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CCBE PLENARY SESSION IN PORTO

The CCBE held its Plenary Session on 17 May in Porto. The Plenary began with two opening speeches from Nuno Ataíde, President of the Court of Appeal of Porto, and Paulo Pimenta, President of the Regional Council of Porto of the Portuguese Bar and member of Venice Commission, who underlined the fundamental role played by the legal profession and the crucial importance of preserving the rule of law in these challenging times.

Future events were announced, such as the **CCBE Workshop on the Impact of Anti-Money Laundering Legislation and Tax Legislation on Legal Professional Privilege** to be held on 27 June in Brussels, and a **joint CCBE-FBE Conference on Self-Regulation** to be held on 25 October in Lisbon.

Delegations were also informed of the latest news regarding the **joint ERA-CCBE Young Lawyers Contest**. Applications will begin on 1 June 2019



CCBE Plenary Session in Porto

for the 2019-2020 contest. This competition aims to bring together future lawyers from different European countries at a time when they are undergoing entry-level training to enable them to share common values, exchange new experiences and discuss fresh perspectives in areas of shared interest. Building a genuine European legal culture and fostering valuable synergies among legal professionals from different Member States will contribute to strengthening the area of freedom, security and justice in the EU. More information is available on the project's [website](#).

The CCBE adopted amendments to the commentary on Principle g) of the CCBE's Charter of Core Principles of the European Legal Profession, which addresses lawyers' professional competence. Considering the use of artificial intelligence and other relevant technologies by lawyers, a new sentence has now been added to the commentary on Principle g) of the Charter stating that a lawyer should be aware of the benefits and risks of using relevant technologies in his or her practice. Moreover, some further changes were made to the original text of the commentary – see the [2019 edition of the CCBE's Charter](#).

The CCBE Plenary also provided an opportunity to alert all delegations to the difficult situation currently faced by the European Lawyers in Lesvos initiative (ELIL) due to a lack of funding. As a result, ELIL had to suspend its activities at the end of April. However, following recent announcements of generous financial contributions from Bars and Law Societies, it is hoped that ELIL's activities will be able to restart soon. ELIL has provided free legal assistance to over 9,000 people thanks to the participation of 144 volunteer European asylum lawyers – alongside a team of full-time, permanent Greek asylum lawyers. The project has proven its efficiency: 74.5% of those who received ELIL assistance have been granted asylum, compared to an average of 46.5% in Greece. Please visit [ELIL's website](#) for more information.

The Plenary also allowed exchanges of views on a number of other current issues such as the rule of law, e-Justice, digital assets, the European Business Code, the proposed European Convention on the Profession of Lawyer, etc.

THE CCBE MANIFESTO FOR THE 2019 EUROPEAN ELECTIONS



As in previous editions of the European elections, the CCBE has published a Manifesto which highlights the main concerns and some proactive proposals of the legal profession in Europe regarding the organisation of justice and respect for the rule of law. In this 2019 edition, the Manifesto is mainly oriented towards respect for the rule of law. The reason for this is obvious, we are witnessing a growing lack of respect – and even a growing lack of knowledge! – of the basic principles of the rule of law in Europe every day. The European institutions are addressing this worrying erosion of the rule of law. The CCBE wishes to actively contribute to the Commission's actions and also point out a number of situations where the exercise of the legal profession is directly affected by the erosion of the fundamental principles of the rule of law.

The Manifesto therefore calls first and foremost for the competences for the rule of law, justice and justice actors to be brought together in the portfolio of one single Commissioner, preferably at the level of the Commission's Vice-Presidents. The justice system is the forum where breaches of the rule of law are being raised, often by lawyers. It is essential to monitor justice initiatives and react immediately

when such initiatives may negatively affect access to an independent lawyer or judge. Combining the responsibilities for the rule of law and justice into a single portfolio increases the "early warning capabilities" of the Commission and allows it to respond to the situation immediately and at a very early stage.

Secondly, the Manifesto calls for respect for the independence of all actors in the justice system; judges and prosecutors, obviously, but also lawyers. In order to guarantee the right to a fair trial, it is not only necessary to guarantee the independence and impartiality of judges, but also the independence of – and absence of undue influence on – those who defend the interests of citizens and entities and who bring cases to the courts and to judges: lawyers.

There is a growing and worrying tendency to set aside the rights of individuals and entities to call upon a lawyer of their choice to obtain advice on their legal situation, as well as to be represented and defended, both in and out of court. **The Manifesto aims to raise awareness of this risk and calls on the European institutions to ensure that this right is guaranteed for all individuals at any time during proceedings.**

When individuals or entities consult a lawyer to assess their legal situation and possibly represent or defend their interests, lawyers are bound by a professional mandatory non-disclosure obligation for all information entrusted to them by their client. This obligation is rooted in fundamental rights, namely the right to privacy, a fair trial and the fair administration of justice, both in and out of court. By questioning this mandatory non-disclosure obligation for lawyers, we are questioning these fundamental rights. In practice, unfortunately, this is increasingly the case. **Once again, the Manifesto raises awareness of this erosion of fundamental rights in recent legislation and calls for special attention to be paid to these rights and a more respectful approach to lawyers' non-disclosure obligations.**

The Manifesto also addresses some specific issues, such as:

- The need to further develop procedural safeguards in criminal proceedings and assess the implementation of existing safeguards;
- The need for human-centred artificial intelligence solutions in the field of justice;
- Equal treatment and equality of arms in the EU’s judicial training policy;
- The establishment of legal aid as a standard measure of humanitarian aid; and
- The establishment of e-Codex as a common mechanism for the standardised and secure exchange of cross-border information between Member States in judicial proceedings.

