



30.10.2015

## NOTICE TO MEMBERS

**Subject:**      **Petition No 2459/2014 by L.C. (Italian) on the non-recognition by the Italian authorities of the qualifications obtained by the lawyers certified by the National Bar Union in Romania – the Bota structure**

**Petition No 2466/2014 by Pamela Spica (Italian), on the qualifications obtained by the lawyers certified by the National Bar Union in Romania – the Bota structure**

**Petition No 2468/2014 by Nicola Carrano (Italian) on the qualifications obtained by the lawyers certified by the National Bar Union in Romania – the Bota structure**

**Petition No 2472/2014 by G.M.C. (Italian) on the qualifications obtained by the lawyers certified by the National Bar Union in Romania – the Bota structure**

**Petition No 2478/2014 by Flavia Constantino (Italian) on the legitimacy of the National Bar Union in Romania – the Bota structure**

**Petition No 2511/2014 by V. S. (Italian) on the non-recognition by the Italian authorities of the qualifications of lawyers accredited by the National Union of Romanian Bars - Bota structure**

**Petition No 2512/2014 by Alessandro Rocci (Italian) on the non-recognition by the Italian authorities of the qualifications of lawyers accredited by the National Union of Romanian Bars - Bota structure and**

**the recognition of the legitimacy of this structure**

**Petition No 2513/2014 by I. F. (Italian) on the legitimacy of the National Union of Romanian Bars - Pompiliu Bota structure**

**Petition No 2514/2014 by M. R. (Italian) on the legitimacy of the National Union of Romanian Bars - Pompiliu Bota structure**

**Petition No 2515/2014 by B. S. F. V. (Italian) on the legitimacy of the National Union of Romanian Bars - Pompiliu Bota structure**

**Petition No 2516/2014 by Normanno Marinucci (Italian) on the legitimacy of the National Union of Romanian Bars - Pompiliu Bota structure**

**Petition No 2517/2014 by Margherita Orecchioni (Italian) on the legitimacy of the National Union of Romanian Bars - Pompiliu Bota structure**

**Petition No 2518/2014 by P. P. (Italian) on the legitimacy of the National Union of Romanian Bars - Pompiliu Bota structure**

## **1. Summary of petition 2459/2014**

The petitioner briefly reports that Italy prevents the free movement of lawyers in the European Union because it does not recognise the qualifications of lawyers certified by the National Bar Union in Romania – the Bota structure.

### **Summary of petition 2466/2014**

The petitioner requests the confirmation of the legitimacy of the Bota structure of the National Bar Union in Romania.

## **Summary of petition 2468/2014**

The petitioner briefly reports that the Romanian Ministry of Justice is obstructing the activity of the National Bar Union in Romania – the Bota structure, by not allowing the free movement of lawyers certified by the structure in question in other Member States of the European Union.

## **Summary of petition 2472/2014**

The petitioner briefly reports that Italy prevents the free movement of lawyers in the European Union because it does not recognise the qualifications of lawyers certified by the

National Bar Union in Romania – the Bota structure. This situation was caused by a statement made by an officer of the Romanian Ministry of Justice, which was later on denied by the ministry itself. The petitioner complains about the state of uncertainty and confusion and requests the clarification of these aspects.

#### **Summary of petition 2478/2014**

The petitioner briefly requests the recognition of the legitimacy of the National Bar Union – the Bota structure.

#### **Summary of petition 2511/2014**

The petitioner briefly reports that Italy impedes the free movement of lawyers in the European Union because of the fact that it does not recognise the qualifications of lawyers accredited by the National Union of Romanian Bars - Bota structure. This situation was determined by a statement by an official of the Ministry of Justice of Romania, who has no powers regarding the attribution of qualifications of lawyers in Romania.

#### **Summary of petition 2512/2014**

The petitioner briefly reports that Italy impedes the activities of Italian lawyers accredited by the National Union of Romanian Bars - Bota structure. This situation was determined by a statement by an official of the Ministry of Justice of Romania, who has no powers regarding the attribution of qualifications of lawyers in Romania.

