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Brussels, 14 November 2014

Dear Sir,

I am writing to you on behalf of the [Council of Bars and Law Societies of Europe](#) (CCBE) which represents the Bars and Law Societies of 32 member countries and 13 further associate and observer countries, and through them more than 1 million European lawyers.

The CCBE is recognised as the voice of the European legal profession by the national Bars and Law Societies on the one hand, and by the EU institutions on the other. It has regular institutional contacts with the European Commission, in particular DG Justice, and with the European Parliament in connection with issues affecting the legal profession.

The *Consejo General de la Abogacía Española*, which is a member of the CCBE, recently brought to the CCBE's attention a draft law on professional services which aims at setting a maximum annual fee to be paid by Spanish lawyers to their respective Bars.

The CCBE would like to express its serious concerns with regard to this proposal. First, the draft law seriously interferes with the Spanish Bars' freedom to set the amount of their respective lawyer registration fees at a level that they consider adequate. In this respect, the CCBE is aware of the fact that the *Comisión Nacional de la Competencia* has already expressed its disagreement with the new measure, noting that a fee cap would risk creating reference or focal prices that could be, in fact, converted into a single uniform price across the country, thus dis-incentivising the Bars to pursue their ongoing competitive efforts to efficiently adapt the membership fee.

Secondly, and more importantly, the CCBE believes that many of the governmental reforms, including these most recent in Spain, undertaken in order to counter the financial crisis in Europe show a lack of understanding about the fundamental role of Bars and Law Societies and their members – lawyers – within society and the administration of justice. Such reforms are often initiated without thoroughly analysing the impact of the proposals on the administration of justice. It is important to understand that any reform of the legal profession has far-reaching consequences which go beyond pure economic considerations and may ultimately affect a citizen's right of access to justice and the protection of the rule of law.

The proposal to legally set a maximum Bar fee, in our opinion, disregards two of the core values of the European legal profession: independence and self-regulation. Self-regulation is a safeguard of the independence of the legal profession and enables a lawyer to practise free from all influences, such as those which may arise from external pressures.

These values are enshrined in various European and international legal instruments, including:

The [United Nations Basic Principles on the Role of Lawyers](#) of 1990

*“Professional Associations of Lawyers*

**24. Lawyers shall be entitled to form and join self-governing professional associations to represent their interests, promote their continuing education and training and protect their professional integrity. The executive body of the professional associations shall be elected by its members and shall exercise its functions without external interference.”**

[Recommendation No. R\(2000\)21 of the Committee of Ministers to member States on the freedom of exercise of the profession of lawyer of 2000](#)

*“Principle V – Association*

**2. Bar associations or other professional lawyers’ associations should be self-governing bodies, independent of the authorities and the public.”**

Furthermore, the CCBE’s [Charter of Core Principles of the European Legal Profession of 2006](#) also lists independence and self-regulation amongst the core principles of the profession.

For the reasons set out above, the CCBE believes that fees to be paid to Bars and Law Societies by its members must remain under their own authority. Bars and Law Societies, when determining fees to be paid, take into account the legal, social and economic considerations of a given country, in addition to the needs of the profession and the services offered to their members and their members’ clients. As a result, differences in national and local fees charged to lawyers necessarily vary from country to country or region to region, thus making them impossible to arbitrarily set.

The CCBE recently carried out a survey amongst its member Bars and Law Societies which shows that no country in Europe sets the amount of annual Bar fees by law. The right to determine the amount of the fee is delegated to Bars and Law Societies, with the exception of one country, which regulates certain criteria to determine a fee, without actually setting a fixed amount.

The CCBE understands that the limitation of the fee stipulated in the Spanish draft law may have originated from information and data obtained through the ‘European Semester’ process. If this is the case, the CCBE would be interested in learning more about reasoning that led to this proposal. Given our collaborative relationship with the Directorate General for Justice and several other Directorates-General, the CCBE would like to discuss this Spanish initiative with the European Commission.

In the light of these comments, the CCBE urges you to review the Spanish proposal on lawyers' fees and to take adequate measures to safeguard the independence and self-regulation of the Spanish Bars.

We are happy to meet and discuss any of the above with you.

Yours sincerely,

A handwritten signature in black ink, appearing to read 'Aldo Bulgarelli', with a long vertical line extending downwards from the end of the signature.

Aldo Bulgarelli  
CCBE President