

FINAL PAPER
for the degree of Master in International and Comparative Law

**Liberalization of the Movement of Professionals
under the EC-Treaty**

Alexander Ospelt

Supervisor: Prof. P.S.R.F. Mathijsen
Readers: Prof. T. Joris
Prof. B. Schloh

Program on International Legal Cooperation
Vrije Universiteit Brussel, Belgium
Academic Year 1994/1995

Table of Contents

Introduction

I. Professions in the European Community	1
1. Liberalization of the Movement of Persons	1
2. The Professionals in the EC-Treaty	5
II. Right of Establishment and Freedom to Provide Services	7
1. Right of Establishment (Art. 52 to 58 EC-Treaty)	7
1.1 Characteristics	7
a) Economic activity	8
b) Establishment in another Country	9
c) Self-employment	10
1.2 Beneficiaries	10
2. Freedom to Provide Services (Art. 59 to 66 EC-Treaty)	11
2.1 Characteristics	11
a) Self-employment	12
b) Remuneration	12
c) Cross-border activity	14
d) Temporarily	15
2.2 Beneficiaries	16
3. Distinction between the Right of Establishment and the Freedom to Provide Services	17
4. Application and Direct Effect	19
5. Summary	22

III. The Notion of the Right of Establishment and Freedom to Provide Services in light of the Judgements of the European Court of Justice	23
1. Introduction	23
2. Right of Establishment	25
2.1 Overt Discrimination	25
2.2 Indirect Discrimination	26
2.3 Hidden Discrimination	27
2.4 Abolition of all Barriers?	29
3. Freedom to Provide Services	36
3.1 Overt Discrimination	36
3.2 Hidden Discrimination	37
3.3 Abolition of all Barriers	38
4. Conclusion	42
IV. Mutual Recognition of Diplomas	44
1. Introduction	44
2. The Court's approach	45
3. Secondary Legislation concerning Professionals	49
3.1 The Concept	49
3.2 Diploma Directive	52
3.3 As an example of a vertical approach: Lawyers	56
4. Direct Effect	59
V. Conclusion	60

Bibliography

Table of Cases