#### **Summary of petition 2513/2014**

The petitioner reports that the Ministry of Justice of Romania obstructs the National Union of Romanian Bars - Bota Pompiliu structure, because it does not allow the free movement of lawyers authorised by this structure in the European Union, while lawyers accredited by NURB can freely exercise their profession in Romania.

#### **Summary of petition 2514/2014**

The petitioner reports that the Ministry of Justice of Romania obstructs the National Union of Romanian Bars - Bota Pompiliu structure, because it does not allow free movement of lawyers authorised by this structure in the European Union, while lawyers accredited by NURB can freely exercise their profession in Romania.

#### **Summary of petition 2515/2014**

The petitioner reports that the Ministry of Justice of Romania obstructs the National Union of Romanian Bars - Bota Pompiliu structure, because it does not allow free movement of lawyers authorised by this structure in the European Union. This situation was determined by a statement by an official of the Ministry of Justice of Romania, who has arbitrarily

discredited the structure, without having any competence to issue such statements when the Italian Ministry of Justice requested clarification regarding the situation of the Bota structure. This situation has caused significant damage among lawyers accredited by NURB Bota, because many of them cannot freely exercise their profession in many towns, as they are considered accredited by an illegitimate structure.

#### **Summary of petition 2516/2014**

The petitioner reports that the Ministry of Justice of Romania obstructs the National Union of Romanian Bars - Bota Pompiliu structure, because it does not allow free movement of lawyers authorised by this structure in the European Union, while lawyers accredited by NURB can freely exercise their profession in Romania.

#### **Summary of petition 2517/2014**

The petitioner requests the recognition of the legitimacy of the National Union of Romanian Bars - Pompiliu Bota structure.

#### **Summary of petition 2518/2014**

The petitioner reports that the Ministry of Justice of Romania Italy obstructs the National Union of Romanian Bars - Bota Pompiliu structure, because it does not allow lawyers authorised by this structure to freely exercise their profession in all Member States of the European Union. The petitioner states that lawyers accredited by NURB can freely exercise their profession in Romania.

### **2. Admissibility**

Petitions 2459/2014, 2466/2014, 2468/2014 and 2472/2014 declared admissible on 14 July 2015.

Petitions 2478/2014, 2511/2014, 2512/2014, 2513/2014, 2514/2014, 2515/2014, Petition 2516/2014, 2517/2014 and 2518/2014 declared admissible on 20 July 2015.

Information requested from Commission under Rule 216(6).

### **3. Commission reply, received on 30 October 2015**

**Petitions 2459/2014, 2466/2014, 2468/2014, 2472/2014, 2478/2014, 2511/2014, 2512/2014, 2513/2014, 2514/2014, 2515/2014, 2516/2014, 2517/2014 and 2518/2014.**

As a preliminary remark, the Commission would like to note that the questions raised by the petitioners are identical in all the petitions.

The petitioners claim that Italy prevents the free movement of lawyers in the European Union because it does not recognise the qualifications of lawyers certified by the National Bar Union in Romania – the Bota structure.

It may be worth noting that the Commission has already replied to a similar petition, namely

Petition 2448/2014 concerning lawyers who were not members of the officially recognised Romanian Bar Associations and, therefore, had difficulties to establish in other Member States.

As indicated in the above mentioned reply, according to the Romanian authorities the provisions of Law 51/1995 on the organisation and exercise of the profession of lawyer, as amended by Law 255/2004, states that the National Union of Romanian Bars (UNBR) is the only recognised competent authority in Romania.

Taking into account the information that was brought to the attention of the Commission, the provisions of Romanian law and the comments and explanations provided by all parties concerned, the Commission considered that the statement of the Romanian authorities correctly reflects the legal situation in Romania. Thus, membership in the National Union of Romanian Bars is a necessary condition for the lawful exercise of the profession of a lawyer in Romania. The Italian authorities' assessment was therefore also justified when drawing their conclusions in the absence of such registration by the persons concerned.

#### Conclusion

Given that the Commission has already replied to Petition 2448/2014, it cannot comment further on the matters above.