

Neutral Citation No.: [2009] NIQB 48

Ref: WEA7469

*Judgment: approved by the Court for handing down  
(subject to editorial corrections)\**

Delivered: 21/05/2009

IN THE HIGH COURT OF JUSTICE IN NORTHERN IRELAND

QUEEN'S BENCH DIVISION (JUDICIAL REVIEW)

Hollywood's Application (Keith) [2009] NIQB 48

AN APPLICATION FOR JUDICIAL REVIEW BY

KEITH HOLLYWOOD

WEATHERUP J

**The Law Society's refusal of admission of the applicant as a trainee solicitor.**

[1] This is an application for Judicial Review of a decision of the Judicial Committee of the Law Society of Northern Ireland of 9 March 2007 refusing to relax or dispense with the requirements of the Solicitors Admission and Training Regulations 1988 so as to permit the registration of the applicant as a student solicitor of the Law Society. Mr O'Rourke appeared for the applicant and Mr Scoffield for the Law Society.

[2] The applicant graduated in law from Queen's University, Belfast in July 2002. Thereafter the applicant was registered as a student solicitor in England and obtained a Post Graduate Diploma in Legal Practice from the College of Law in Chester in 2003. The applicant did not commence the post diploma training to qualify as a solicitor in England but returned to Northern Ireland to work in a solicitor's office and the Citizens' Advice Bureau. He wished to become a student solicitor in Northern Ireland but failed to obtain a place at the Institute of Professional Studies at Queen's University Belfast. The applicant did not qualify for registration as a student solicitor under any of the 'five gateways' provided by Regulation 8 of the 1988 Regulations. Accordingly the applicant applied under Regulation 18 for relaxation or dispensation of the requirements of Regulation 8. That application was refused by the Judicial Committee of the Law Society on 9 March 2007, being the decision that is the subject matter of this application for Judicial Review. The applicant appealed to the Lord Chief Justice who adjourned the hearing of the appeal pending the

outcome of the challenge to the lawfulness of the Regulations by application for Judicial Review.

### **The Solicitors Admission and Training Regulations.**

[3] The Solicitors (Northern Ireland) Order 1976 provides for the regulation of the solicitors profession. Article 6 provides that the Law Society may make Regulations with respect to the education and training of persons seeking admission as solicitors. The Law Society made the Solicitors Admission and Training Regulations 1988 which include the following -

Regulation 5 provides that a person who intends to seek admission as a solicitor shall apply to the Law Society for registration as a student.

Regulation 8 provides that an applicant who has complied with Regulation 7 (by lodging a petition, evidence of age, indentures of apprenticeship, a verifying affidavit and has paid the fees) and is not excluded by Regulation 9 (as an undischarged bankrupt or convicted of a criminal offence making registration undesirable or is considered unfit to be a solicitor or has failed to satisfy the Committee as to suitability) shall be registered, conditional upon proof that he satisfies one of 'five gateways' namely -

- (1) an acceptable law degree and acceptable knowledge in Evidence and Company Law, together with a place at the Institute of Professional Legal Studies at Queen's University or (from 1 September 2008) a place at the Graduate School at the University of Ulster at Magee College; or
- (2) an acceptable degree in another discipline and acceptable knowledge in Constitutional Law, Tort, Contract, Criminal Law, Equity, Land Law, Evidence and Company Law, together with a place at the Institute or the Graduate School; or
- (3) has served in an executive capacity as a bona fide law clerk or employee of a solicitor for a continuous period of 7 years (and attained the age of 29 years) and has completed an acceptable education; or
- (4) has been admitted as a solicitor or called to the Bar in the Commonwealth or the Republic of Ireland; or

- (5) (being a person of not less than 30 years) has acquired such special qualifications and/or experience as to render him suitable to be accepted as a registered student.

Regulation 18 provides that -

“Without prejudice to any of the powers contained in these Regulations, the Council may, in any case (including a case of non compliance with the Regulations) in which it considers that the circumstances justified such a course, relax or dispense with any particular requirements of these Regulations on such terms as they may deem appropriate.”

[4] The Regulations were supplemented by the Solicitors Admission and Training (Mutual Recognition) Regulations 1990 to provide that any applicant fulfilling the requirements of EC Directive 89/48/EEC (on mutual recognition of education and training in the EU) should apply to the Law Society for registration as a student under Regulation 8(4) or 8(5).

