in the world go to Anguilla, and when you want to go back to something bigger and “not so Caribbean like” - go to nearby Miami.

## Working in the Caribbean

I work for the leading Dutch Caribbean law firm Van Eps Kunneman VanDoorne; the largest firm in the Caribbean part of the Kingdom of the Netherlands. We have offices in Curacao, Aruba, Bonaire and St. Maarten, also servicing St. Eustatius and Saba. We have a Dutch Caribbean Desk in Amsterdam as well. Although I am based in St. Maarten, I also work on cases on the other islands and occasionally in Amsterdam. My work may involve a (cross-border) transaction, a suspension of payments or providing advice on Dutch and international restructuring.



I also represent various clients before the (district) court(s). As an attorney sworn in by the Joint Court of Justice, I have a right of audience before the court on all the Dutch Caribbean islands. The Joint Court of Justice is responsible for the administration of justice in first instance and on appeal in the islands.

Relocating to the Caribbean has proven to be a personal as well as a professional challenge. I guess it is always quite challenging to 'start from scratch' while living abroad – as it could have been in the first week(s) attending the European Lawyers Programme. Of course the island's people, their culture and the way things work here in general are totally different to the Netherlands or to the whole of Europe for that matter. However, after a while, things fall into place and you find yourself 'home' in a new and dynamic environment. A definite upside is the combination between working on really interesting legal cases and the sense of adventure you get when living in the Caribbean. All in all, a great experience I wouldn't want to miss!



## MEETING IN ROME

Marco Pistis, European Lawyers' Association National Representative for Italy and partner at Abbatescianni Studio Legale e Tributario, organized a cocktail party open to all Italian members of the ELA.

The event took place on 14 July 2016 at the offices of Abbatescianni Studio Legale e Tributario in Rome.

During the evening, Girolamo Abbatescianni, as keynote speaker and partner at Abbatescianni Studio Legale e Tributario and a member of ELA since 1984, entertained the guests with a short speech on conciliation clauses within the context of arbitration.

After the keynote speech, Marco Pistis highlighted the latest ELA news and the members discussed various issues relevant to ELA's initiatives.





Sophie Larroque

# PROFILE

**Name:** Sophie Larroque  
**Country of birth:** France  
**Country of Residence:** England, United Kingdom  
**Current employer:** Independent Consultant  
**Year when you qualified:** 1991  
**Area of law:** Corporate Law, Professional Negligence & Competition Law  
**Professional memberships:** ELA, what else?

## *What was your route into the profession?*

I remember my parents wanted me to become an engineer. The idea of dealing with Mathematics all day long was not appealing to me. So, I read Law and, like most of my friends, I sat the Bar exam. I worked as a Barrister for two years and got hired by KPMG to focus on Accountants' Professional Negligence. After a while, as I'm more of an arts person, I left figures for clients' claims and joined the largest Law Firm in France. Nowadays, I live in London and work for different UK and American Law Firms.

## *What has been your biggest career challenge so far?*

I like updating my knowledge going back to Uni. Exam periods could be quite challenging.

## *Which person within the legal profession inspires you most?*

The tutors I met during the ELP in Edinburgh.

## *If you weren't a lawyer, what would you choose as an alternate career?*

Journalist.

## *Who is your favourite fictional lawyer?*

Cyrano de Bergerac for its drive and inspiration.

## *What change would you make to the profession?*

Switching off phones and screens one hour a week.

## *How do you relax?*

Meeting people.

## *Favourite Film:*

Last year, I saw *Demain*.

## *Favourite Book:*

Last one, *The Children Act* by Ian McEwan.

## *Favourite City or Destination:*

Anywhere I can see water.

## *My first pay check was spent on...*

treating my parents to dinner.

## *My most overused phrase:*

C'est super! (or so my friends say...)

## *I love the smell of....*

citrus, flowers, the sea.

## *Tea or coffee:*

Coffee

## *Owl or Lark:*

I have early starts but I'm an Owl; an Owlly Lark?

*Next ELA Board meeting: 21-23 October 2016, Rotterdam*



*Rotterdam*



EUROPEAN LAWYERS ASSOCIATION

**NEWSLETTER**

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