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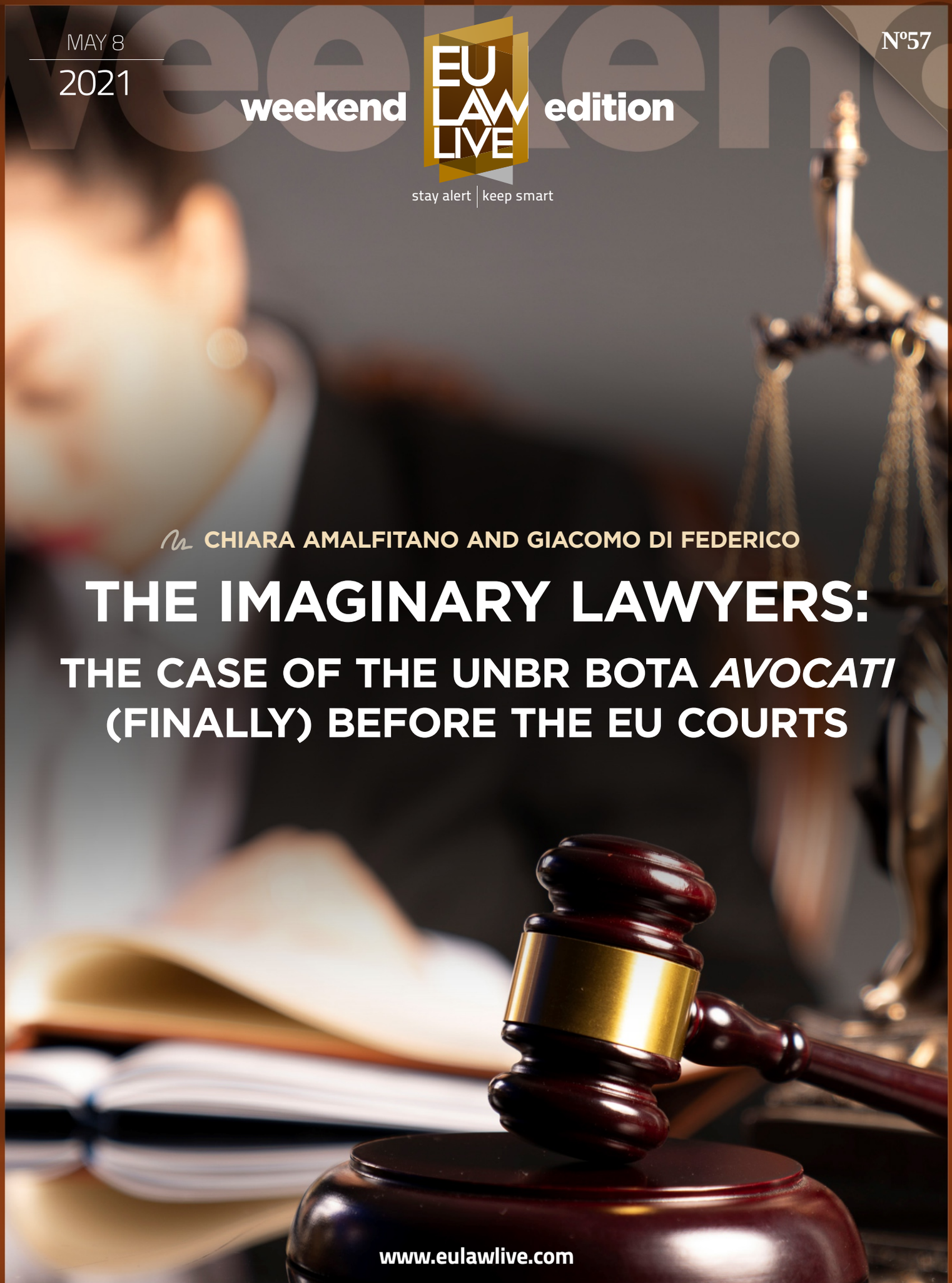

CHIARA AMALFITANO AND GIACOMO DI FEDERICO

THE IMAGINARY LAWYERS:

THE CASE OF THE UNBR BOTA *AVOCATI* (FINALLY) BEFORE THE EU COURTS

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The Imaginary Lawyers: the case of the UNBR Bota *avocati* (finally) before the EU Courts

Chiara Amalfitano and Giacomo Di Federico[1]

1. Preliminary remarks and factual background of a surreal string of orders

Between April 2018 and November 2020, the EU Courts issued six orders relating to specious proceedings brought by two individuals acting in their capacity as *avocat* registered in Romania with the Association UNBR Bota (2).