The Regulations were further supplemented by Solicitors Admission and Training (Amendment) Regulations 1994 to provide inter alia that all registered students to whom Regulation 8(1) or (2) applied should serve an apprenticeship for two years from registration to include the time spent at the Institute and should attend such lectures or courses of study and pass such examinations in such additional subjects as the Law Society should determine.

The Regulations were further supplemented by the Solicitors Admission and Training (Amendment) Regulations 2008 to provide inter alia for the introduction of the Graduate School at Magee College as an alternative to the Institute from 1 September 2008.

In addition the Law Society resolved on 11 October 2006 that any requirements as to age in the Regulations should not be enforced, at the discretion of the President of the Law Society, pending the review and formal amendment of the Regulations.

### **The Morgenbesser decision.**

[5] At the hearing by the Judicial Committee of the Law Society of the Regulation 18 application, the applicant relied on the decision of the European Court of Justice in Morgenbesser v Consiglio dell’Ordine degli avvocati di Genova (Case C-313/01, 13 November 2003). Council Directive 89/48/EEC provides a general system for the recognition of higher education diplomas

awarded on completion of professional education and training of at least three years duration. Ms Morgenbesser was a French national living in Italy who had obtained a Diploma in Law in France. She applied to be admitted to the Bar in Italy where the domestic regulations required a Diploma in Law from an Italian university. It was held that Community Law precludes the authorities of one Member State from refusing to enrol the holder of a legal diploma obtained in another Member State in the register of persons undertaking the necessary period of practise for admission to the Bar, solely on the ground that it was not a legal diploma issued, confirmed or recognised as equivalent to that of a university of the first State. It was the duty of the competent authority to examine the qualifications and professional experience of the applicant and to determine the extent to which, if at all, the conditions required for access had been satisfied.

[6] The applicant adopted the description of the judgment of the ECJ in Morgenbesser that was given by the Council of the Bars and Law Societies of the European Union (CCBE). It is said to be a judgment that in essence extends the right of mobility to those still in training and not yet fully qualified lawyers and provides that the competent authorities in a Member State have a duty to take into account all the qualifications of EC nationals seeking entry into the profession in that State. The competent authority must assess all the applicant's abilities, knowledge and competences and compare that with the yardstick of core subjects required in the Member State, taking account of objective differences in the context of training and legal practice. In the present case the applicant seeks an equivalent assessment of his qualifications and experience and a determination of the requirements for the completion of his training for qualification as a solicitor in Northern Ireland.

### **The Grounds for Judicial Review.**

[7] The applicant's grounds for judicial review are as follows.

(a) The Regulations are unlawful for the following reasons -

(1) They contravened the ECJ decision in Morgenbesser.

(2) It is implicit in the enabling power to make the Regulations in Articles 6 and 74 of the 1976 Order that only lawful Regulations shall be made and shall be lawfully maintained.

(3) The Law Society has failed to maintain lawful Regulations and to make provisions that comply with Morgenbesser.

(b) The continued failure to make Regulations that comply with Morgenbesser has been occasioned for the unlawful reason of defeating such applications for admission and defeating other applications with may consequentially benefit from necessary amendments.

(c) If the Regulations can be rendered lawful by waiver, the refusal to do so in the applicant's case is unlawful as not being based on any lawful objective and being irrational.

(d) The decision not to consider the applicant's case under Regulation 8(5) was unlawful in that -

(1) It was incumbent on the Judicial Committee to consider all aspects of the application.

(2) The Judicial Committee had power to consider the application notwithstanding no preliminary application to the Education Committee.

(3) The Law Society should have established a procedure that enabled one committee to consider all grounds of application.

(e) The decision to refuse to register the applicant with the Society unlawfully restricts his establishment within the profession and consequently imposes a restriction upon him providing services within the Community contrary to Article 49 of the EC Treaty [added in the course of the proceedings].

### **The processing of applications by the Law Society.**

[8] First of all it is necessary to explain the applicant's reliance on Regulation 8(5), as set out under paragraph (d) above. The procedure adopted by the Law Society was to refer applications under the Regulation 8 gateways to the Education Committee, with an appeal to the Judicial Committee. On the other hand applications to relax or dispense with the Regulations under Regulation 18 were referred to the Judicial Committee. The applicant applied under Regulation 18 and the application was referred to the Judicial Committee. Before the Judicial Committee the applicant raised a claim under Regulation 8(5), but the Judicial Committee refused to deal with that matter as it had not been raised previously and had not been decided by the Education Committee. Further to the grant of leave to apply for Judicial Review the applicant applied under Regulation 8(5) to the Education Committee, which refused the application. An appeal to the Judicial Committee was refused on 10 November 2008. The applicant appealed to the Lord Chief Justice who, as had occurred in relation to the earlier appeal against the decision of the Judicial

Committee of 9 March 2007, adjourned the hearing of the appeal pending the outcome of the challenge to the lawfulness of the Regulations on this application for Judicial Review.

