

Unresolved Questions Regarding Lawyers' Fees and the Restriction of Competition*

*Fabio Ferraro***

ABSTRACT: This paper explores the most salient aspects of the case-law of the Court of Justice of the European Union on legal services in order to highlight a lack of clarity in defining the terms of compatibility between European Union law and national rules on lawyers' fees. This is a complex issue and one that has not yet been finally resolved, especially in a difficult context such as that of the Italian market, which is characterised by an extremely large number of lawyers, which in itself entails the risk of deterioration in the quality of services provided, with services being offered at a discount. In Italy, following the *Cipolla* judgment of the ECJ and the resulting abolition of the system of fixed remuneration (minimum and maximum fees), new measures were introduced by the State and professional organisations to protect members of the legal profession (particularly to safeguard lawyers in a weaker position in dealings with powerful clients such as banks and insurance companies) and to ensure fair remuneration. In accordance with the *Wouters* exemption and the increasing role of economic analysis in competition rules, these measures require a reflective analytical approach in order to evaluate their compatibility with European Union law.

KEYWORDS: lawyers' fees, fair remuneration, professional organisation, *Wouters* exemption, Italian market.

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** Professor of European Union Law, Department of Law, University of Naples, Federico II, 80138 Napoli NA, Italy.