Mr Bettani challenged the Commission's decision rejecting his complaint that Directive 98/5 on the establishment of lawyers had been breached by the Italian authorities and claimed compensation for damages. The General Court dismissed the action against the Commission's decision based on Article 263 and Article 268 TFEU (*Bettani*, T-80/18). It found that the Commission enjoys a wide margin of discretion in deciding whether to have recourse to Article 258 TFEU; that the choice to start an infringement procedure is not directed at, nor does it concern, individuals, who are therefore prevented from initiating proceedings against the Commission's alleged failure to act; and that the applicant had not appointed a lawyer as prescribed by Article 19 of the Statute of the CJEU (3).

Unsurprisingly, on appeal the Court of Justice upheld the conclusion reached by the General Court (*Bettani*, C-392/18 P); but Mr Bettani, this time represented by Mrs Brovelli Blasotta, another UNBR Bota avocat, relentlessly continued his legal battle by asking the Luxembourg judges to interpret the Order. The Court of Justice quickly dismissed the request based on Article 43 of the Statute because the UNBR Bota Association is not among the recognised bodies pursuant to domestic law, as confirmed by a judgment of the Romanian Supreme Court of Cassation. Mrs Brovelli Blasotta, therefore, did not meet (at least one of) the requirements prescribed in Article 19 Statute, as interpreted by the Court. That provision, in fact, stipulates that for a person to be validly permitted to represent private parties before the EU Courts he or she must be authorised to practice before a court of an EU or EEA country, and the Court of Justice has consistently

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2. The orders are available in Italian and French only. The hyperlinks included herein refer to the French version.
3. Article 19 of the Statute is applicable to the General Court via Article 53(1) of the Statute. The need to be represented by a lawyer in direct actions is also proclaimed in Article 51 of the Rules of Procedure of the General Court, as well as in Article 119 of the Rules of Procedure of the Court of Justice. On these Articles see Elisa Gambaro, in Chiara Amalfitano, Massimo Condinanzi, Paolo Iannuccelli (eds), *Le regole del processo dinanzi al giudice dell'Unione europea. Commento articolo per articolo*, (Naples, Editoriale Scientifica, 2017), respectively 84 ff, 1064 ff and 693 ff. For representation in preliminary ruling proceedings before the Court of Justice see also Article 97 (3) RP ECJ (cf. infra, n. 36).

held that in order to qualify as a lawyer the interested person must be a member of the bar in an EU or EEA Country (*Bettani*, C-392/18 P-INT, paras 11-12 and cited case law).

Meanwhile, Mr Vizzone, represented by Mr Bettani, brought an action for annulment against, inter alia, the Commission's decision interpreting and applying the Order issued by the Court of Justice in *Bettani*. The action was declared inadmissible by the General Court on account of the fact that, just like Mrs Brovelli Blasotta, Mr Bettani cannot be qualified as a lawyer within the meaning of Article 19 of the Statute (*Vizzone*, T-658/19) (4). That conclusion was confirmed on appeal by the Court of Justice (*Vizzone*, C-191/20 P).

This is, in a nutshell, the relevant procedural background. Notoriously, however, the devil is in the detail, and there are two details in these cases that are particularly noteworthy: first, Mr Bettani and Mrs Brovelli Blasotta had already been removed from the register of established lawyers/disbarred when they acted before the EU courts; second, Mr Bettani submitted his written application to the Registrar of the General Court, but appealed via the e-Curia system (5). As will be seen, these are pivotal elements in understanding the actual nature and reach of the cases. Indeed, although admittedly grotesque, this string of orders is particularly important, and in many respects capable of providing solutions, for the Italian context, which has long been struggling with circular movements of nationals going abroad to avoid the national bar exam and then returning to practice as lawyers at home. In addition, this fiddly affair highlights some information asymmetries when it comes to timely discovery and swift removal of abusive conduct, especially when the latter interferes with the proper administration of justice in the Member States as well as with the administrative and judicial activity of the EU Courts.

