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Ayşe Bingöl Demir, Piers Gardner and Laurent Pettiti presenting the CCBE recommendations to the Committee on Legal Affairs and Human Rights

## PROPOSED EUROPEAN CONVENTION ON THE PROFESSION OF LAWYER

**On 12 October, the CCBE addressed the Committee on Legal Affairs and Human Rights of the Parliamentary Assembly of the Council of Europe at a hearing organised on the issue of a European Convention on the Profession of Lawyer.** After a brief introduction on the issue by the Committee's rapporteur Sabien Lahaye-Battheu, CCBE experts Laurent Pettiti and Piers Gardner underlined the need for a binding instrument on to the profession of lawyer, given the increase of attacks on the profession in recent years. They also stressed the need for an enforcement mechanism to ensure the effectiveness of the Convention, and proposed the set-up of an annual monitoring report on the ongoing process to ensure accountability and share best practices. It was argued that these tools would help ensuring the safeguard of lawyers' right to assist citizens, as well as citizens' rights to access justice, and would fundamentally protect the Rule of Law. In this regard, Turkish lawyer Ayşe Bingöl Demir, one of the winners of the CCBE Human Rights Award 2016, reported on harassment and prosecution of lawyers in Turkey, highlighting the negative consequences of these practices on citizens and their rights.

**The CCBE will organise a side event on 24 January 2018, in conjunction with the Parliamentary Assembly of the Council of Europe (PACE) session, in order to highlight the recent attacks on the profession of lawyer in Europe and the need for a European Convention.**



From left to right: Ayşe Bingöl Demir, Piers Gardner, Sabien Lahaye-Battheu, Laurent Pettiti, Philip Buisseret

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## CCBE STANDING COMMITTEE

The CCBE Standing Committee took place in Bordeaux on 20 October within the framework of the CNB National Lawyers' Convention. Nathalie Lanzi, Second Vice President of the regional council of Nouvelle-Aquitaine and Jean-Bernard Thomas, Vice-President of the Conseil National des Barreaux gave their welcome speeches. Ms Lanzi highlighted the common values and objectives of our organisations, both with an eye to the future. Mr Thomas emphasised the role and work of the CCBE in the safeguard of the independence and confidentiality of lawyers to fundamentally ensure the defence of citizens' rights and the Rule of Law. In this regard, Mr Thomas stressed the need to foster a deeper understanding of the profession, and welcomed the call of a European Convention on the profession of lawyer. Ms Sabine Lahaye-Battheu, rapporteur for the Case of drafting a European Convention of the Profession of Lawyer for the Council of Europe, presented the work done so far, and highlighted how cooperation is needed from national bars and the CCBE to ensure that the Convention is effective and valuable for lawyers and citizens everywhere.



The CCBE Standing Committee at the Conseil Régional Hôtel de Région in Bordeaux

The next meeting, the CCBE Plenary, will take place on 24 November at The Hotel in Brussels.

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## FRA REPORT ON SURVEILLANCE CALLS FOR THE PROTECTION OF LAWYER-CLIENT COMMUNICATIONS

On 23 October, the FRA published its second report on [“Surveillance by intelligence services: fundamental rights safeguards and remedies in the EU”](#). In this report, the FRA states that numerous reforms to surveillance laws have been triggered by recent security threats and new technologies, yet they are often still too complex, leading to uncertainty over the powers and mandates of intelligence services. The agency therefore calls for “stronger safeguards when it comes to data protection and privacy”, and lists the protection of lawyer-client communications as one of the 16 top priorities: “FRA Opinion 7: EU Member States should establish specific legal procedures to safeguard the professional privilege of groups such as members of parliament, members of the judiciary, lawyers and media professionals. Implementation of these procedures should be overseen by an independent body”. Furthermore, the report acknowledged the CCBE recommendations regarding the approval procedures applicable when the scope of the surveillance includes information protected by professional privilege.

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## THE CCBE'S RESPONSE TO THE PUBLIC CONSULTATION ON IMPROVING CROSS-BORDER ACCESS TO ELECTRONIC EVIDENCE IN CRIMINAL MATTERS

The [CCBE replied to the public consultation](#) launched by the Commission on improving cross-border access to electronic evidence in criminal matters.