[9] Brian Speers is the chairman of the Education Committee of the Law Society and by replying affidavit he referred to the general background to solicitors' training in Northern Ireland. The present system is based on the Armitage Report in 1973 and the Bromley Report in 1985. The Armitage Report placed emphasis on two linked elements of training, namely institutional training and 'in office' training, and recommended institutional training at a newly established Institute of Professional Legal Studies at Queen's University. The Bromley Report recommended that the students at the Institute should be linked with professional practice to a much greater degree and the principal method of solicitors' training in Northern Ireland became the two year integrated period of apprenticeship and training at the Institute. It is stated by Mr Speers that this method of training remains the Law Society's preferred standard method of entry to the profession in order to secure that trainee solicitors are properly prepared for practice in Northern Ireland. In August 2005 the Law Society established an Education Review Working Group on the present system of solicitors training and in November 2007 the Working Group produced a consultation paper entitled "Shaping the Future of Legal Education". The consultation paper refers to the Morgenbesser decision and Mr Speers states that one of the aims of the education review is to address, in a comprehensive scheme, the issue of all EU applicants for admission as solicitors or students of the Law Society. The consultation period extended to 4 April 2008 and the Working Group is preparing its report and recommendations to the Law Society. The report was expected to be presented by the end of 2008 but has not yet been completed.

[10] The operation of the Regulations has been before the Courts on a number of occasions. In CH [2000] NI 62 Carswell LCJ dealt with an appeal from the Education Committee of the Law Society in relation to a law clerk, aged 26, in an executive capacity for approximately three years and who had applied under Regulation 18 for the waiver of the requirements of Regulation 8(3). Carswell LCJ approached the appeal as a rehearing that accorded appropriate weight to the Law Society conclusion, based on its long experience in discharging its responsibility for educating and training entrants. It was held that the Law Society was correct to apply the provisions of Regulation 8(3) with some strictness and to be slow to dispense with the requirements under Regulation 18, except in a truly exceptional case, which the appellant's case was found not to be.

[11] A further appeal came before Carswell LCJ in George Burns (unreported and undated) and concerned the application of the Regulations to English training qualifications. The appellant was a non-law graduate who obtained a Common Professional Examination in core legal subjects at Leicester and a

Diploma in Legal Practice at Nottingham, which would have entitled him to be accepted as a trainee solicitor in England and qualify as a solicitor after two years training. However he did not undertake the English training but returned to Northern Ireland, worked as a law clerk and applied to the Education Committee of the Law Society for admission as a student to undertake two years training in Northern Ireland. He sought a waiver under Regulation 18 of the requirements of Regulation 8(2), or alternatively sought the application of Regulation 8(5). Carswell LCJ stated that in view of the importance attached to students following an Institute course, which Professor Bromley recommended should be an essential qualification, he would not differ from the Law Society conclusion not to dispense with the requirements of Regulation 8(2). In relation to Regulation 8(5) and the requirement for special qualifications and/or experience, Carswell LCJ considered that it should require a truly exceptional case to be established and he felt unable to differ from the conclusion of the Law Society that the appellant's was not such a case. Reference was made to the scheme of training proposed by the appellant whereby students could follow courses of legal education in England, commence their training there, come to Northern Ireland to complete their training and in that way would not have to attend the Institute "... by reason of which their legal education might not be of the nature or standard which the Society regards as necessary for solicitors to practise in this jurisdiction." In recognising that on completion of training in England and having been admitted there, a solicitor was entitled without more to be admitted in Northern Ireland, it was stated -

"Such reciprocity was felt to be necessary in order to comply with European legislation, but the Society feels strongly that it should not allow further inroads into the requirement that solicitors should obtain recognised legal qualifications and follow the full time vocational course at the Institute before being admitted to practise in this jurisdiction."