This fiddly affair highlights some information asymmetries when it comes to timely discovery and swift removal of abusive conduct

2. The illness

For those who are not familiar with the Italian legal order, the conditions for access to the legal profession can be summarised as follows: possession of a law degree (for a period of five years), completion of a period of practice as a trainee lawyer (18 months) or, in the alternative, attendance of a postgraduate course (12 months), and an internship at a law firm (six months); passing of the bar exam (held at a local level), consisting of three written tests and an interview on six topics selected by the applicant, including deontological rules (6). The lack of comprehensive official national data on the success rate

4. Concomitantly – believe it or not – an application for interim measures was filed, but the lack of clarity and precision in the arguments put forward in the written submission led the President to opt for rejection: see Case T-658/19 R *Vizzone*.

5. While the use of e-Curia is optional when acting before the Court of Justice, it has been compulsory before the General Court since 2018: see Article 56a(1) of General Court's Rules of Procedure. Besides the 'standard' procedure, the user guide contemplates a special procedure, 'which is intended for urgent situations and enables an account to be opened provisionally in order for procedural documents to be lodged with the General Court only' (e-Curia user guide).

6. Cf. Royal Decree 1578/1933, See now, Law 247/2012, Article 36. The modalities of the exam have been reviewed and adjusted to the ongoing emergency related to COVID-19 (Law Decree No 31/2021).

Thousands of Italian law graduates fled to the Iberian Peninsula to obtain the formal qualification under the more favourable conditions laid down in Spanish law

makes it impossible to offer a precise figure, but it appears safe to say that despite significant differences across the country, in the last 20 years, on average, less than 50% pass the exam. This is hardly traceable to the selectiveness of the procedure, which is by and large considered (not only by candidates) to be excessively aleatory (7). To avoid the strictness of the northern districts in the selection process, fleets of candidates moved their residence to the south and registered as trainee lawyers in the local bar associations, where pass rates were frequently in excess of 90% (8). When this system was reformed in 2003, and the written tests were corrected elsewhere through a mechanism that combines two local bar associations by drawing lots (9), many Italian citizens with a law degree and who were eager to become lawyers sought alternative routes.

3. The cure: first generation *abogados*

Taking advantage of the regulatory disparities between Member States, and the opportunities offered by EC law, most notably Directive 2005/36 on the recognition of professional qualifications and Directive 98/5, thousands of Italian law graduates fled to the Iberian Peninsula to obtain the formal qualification under the more favourable conditions laid down in Spanish law, according to which the only title required in order to qualify as a lawyer was the law degree. The process followed by many such graduates was as follows:

Step 1: apply for recognition of the national qualification to the Ministry of Education (*Ministerio de Educación, Cultura y Deporte*) pursuant to Directive 89/48 (now Directive 2005/36). An *ad hoc* commission would define the university exams necessary to that effect in light of the substantial differen-

7. In this sense, people who pass the written tests often retake them the following year while waiting to sit for the interview, and they often fail the second time around.
8. This was particularly so when exams were entirely assessed at the local level (i.e., both the written tests and the interview). But even now that the written exams are corrected elsewhere, it appears that the phenomenon still exists.
9. Cf. Royal Decree No 37/1934 and Law 180/2003.

ces between the respective legal orders (for example, constitutional law, labour law, criminal law, international private law, civil law).

Step 2: take the aptitude test (so-called *pruebas de conjunto*) wherever preferred, according to the means set out at the local level by the single universities (10).

Step 3: register in the local bar council as *abogado ejercente* upon presentation of the title of *licenciado en derecho* and payment of a fee (renewed on an annual basis).

Step 4: return to Italy, ask for registration in a special register of established lawyers set up in accordance with Directive 98/5 (Article 3(2)) and practice under the title of the Member State of origin (Article 4(1)), with the obligation to work in conjunction with a member of the bar when representing or defending a client in legal proceedings (Article 5(3)).

Step 5: practise law effectively and regularly for three years under the professional title of *abogado*, with strong limitations on the performance of judicial activity, and apply to be admitted to practice under the title of the host Member State, as provided for in Directive 98/5 to facilitate establishment (Article 10(3)).

Full circle.

The magnitude of this circular phenomenon between Italy and Spain rapidly raised serious concerns within the community of lawyers resulting in a number of countermeasures, some of which were also targeted by the Commission, but never became the subject of an infringement procedure (11). A language test in Spanish (in the presence of an interpreter), a compensation measure on Italian law, the proof of one year of professional activity exercised in Spain, and the payment of a lump-sum were just some of the expedients implemented to restrict access to the bar. The National Bar Association (CNF) acting in its judicial capacity, largely confirmed the refusals to register the applicants.