The CCBE notes it is important that any EU initiative regulating cross-border access to digital evidence ensures sufficient safeguards are in place to protect fundamental rights. As such, the CCBE believes the use of electronic communications services or other cloud services by lawyers should be protected in the same way regardless of whether the content is stored in a data centre, or in a computer at the lawyer's office or on his/her person. Furthermore, guarantees should be provided that where there is a strict regime in force to protect lawyers' data, that regime cannot be sidestepped by the relevant authorities making cross-border data requests directly to the lawyers' IT service providers to produce the information. Lastly, whatever regime is established for cross-border access to digital evidence, that regime should guarantee the inviolability of data and other evidence falling under the principle of legal professional privilege or professional secrecy. All the protections should also apply if the data is to be intercepted cross-border and accessed in transit. To that end, law enforcement authorities should be required to use all technological means available to leave material protected by professional secrecy and legal professional privilege out of the scope of surveillance operations.

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## ANTI-MONEY LAUNDERING

### European Parliament Committee of Inquiry into Money Laundering, Tax Avoidance and Tax Evasion (PANA).

The CCBE has been following developments regarding the European Parliament Committee of Inquiry into Money Laundering, Tax Avoidance and Tax Evasion (PANA). On 28 June the two Co-Rapporteurs published their draft Report and draft Recommendations, and both are very critical of the legal profession and very damaging to self-regulatory bodies and professional privilege. The draft Report and Recommendations were open to amendments until 5 September and a vote took place in the Committee on 18 October. The CCBE has been working to ensure that both the role of the self-regulatory body is understood and that the importance of legal professional privilege/professional secrecy is understood as a number of proposed amendments did not reflect such an understanding. It is expected that the final Report and Recommendations will be voted on in December at a meeting of the European Parliament plenary session.

### Revision of the 4th Anti-money laundering Directive

The European Parliament and the Council are carrying out 'trilogue' negotiations, assisted by the Commission, with a view to reaching an agreement on a revised Directive. To date, there have been 8 trilogue negotiations in order to reach a compromise. There are a number of issues, which require further progress at a political level, as there are significant differences between the positions of the Parliament and Member States on a number of points. For the CCBE, there are many issues of interest including obligations on the self-regulatory body, beneficial ownership provisions and trusts, enhanced due diligence requirements, the role of the Financial Intelligence Units and provisions regarding tax advice and other matters.

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## REPORT ON THE "PERFORMANCE REVIEW OF CASE MANAGEMENT AT THE COURT OF JUSTICE OF THE EUROPEAN UNION"

Readers will find attached a link [here](#) to a Report on the "Performance review of case management at the Court of Justice of the European Union" (CJEU) as prepared by the European Court of Auditors. In the performance review, the Court of Auditors assessed the CJEU's case management processes, in particular, whether the procedures in place promoted the efficient handling of cases lodged and whether their timely resolution could be enhanced.

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## CRIMINAL LAW

### Proposal for a Directive on countering money laundering by criminal law

The CCBE is following the legislative developments regarding a Proposal for a Directive on countering money laundering by criminal law. The proposal itself aims to establish minimum rules concerning the definition of criminal offences and sanctions in the area of money laundering, as well as common provisions to improve the investigation of those offences and to better cooperation in the fight against money laundering. The key elements of the proposal include (1) Money laundering offences (2) Penalties for natural persons (3) Aggravating circumstances (4) Liability of and sanctions for legal persons (5) Jurisdiction. The measure was announced by the Commission in its Action Plan on the fight against terrorist financing. It was proposed as the Commission noted that all Member States have criminalised money laundering, but that differences between Member States as to the definition of money laundering and the sanctions applied remained.

### Proposal for a Regulation on mutual recognition of freezing and confiscation orders

The CCBE is also following the legislative developments regarding the Proposal for a Regulation on mutual recognition of freezing and confiscation orders. The Commission believes that the current EU legislation on mutual recognition is outdated and is no longer aligned with the latest national and EU rules on freezing and confiscation. The Commission believes this creates loopholes that are exploited by criminals.

