

Honorable Margaret H. Marshall
President
Conference of Chief Justices

Brussels, 6th May 2009

Re: Cooperation among American and European disciplinary bodies

Dear President,

Enclosed please find a copy of the resolution as adopted by the CCBE Standing Committee in Vienna on February 19, 2009.

In this connection, we want to touch upon a particular aspect that was discussed at the adoption of the CCBE resolution. The disciplinary bodies under the CCBE and US Conference of Chief Justice resolutions are free to decide whether or not to engage in the exchange of disciplinary information. It goes without saying that the relevant disciplinary bodies, when making that decision, must comply with all laws applicable to them, in particular with data protection laws. In Europe - we do not know about the legal situation in the US - that may mean that in some countries they are not permitted to give disciplinary information to third parties.

In particular, during the CCBE Standing Committee in which the resolution was approved, the representatives of the Consejo General de la Abogacía Española (CGAE, the Spanish national bar) expressed a reservation and requested it to be publicly communicated. The basis of the reservation consists in that the resolution provides for an international transfer of data which, within the current Spanish legal framework, would entail a breach of data protection regulations. Therefore, the CGAE explained on behalf of the 83 competent authorities in Spain (the local Colegios de Abogados) that they will not be in a position to fulfil the resolution.¹ In particular, however, the CGAE representatives have also expressed their support for the aims of the resolution and their commitment to continue to work jointly with all interested authorities in order to promote and guarantee the best possible legal framework for the protection of citizens and society.

Sincerely yours,



Anne Birgitte Gammeljord
CCBE President

¹ The Spanish opinion is based on the conclusions of an "ad hoc" report of the Spanish Data Protection Agency (DPA) on a proposal by CGAE concerning a formal bilateral exchange of disciplinary data with the Law Society of England and Wales. According to the Spanish DPA report, an international data exchange would require an explicit authorization by the law (subject to parliamentary approval), which exists intra-Europe under the Establishment Directive but, however, does not exist in the present case.