10. On average, Italian students were required to prepare around ten subjects, but while some were required to answer open questions, for others – especially, but not exclusively, in the southern and more remote Spanish regions – it was sufficient to pass a multiple-choice test.
11. Cf. P-6732/2011 and P-002260/2011. They did however lead the AGCM to impose symbolic fines on a number of local bar associations involved in restrictive practices considered to be incompatible with Article 101 TFEU (AGCM, I745).

The Court of Justice in *Torresi* claimed that the 'Spanish solution' does not in itself represent an abuse of law

On 22 December 2011, the Italian Court of Cassation (*Corte di Cassazione*) (in Judgment No 28340/2011) put an end to these restrictive conditions by affirming, in line with the findings of the Court of Justice in *Wilson* (C-506/2004, paragraph 66), the inadmissibility of any additional requirement – such as professional experience – with respect to the presentation of the certificate attesting his or her registration with the competent authorities in the Member State of origin.

The question as to whether the use by Italian citizens of Directive 98/5 to bypass domestic rules on access to the legal profession, instead, was addressed by the Court of Justice in *Torresi*, where it claimed that the 'Spanish solution' does not in itself represent an abuse of law. It did not, however, clarify the actual margin of manoeuvre enjoyed by the local bar councils to prevent abuses (12). We shall come back to this aspect shortly hereafter.

4. In case of non-recovery, experimental therapies: second generation *abogados* and *avocati - UNBR Bota*

The 'Spanish solution' became less attractive from 31 October 2011, when, a few months before the above mentioned Supreme Court decision, a radical reform of the rules on access to the legal profession essentially brought the selection process in line with that prescribed at the Italian level: compulsory completion of a dedicated MA Programme *(Master en Abogacia y Practica Juridica)* covering legal theory and practice; a bar exam comprising multiple-choice questions on a wide range of general and specific topics (13). Encouraged by aggressive advertising campaigns promoted by the commercial education industry, including online publicity, as well as in print and broadcast media (14), hordes of Italian graduates in law took their chances and continued to apply even after that date, counting on 'flexible' Spanish local councils to register them so they could rapidly return home and invoke the Supreme Court's decision.

Meanwhile, the quest for easier ways to practice the profession at home – while avoiding the much-feared bar exam – continued with an additional abusive twist. After the Spanish reform, a 'Romanian solution' emerged, with an increasing number of Italians holding a law degree travelling to Bucharest to acquire the title of *avocat*, with the UNBR Bota Association. Investigative reporting suggested that the test for admission to the bar comprised multiple-choice questions on Romanian law… in Italian (!) (15). In a note of 25 September 2013 the CNF expressly invited the local bar councils to acquire further information on the Italian *avocati* demanding to

12. See further Giacomo Di Federico, 'Joined Cases 58 and 59/13, C-58/13 and C-59/13 Angelo Alberto Torresi and Pierfrances-co Torresi v Consiglio dell'Ordine degli Avvocati di Macerata, Judgment of the Court (Grand Chamber) of 17 July 2014, not yet reported', *European Public Law* 21, no. 3 (2015), 481 ff at 500.
13. Cf. Law No 34/2006, Royal Decree 775/2011 and Royal Decree 150/2014.
14. Unsurprisingly, soon after the affirmation of the 'Spanish solution' a complete mapping of the most cost-effective solutions was soon available to Italian citizens holding a law degree. Advertisements on the internet, and in the media generally, contributed to boost this trend, with a number of firms operating on the education market offering courses, logistic assistance and administrative support to individuals.
15. The whole package, including a one-night-stay in a comfortable hotel, can be purchased for around 7,000 euros. See in particular here.

be enrolled in the register of established lawyers and to refuse registration, and where appropriate cancel, those pertaining to the UNBR Bota Association. According to information exchanged on the IMI system (16), that Association was not competent to issue the title of avocat pursuant to Romanian law. Not all local bar associations followed these indications, at least not immediately. This partly explains why the mentioned note of the CNF determined the cancellation of established *avocati* and the disbarring individuals who – after three years of effective and regular practice – had already been registered as local lawyers. Most notably, in October 2016 Mr Bettani was removed from the register of established lawyers whilst Mrs Brovelli Blasotta, who had already acquired the title of *avvocato*, was disbarred (17). The cancellation and the disbarment – which preceded the actions before the EU Courts – were later confirmed by the CNF (18) and on appeal by the Supreme Court of Cassation (19).