[12] In Kelly and Sheils Application [2000] NICA 1 the Court of Appeal dealt with an application for Judicial Review of a decision of the Law Society to apply the Regulations to require the applicants to obtain places at the Institute. The applicants were law graduates who had failed to secure admission to the Institute. The applicants' challenge was to the effect that the Law Society, in making the Regulations, was acting for an improper purpose in seeking to limit the number of admissions to the profession. Carswell LCJ applied the true or dominant purpose test and concluded that the main reason for making the Regulations was that the Law Society considered that it had to accept the conclusion of the Bromley Committee that the Institute provided the best method of training for students and that it should make it the exclusive route of entry. Accordingly it was concluded that, while the question of limitation of numbers was not absent from the Law Society's contemplation, it constituted

only a minor or incidental consideration or purpose. Thus the true or dominant purpose of the Law Society in making the Regulations was to provide for the education and professional training of students by means which in its judgment provided the best training.

**The operation of the Regulations in relation to a Morgenbesser applicant.**

[13] This application represents a further challenge to the Regulations, now based on the implications of Morgenbesser. The applicant contends that the Regulations are unlawful as they do not provide for a Morgenbesser applicant. Thus, says the applicant, the Law Society is obliged to amend the Regulation to become Morgenbesser compliant and such amendments would have consequential benefits for the applicant.

[14] The applicant's case was described in the course of the proceedings as not being a "true Morgenbesser case" because the applicant, having obtained his post graduate professional qualification in England, could not rely on a qualification obtained in a different Member State. Thus the applicant relied on intra-State rights rather than inter-State rights. However in the course of the proceedings the applicant amended the grounds to include ground (e), at paragraph 7 above, so as to claim Community rights.

[15] The Law Society contends that a Morgenbesser applicant would be considered under Regulation 18 and more recently the Law Society has placed reliance on Regulation 8(5). The applicant responds that these Regulations are not apt to deal with a Morgenbesser applicant and that in any event compliance with Community obligations cannot be achieved by "silent" amendments of the Regulations.

[16] There may be many variations in the Morgenbesser applications that might be received by the Law Society. Each will have to be assessed individually to determine the nature of the qualifications and experience of the applicant. It is not possible to predict whether any such applicant would be treated as having acquired special qualifications and/or experience for the purposes of Regulation 8(5). It is not possible to predict whether Regulation 18 might be invoked to relax or dispense with any particular requirement of the Regulations. It may be that Regulation 8(5) would be applied or it may be that Regulation 8(1) or 8(2) would be applied or it may be that Regulation 18 would be applied to require some modification of the institutional training and in office training, all depending on the particular qualifications and experience concerned. However I am satisfied that the mechanisms exist within the Regulations for the Law Society to meet its obligations to a Morgenbesser applicant. This would not be by the operation of a 'silent' amendment but by the operation of the existing Regulations. In any event, in the absence of an application by a Morgenbesser applicant and its assessment by the Law

Society, I am not satisfied that the existing Regulations could not be operated in a manner that was compliant with the Law Society's Community obligations. Accordingly the Regulations are not unlawful.

[17] In any event, the Law Society's current Education Review addresses the Morgenbesser case and Mr Speers describes one of the aims of the Review as addressing in a comprehensive scheme the issue of all EU applicants for admission as solicitors or students.

### **Treating the applicant like a Morganbesser applicant.**

[18] The applicant contends that if an inter-State applicant can be accommodated under the Regulations then an intra-State applicant should be similarly accommodated. Thus the less favourable treatment that the applicant contends would be accorded to the applicant, when compared with a Morganbesser applicant, is said to amount to reverse discrimination. The assumption behind the applicant's approach is that no Morgenbesser applicant could lawfully be required to undertake the Institute/Graduate School training. However I am not satisfied that that could never be a lawful requirement. The Law Society would assess the Morgenbesser applicant's education and training in each case. As with the present applicant the Law Society may not accept that the qualifications relied on would be sufficient to enable the applicant to proceed on a basis that did not involve the preferred standard of institutional and 'in office' training, which is the Law Society's present position in relation to post graduate qualifications from the English Law Colleges.

[19] The applicant contends that the absence of objective justification for differential treatment of the applicant renders the decision of the Law Society irrational. Mr Speers offers justification for the Law Society's position. The general approach of the Law Society, as described by Mr Speers, is that the preferred standard method of entry to the solicitors profession in order to ensure that trainee solicitors are properly prepared for practice in Northern Ireland is the completion of a two year integrated period of professional training provided by the Institute or the Graduate School, with significant involvement from local practitioners, during which period students will also be apprenticed and regularly spend time, intermittently with their studies, working in a solicitor's office under the supervision of their master. The core of this training is not simply the completion of an examination. Thus the two year integrated course of institutional and 'in office' training in Northern Ireland is preferred to the English approach of a one year institutional course at the Law College and a two year training contract in the solicitor's office. Nor is the one year institutional course in England judged to be a substitute for any part of the two year integrated course in Northern Ireland.