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## RIAD CONGRESS 2017

The CCBE participated in the annual congress of the RIAD, the International Association of Legal Protection Insurance, which gathered delegates from various legal protection insurers from across the world. The theme of the congress was ‘[Staying ahead of the Game in Legal Protection Insurance](#)’ and the discussions mainly focused on how insurers can assume changes to keep up with customer demand and technological innovation. Expectations from millennials and how to better communicate the changes to customers were also addressed. The delegates also discussed in three separate working groups the key areas which business must tackle if they want to remain relevant. The CCBE attended workshop 3, which questioned ‘Does legal protection insurance offer what their customers want?’, where it appeared that the tangible value for customers is to have easy access to a lawyer. However, more things should be done to respond to customers in an efficient and rapid way. Another interesting point was the presentation of a IPSOS survey on Consumer Perception of Legal Issues and Legal Protection Insurance in France, Germany, the Netherlands, and Ireland (available [here](#)), which shows a preference for vocal interaction between legal protection insurance and their clients in all surveyed countries. The congress showed the possibility to discover new opportunities – with “InsurTech” being one example - which can contribute to the reshape of the legal protection insurance sector.

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## EUROPEAN LAWYERS DAY

On 25 October, European Lawyers Day took place in conjunction with European Day of Justice. Throughout Europe, our Member Bars organised events and initiatives to mark this day: in particular, events were organised in Belgium, Czech Republic, Germany, Greece, Slovakia, Slovenia, Portugal, Sweden and the UK. More information on the events will be available on our website as well as on twitter with the hashtag #EuropeanLawyersDay.

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## THE CCBE TRAINING CONFERENCE

The CCBE Training Conference will take place on 14 December in Brussels. The full programme is currently available on our website, which includes workshops on innovative training tools, project financing, design thinking and HELP in the EU.

Registration is open until 20 November.

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## OVERVIEW OF THE ONGOING EU PROJECTS RUN BY THE EUROPEAN LAWYERS FOUNDATION (ELF)

ELF is currently involved in 6 ongoing projects co-funded by the European Commission. It coordinates TRAVAW (Training of Lawyers on the Law regarding Violence against Women), MULTILAW (Multilateral Exchange of Lawyers) and TRADATA (Training of Lawyers on the EU Data Protection Reform) and is a partner in TRACHILD (Training of Lawyers representing Children in Criminal, Administrative and Civil Justice), Me-CODEX (Maintenance of e-Justice Communication via Online Data Exchange) and EVIDENCE 2 (Linking EVIDENCE into e-CODEX).



**TRAVAW**, featuring in the [EU's campaign on violence against women](#), has trained more than 100 lawyers so far in 3 different jurisdictions (Spain, Greece, England & Wales) on legal cases of domestic violence, forced marriage, honour-based abuse and female genital mutilation.

**MULTILAW** is organising the first round of exchanges (from November 2017 until February 2018), where 20 lawyers from 7 countries will be placed in bars or law firms in other EU Member States for a period of 2 weeks.

**TRADATA** is expected to kick-off in mid-November 2017 and the first training seminars for lawyers on the new EU data protection reform will take place in January 2018.

**TRACHILD** has now a dedicated [website](#) which centralises information about the seminars, as well as important material on children's rights for legal professionals.

**Me-CODEX** is progressing since its start in the end of 2016 and **EVIDENCE 2** will soon begin its substantial activities in the field of e-Justice, with the ELF together with the CCBE representing the lawyers' voice on the new developments.

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## “IDEA GARAGE: E-JUSTICE” CONTEST IN TALLINN – CCBE REPRESENTATIVE LEADING THE WINNING TEAM

As part of the “Futur-e-Justice” Conference of the Estonian Presidency of the European Council in Tallinn, the [“Idea Garage: e-Justice”](#) initiative took place on 19-20 October, organised by Garage 48 in cooperation with Estonian Ministry of Justice, CIVITTA Estonia and the Estonian Information System Authority. The main goal was to find solutions to some of the existing challenges in the e-Justice system using ICT solutions. Eight different case studies were circulated to the participants, who with the help of mentors, were required to prepare and show a prototype solution to their specific challenges. CCBE Representative Péter Homoki (Chair of the CCBE IT Law Committee) was one of the mentors involved, and his team “Eurovisor” came up with the idea of providing a database for touristic portals, where the user could compare information of how laws and practical rules differ in European countries on relevant issues for tourists, such as camping, hiking, driving, fishing, hunting etc. The solution was presented as part of a renewed version of the current information on the [Visit Estonia website](#).



The jury found that of the four solutions presented in the contest, Péter Homoki's team had offered the most realistic one, awarding them the first prize.

### UPCOMING EVENTS

10/11	CCBE-UNBA Joint Conference – Kiev
22/11	CCBE Committees' Chairs Training – Brussels
24/11	CCBE Plenary – Brussels
14/12	CCBE Training Conference – Brussels