A similar fate awaited those who pursued the Spanish solution after the 31 of October 2011, and those who, having applied before that date, did not complete the procedure within the following 24 months (by 30 October 2013) (20). In May 2017, on the basis of an exchange of information occurring through the IMI system, the Italian Ministry of Justice rejected, by way of a decree, 332 applications to be enrolled in the register of established lawyers as *abogado* and invited the local bar associations to remove those who had already been erroneously admitted. Although it cannot be affirmed with absolute certainty that all illegitimate situations have been removed, this avenue seems to have reached a dead end.

More recently, in the constant search for alternative routes to acquire their long-craved title of avvocato, UNBR Bota *avocati* elaborated a cunning plan: apply for registration with a bar association of another Member State and then, with the professional title of that country, apply to be registered in Italy. Unaware of the abusive nature of the system set up by the UNBR Bota Association, other Member States might enable registrations, assuming the legitimate origin of the title; and requests from professionals established in these countries to be registered in Italy are more likely to pass preliminary scrutiny on the part of local bar associations. Besides, as acknowledged by the EU Courts in *Vizzone*, the only way to distinguish the UNBR Association from the official UNBR Bucharest is the address; (21) and it took a while before Italian authorities realised the abuse themselves. This triangular solution is currently being used and concerns, besides Spain, other EU countries like Belgium, France, Luxembourg and

This triangular solution is currently being used by a number of Member States and must be monitored closely to prevent abuse

16. Regulation 1024/2012 on administrative cooperation through the Internal Market Information System. The information available on the IMI since 2013 indicated that the only competent authority in Romania was the Uniunea Națională a Barourilor din Romania (U.N.B.R.) (Supreme Court of Cassation, judgement of 4 November 2016, No 22398).
17. Decision of the local bar association of Caltagirone (Sicily) of 27 October 2016.
18. Judgment of 27 July 2018, No 85.
19. Judgment of 7 February 2019, No 3706. See further here.
20. Cf. Royal Decree 5/2012 and Law 5/2012.
21. Cf. Case T-658/19, (n. 5), para 13 and Case C-191/20 P, (n. 6), paras 17-18.

Portugal. These recent developments, of course, must be monitored closely to prevent abuse.

5. The shocking diagnosis: medication ineffective, complications ahead

This string of orders makes it clear that UNBR Bota *avocati* are not lawyers within the meaning of Article 19 Statute. From a broader perspective it proves that the EU Courts are often embroiled in solving purely domestic affairs. The use of Article 263 TFEU to obtain an answer proved to be inefficient but capable of offering a solution. Game over, yes; but now what?

It should not go unnoticed that in the judgment relied upon by the Court of Justice to substantiate the conclusion that Mr Bettani and Mrs Brovelli Blasotta are not lawyers, the Romanian Cassation Court *(Curte di Casație și Justiție)* also affirmed that any judicial activity exercised under the title issued by UNBR Bota must be considered abusive and criminally sanctionable (22). As a result, UNBR Bota avocati, operating as established lawyers or avvocati, are also exposed to criminal proceedings in Italy (23), as well as to professional liability and compensation claims from their former clients. At the same time, some UNBR Bota *avocati* have started legal actions against the firms involved in the promotion and organisation of round trips to Bucharest. The same of course can be said for second generation *abogados*. At least in this respect, the findings of the Court of Justice concerning the (lack of) professional qualifications of Mr Bettani and Mrs Brovelli Blasotta, therefore, can paradoxically be very helpful for the interested parties.

In addition, and perhaps more importantly, the saga of UNBR Bota *avocati* is not over, as there are an increasing number of incoming 'triangled' lawyers. This long wave has already triggered reactions which are potentially incompatible with Directive 98/5.