[20] However the applicant contends that it is irrational of the Law Society not to adopt a Morgenbesser approach which would involve the Law Society assessing the qualifications and experience of the applicant and then determining the requirements for the applicant to enable him to reach the required standard for completion of his training and admission as a solicitor. In effect the Law Society has adjudged the one year Law College training in England as not entitling the applicant to forgo the integrated training in Northern Ireland.

[21] The applicant contends that the approach of the Law Society is designed to exclude Morgenbesser applicants and intra State applicants and to restrict the numbers entering the solicitors profession in Northern Ireland. The Bromley Report at paragraph 5.8 suggested that there were at least four reasons why it was essential to plan for firm student numbers, namely, overcrowding in the profession, planning of courses, planning of resources and public funding. The applicant contends that two of those reasons are no longer valid. The first, overcrowding, would now be regarded as anti competitive. The fourth, public funding, is no longer applicable as the Department of Education no longer funds professional training. Mr Speers states that the Law Society does not control the number of student solicitors and has not sought limits on their number. When the Institute was established in 1973 there were 50 places for solicitors, expanded to 70 places in 1980, 95 places in 2000 and 120 places in 2008. In addition the Graduate School opened in 2008 with 28 places. The Law Society does not determine the number of places available. If, as Carswell LCJ stated in Kelly and Sheils Application in 2000, the question of limitation of numbers was not absent from the Law Society's contemplation when the Regulations were made, it constituted only a minor or incidental consideration or purpose and the true or dominant purpose was to provide for the education and professional training of students by means which in its judgment provided the best training. Similarly, there is no basis for concluding that the Law Society is making decisions under the Regulations in order to contain admission numbers.

[22] The applicant contends that the Morgenbesser applicant with a post graduate legal training qualification is eligible for registration as a trainee solicitor in Northern Ireland and the issue for the Law Society concerns the suitability of their experience and qualifications. However the applicant contrasts that position with an applicant with an English diploma in legal training, who he says is ineligible to apply for registration, regardless of suitability. The Law Society view is that the English diploma is not sufficient to warrant a waiver of the requirement to attend the Institute/Graduate School. Whether that would be so in the case of all or any Morgenbesser applicants must await an assessment of the training and qualifications of a Morgenbesser applicant. There is no clear contrast to be made, contrary to the contention of the applicant.

### **Reverse Discrimination.**

[23] The concept of reverse discrimination concerns the actions of a Member State in treating one of its own citizens less favourably than it would treat a citizen of another Member State. However an EU national cannot rely on Community rights in relation to a 'wholly internal situation'. In R v Saunders [1979] EUECJ R-175/78 the European Court of Justice considered a reference from the UK on a measure in criminal proceedings in England that required a defendant to return to Northern Ireland. The defendant contended that, as a worker who was a national of the UK whose movement was being restricted within the State, the measure was contrary to the right to freedom of movement of workers under Article 48 of the Treaty. The ECJ held that the provisions of the Treaty on freedom of movement of workers "could not be applied to situations that were wholly internal to a Member State, in other words, where there was no factor connecting them to any of the situations envisaged by Community law".

[24] The 'wholly internal situation' approach does not prevent an EU national relying on Community rights against his or her own State where there is an inter-State aspect to the situation. The applicant refers to the decision of the European Court of Justice in D'Hoop v. Office national de l'emploi (Case C-224/980) on a preliminary ruling in relation to the freedom of movement of workers within the Community. Belgian legislation provided for the grant of unemployment benefits, known as "tideover allowances", to young people who have completed education and were seeking first employment. The applicant was a Belgian national who completed her education in France and claimed tideover allowance, which was refused on the ground that she had completed her education in another Member State. The ECJ concluded that, as a citizen of the EU must be granted in all Member States the same treatment in law as that accorded to the nationals of those Member States who find themselves in the same situation, it would be incompatible with the right to freedom of movement were a citizen in the Member State of which he is a national to receive treatment less favourable than he would enjoy if he had not availed himself of the opportunities offered by the Treaty in relation to freedom of movement. Those opportunities could not be fully effective if a national of a Member State could be deterred from availing himself of them by obstacles raised on his return to his country of origin, by legislation penalising the fact that he had used them.

