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By PwC Deutschland | 19. Dezember 2024

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

In its decision today the European Court of Justice (ECJ) held that a Member State (here: Germany) 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.

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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 in it for purely financial purposes. Under the German legislation (as applicable at the time), only lawyers and members of certain liberal professions could become a member in a law firm. In a request for a preliminary ruling the Higher Bavarian Lawyers' Court asked for clarification rearding this national legislation with EU law.

(**Note:** 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)

ECJ decision

The Court decided that EU law and, more specifically, the free movement of capital and the Services Directive, 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 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 practicing 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.

Source:

ECJ, judgment of 19 December 2024 **C-295/23***Halmer Rechtsanwaltsgesellschaft*. – ECJ **press release No. 202/24** of 19 Dec 24.

Schlagwörter

law firm