More specifically, in order to see the contrast, some Italian local bar associations have started to require a '*declaration of origin*' from the authorities of the Member State where the person was registered. This is intended to track down triangled lawyers and prevent them from being registered. In this regard, it cannot be forgotten that in his Opinion in *Torresi* (Joined Cases 58 and 59/13, point 95), Advocate General Wahl openly admitted the possibility on the part of the competent authorities of the host Member State to conduct further investigative measures and to refuse registration, albeit only in cases of fraudulent or illegal acquisition of the title abroad, and only in the presence of unequivocal evidence. The Court of Justice, in turn, limited itself to recalling the traditional case law on the prohibition of abuse of law, but nevertheless – albeit (admittedly) only indirectly – did confirm the possibility to adopt anti-abuse measures (*Torresi*, Joined Cases 58 and 59/13, paragraph 43). Although requiring a specific statement concerning previous establishments with different professional titles might be considered to contradict the rule affirmed in *Wilson*, it does nevertheless seem to respond to the general principle of prohibition of abuse of law, appears adequate to attain that objective and is not believed to go beyond what is necessary to prevent abusive conduct. And in the case of UNBR Bota *avocati* it can hardly be doubted that both the relevant subjective and objective elements recur (*Torresi*, paragraphs 45-46).

22. Înalta Curte de Casație și Justiție (Supreme Court of cassation and justice), judgment of 21 September 2015. Cf. Case C-392/18 P-INT, (n. 4), para 13 and Case C-191/20 P, (n. 6), para 19.
23. As a matter of fact, Article 348 of the Italian criminal code also sanctions the abusive exercise of a regulated profession.

6. Therapeutic obstinacy: no remedy but some positive side-effects

In light of the above, it should be clear(er) why, following a logic which closely resembles that of a hypochondriac, the applicants in these proceedings obsessively sought judicial confirmation of their fears: that they are not lawyers. The EU Courts leave no room for doubt on this matter, at least with regard to Article 19 of the Statute.

The actions brought by Mr Bettani and Mr Vizzone nonetheless also raise interesting procedural and organisational issues. How could Mr Bettani lodge an action and even open an e-Curia account after the cancellation of his status? And what can be done to prevent such blatantly abusive practices from absorbing the Eu Courts in the future, or catching them off-guard, most notably in the case of triangled UNBR Bota *avocati*?

To begin with, it is useful to recall that according to Article 19 of the Statute, as we have seen, two cumulative conditions must be satisfied for valid representation before the EU Courts: on the one hand, the person must be a qualified lawyer in a Member State or in an EEA Country; and on the other hand, the person must be authorised to practice before a court of a Member State or of an EEA country. The concept of lawyer within the meaning of Article 19 of the Statute must be interpreted autonomously (*Prezes Urzędu Komunikacji Elektronicznej*, Joined cases C-422/11 P and C-423/11 P, paragraphs 34 and 35), but relies heavily on national law. Of course, with particular regard to the first condition, the Court of Justice demands that 'the person who signs the application must be a member of the Bar', regardless of whether the person is entitled to represent his clients before the courts of one or more Member States (24). Accordingly, the fact that in September 2015 the Romanian Supreme Court of Cassation recognised that UNBR Bota does not belong to the National Bar Association, and that in February 2019 the Italian Supreme Court of Cassation had confirmed the cancellation of Mr Bettani and Mrs Brovelli Blasotta, determines their (lack of) standing before the EU Courts (25).

And yet, the request to open an e-Curia account submitted by Mr Bettani was validated by the Registry of the Court. In his request for interpretation of the Court of Justice's order (upholding the General Court's finding of manifest inadmissibility), Mr Bettani asked whether the status of lawyer could be inferred, inter alia, by the fact that the appeal was introduced through the e-Curia system, access to which is reserved to qualified lawyers. In this regard, it is important to underscore that the issuing of an e-Curia account is based on a self-declaration that the applicant is a lawyer, not on the authenticity of a supporting document (for example, a recent letter or

24. Cf. Case C-805/18 P *Saga Furs Oyj*, para 5 and case C-22/17 P *Neonart svetlobni in reklamni napisi Krevh*, para 6. It is worth noting that a different, specific regime applies to preliminary references, which also affects the representation of the parties. Article 97(3) of the Court of Justice's Rules of Procedure in fact, includes an exception to the rules laid down in Article 19 Statute and foresees that: '[A]s regards the representation and attendance of the parties to the main proceedings, the Court *shall take account of the rules of procedure in force before the court or tribunal which made the reference*' (emphasis added). See further Massimo Condinanzi, *Article 97 RP ECJ*, in Chiara Amalfitano, Massimo Condinanzi, Paolo Iannuccelli (eds), (n. 2), 614 ff. In preliminary ruling proceedings, to open an e-Curia account and to submit statements or written observations, it is not necessary to be a lawyer ex Article 19 Statute, since the only requirement is to be authorised, under national procedural rules, to represent a party before the courts or tribunals of his or her own State: cf. Decision of the Court of Justice of 16 October 2018 on the lodging and service of procedural documents by means of e-Curia, Recital 4 and Conditions of Use of e-Curia of 1 December 2018, para 7.
25. Cfr. Order in Case C-392/18 P-INT, (n. 4) para 13, and Order in Case C-191/20 P, (n. 6).