[25] The applicant contends that, in the light of the ECJ approach to reverse discrimination and in the absence of objective justification for treating the applicant less favourably, the decision in relation to the applicant was irrational. In relation to the absence of objective justification I refer to the response of the Law Society discussed above. In relation to the scope of reverse discrimination, prior to d'Hoop the ECJ had held that a national of a Member

State was entitled to raise EC rights against his own State. D'Hoop is an instance of a Member State treating one of its citizens, who had exercised freedom of movement to another Member State, less favourably than if they had not exercised freedom of movement. In the words of the ECJ in R v Saunders, there were factors connecting the situation to those envisaged by Community law. In the present proceedings the applicant proceeded initially on the basis that the situation in the applicant's case did not admit of any reliance on Community law, hence the argument based on irrationality.

[26] However as the application proceeded the applicant sought to rely on factors connecting the applicant's situation to those envisaged by Community law, namely potential movement between Member States. The applicant's Community rights are said to be based on the potential provision of services as a solicitor between Northern Ireland and the Republic of Ireland. The applicant states that he would be 'favourably disposed' to conducting any further training in a solicitor's practice in Newry and would anticipate some provision of cross border services. Many firms of solicitors in Newry engage solicitors who are also registered with the Law Society of Ireland and the firms may also have offices in the Republic. A trainee solicitor in a Newry practice may find himself providing services on behalf of his employer either in the office in Northern Ireland to clients resident in the Republic or in the office in the Republic to clients resident there.

[27] The applicant contends that the Law Society is in breach of Article 49 of the EC Treaty which provides -

"Within the framework of the provisions set out below, restrictions on freedom to provide services within the Community shall be prohibited in respect of nationals of Member States who are established in a State of the Community other than that of the person for whom the services are intended."

[28] On the applicant's case the Regulations amount to a "restriction" on the applicant's freedom to provide services within the Community. The EC Treaty provides for the freedom of movement of workers and in respect of self employed persons for freedom of establishment and freedom to provide services. The Articles relating to freedom of establishment require the removal of restrictions on the right to maintain a place of business in another Member State. The right to freedom to provide services, as contained in Article 49, requires the removal of restrictions on the provision of services between Member States. This may arise where the provider of the service is not established in the State where the service is provided or it may arise where the recipient of the service has travelled to the State of the provider or it may arise where the provider and the recipients remain in their respective States and the provision of services takes place by telecommunication. Each of those

examples is capable of applying to the provision of cross border legal services between Northern Ireland and the Republic. However the Article 49 right of freedom to provide services relates to those who are 'established' in a Member State. The applicant is not 'established'.

[29] It will be noted that in so far as the applicant's example extends to the provision of services on behalf of a Newry practice to clients in the Republic through the solicitors office in the Republic the applicant would only provide such services in the capacity of a trainee solicitor were he to be registered as such by the Law Society of Ireland.

[30] In any event the applicant's apprenticeship placement is speculative. Hans Moser v Land Baden Wuerttemberg [1984] EUECJ R-180/83 concerned the refusal in Germany to permit the applicant to undertake post graduate training to secure entry as a teacher. The issue arose as to whether there was a breach of Article 48 on the freedom of movement of workers in that the refusal might prevent the applicant applying for employment as a teacher in other Member States. The ECJ referred to R v Saunders and that the Treaty could not be applied to a wholly internal situation. The applicant had relied on the impact on his applications for teaching posts in other Member States and the ECJ stated -

"18. That argument cannot be upheld. A purely hypothetical prospect of employment in another Member State does not establish a sufficient connection with Community law to justify the application of Article 48 of the Treaty."

A potential reliance on EC rights may establish a factor connecting an applicant to a situation envisaged by Community law. In a broad sense it might be said that every apprentice and every solicitor in Northern Ireland has the potential to become involved in cross border legal activity. However in many instances the potential is wholly speculative. The applicant has a purely hypothetical prospect of an apprenticeship in a firm of solicitors in Northern Ireland that includes solicitors qualified in the Republic and who serve a cross border clientele or who have offices in the Republic and that prospect does not establish a sufficient connection with Community law to justify the application of Article 49 of the Treaty. In any event, as stated above, Article 49 does not apply to the applicant.

[31] I have not been satisfied on any of the applicant's grounds for judicial review. The application is dismissed.