certificate from a Bar or Law Society confirming registration) uploaded on the dedicated platform (26). Thus, the final admissibility of the action is always subject to the lodging at the Registry of the certificate demonstrating that the representing lawyer is authorised to practise before a court of a Member State (or EEA country) (27).

This begs the question of whether and how to guarantee a more efficient and effective control over the respect of Article 19 of the Statute without endangering the sound administration of justice. In the case of *Bettani, Brovelli* and *Vizzone*, the abusive nature of the title lodged at the Registries of the General Court and the Court of Justice was finally discovered and demonstrates that malicious attempts to outdo the EU Courts are deemed to fail. Yet, it is somewhat frustrating that the saga of Bota *avocati* was unknown to the Registry and that so much time should be invested in preventing self-proclaimed lawyers from defending clients before the EU Courts.

At the end of the day, the UNBR Bota solution trumped the Italian local bar associations, the bar councils of various other Member States in the case of

26. e-Curia User Guide, (n. 7), 4

27. Failure to comply with possible requests for regularisation by the Registrar (cf. Article 122 RP ECJ and Article 78 RP GC and also Practice rules for the implementation of the RP GC, Annex I, letter a) may lead the CJEU to declare the application manifestly inadmissible (cf. Article 126-129-130(6) RP GC and Article 181 RP ECJ for the appeal before the Court of Justice – see, respectively, D.P. Domenicucci, E. Moro, and C. Naomé in C. Amalfitano, M. Condinanzi, P. Iannuccelli (eds), (n. 3), 1136 ff and 888 ff).

triangled situations and the Registry of the Court of Justice alike (28). In order to shelter the EU Courts from such specious proceedings, and facilitate the discovery of similar cases in the future, information concerning abusive conduct in the legal profession should reach the EU Courts and be easily accessible to the Registry. In this regard, a direct communication channel between, on the one side, the (official) competent bar associations operating in the Member States and EEA countries and, on the other side, the Registries of the General Court and the Court of Justice (via contacts or digital repositories) would undoubtedly be helpful. Still, the specific communication duties imposed on bar associations/councils contemplated by Directive 98/5 in relation to registration and disciplinary measures (Articles 3(2) and 7(2)) albeit suitable to uncover abuses, presuppose that the signalling authority is in fact the competent authority, which is true for the local Spanish bar councils in the case of second generation *abogados*, but obviously not for the Association UNBR Bota. In these instances, as with the case of triangled *avocati*, reliance on IMI coordinators, could prove to be more effective. Given the cross-border dimension of the phenomenon, the involvement of the Council of Bars and Law Societies of Europe (CCBE) would also be advisable. These minor adjustments would better equip the EU Courts in detecting abusive conduct and ultimately avoid misrepresentation (29).

28. Recently the Romanian Constitutional Court upheld the constitutionality of the domestic law on access to the profession confirming that UNBR Bota is not part of the official UNBR Association (judgment of 17 September 2019, No 502). In addition, it appears that UNBR Bota *avocati* (not necessarily Italian) have indeed been found guilty of the crime of abusive exercise of the profession pursuant to Article 348 of the criminal code. See, for instance, Judecatoria Galati, order of 22 January 2018, No 82.

29. With regard to preliminary reference proceedings, it is worth noting that Article 97(3) of the Court of Justice's Rules of Procedure seems to offer the Court (through the Registry) a useful tool to avoid abuse by establishing that '[I]n the event of any doubt as to whether a person may under national law represent a party to the main proceedings, *the Court may obtain information from the referring court or tribunal on the rules of procedure applicable*' (emphasis added). That being said, it will be conceived that the national judge might have erroneously admitted an action brought by someone not entitled to submit observations before the Court of Justice. However, should for any reason the Court come to question the standing of the interested person, the issue could and should be solved through a further dialogue with the referring court or tribunal.