EUROPEAN LAWYERS
CCBE
AVOCATS EUROPÉENS

CCBE recommendations to uphold the rule of law and fundamental rights

Manifesto for the 2019 EU elections

01
ITEM #1
ONE SINGLE EUROPEAN COMMISSIONER for all rule of law and justice issues.

02
ITEM #2
Ensuring citizens' rights to effective review of legislation and government decisions through INDEPENDENT LAWYERS.

03
ITEM #3
Guaranteeing ACCESS TO A LAWYER and RESPECT FOR PROCEDURAL SAFEGUARDS at all times.

04
ITEM #4
Promote TRANSPARENCY that respects everyone's FUNDAMENTAL RIGHTS TO PRIVACY AND CONFIDENTIALITY.

CONFERENCE IN BUCHAREST: e-JUSTICE – CHALLENGES AND OPPORTUNITIES IN THE DIGITAL ERA

On 2 and 3 May, the CCBE took part in the [“e-Justice – Challenges and Opportunities in the Digital Era”](#) conference organised by the Romanian Ministry of Justice in the context of the Romanian Presidency of the Council of the European Union, and the Commission.

The aim of this conference was to discuss with IT specialists, practitioners and decision-makers within judicial systems the opportunities and the challenges posed by the rapid pace of technological progress, as well as the philosophical and ethical aspects generated by the implementation of such instruments in the field of justice.

To this end, various discussion panels were held, focusing on different aspects of e-Justice, such as the European e-Justice Action Plan 2019-2023, the European e-Evidence Digital Exchange System, private sector solutions, legal and ethical questions, Artificial Intelligence, Blockchain, Robotic Process Automation, etc.

Thierry Wickers, the Chair of the CCBE’s Future of the Legal Profession and Legal Services Committee, represented the CCBE in a panel discussion on the “Use of Artificial Intelligence technologies in the field of justice”. In his presentation, he outlined the activities which the CCBE has undertaken in relation to AI. Indeed, in addition to the [CCBE conference on Artificial Intelligence and Humane Justice](#) held in Lille last November, the CCBE has contributed to the formulation of the [European ethical Charter](#) on the use of Artificial Intelligence in judicial systems and their environment, adopted by the [CEPEJ](#) last December. The CCBE is also a member of the Commission’s Expert Group on Liability and New Technologies, and in 2017 published an e-book entitled [“Innovation and the Future of the Legal Profession in Europe”](#) which critically assesses and evaluates the opportunities and threats facing the legal profession and our justice systems in the coming years.

In relation to the use of AI by courts, the CCBE stressed the need for ethical standards and basic principles to counterbalance the potential disruptive effect of AI on due process, most significantly in relation to the impartiality, transparency, fairness, and lawfulness of judicial proceedings.

“e” MEETS JUSTICE CONFERENCE

On 2 and 3 May, the CCBE took part in the [“e” meets justice conference](#) organised by the [e-CODEX Plus project](#) and the [‘Building EU Civil Justice’](#) project. The event brought together academics, IT and legal professionals to discuss possible ways to improve collaboration between these stakeholders in electronic cross-border civil proceedings. In particular, ideas were exchanged on how to further develop e-Justice, focusing on e-CODEX as a potential tool to improve the current state of play.

Digitalisation, which is now well underway, poses challenges with the development of e-commerce for consumer and the increasing number of cross-border (online) transactions which, in turn, result in a growing number cross-border (online) disputes. In such a context, access to justice and to suitable redress mechanisms becomes more difficult due to the existence of multiple obstacles related to the cross-border nature of the claims, such as the differences in language, increasing costs, longer proceedings and the existence of very diverse legal proceedings.

Therefore, the adaptation of justice systems is becoming crucial to meet the demands of citizens. Although there are infinite ways to achieve this goal, one thing is certain: electronic communication between those involved in judicial proceedings has become an essential component in the efficient functioning of the judiciary within and between Member States. Building a proper e-Justice infrastructure is therefore essential. In this regard, e-CODEX can be a valuable tool to allow the digital exchange of case-related data, connecting parties and courts in a single interface.

From the beginning, the CCBE has supported EU initiatives in the field of e-Justice, notably by participating in a number of European projects, including the further development of the Find-A-Lawyer, Me-CODEX, and EVIDENCE2e-CODEX projects. In fact, technology and innovation in the field of justice is rapidly becoming an area of particular interest to the CCBE as the development of cross-border e-Justice tools and platforms will have a huge impact on the work of all lawyers. The CCBE firmly believes that e-Justice tools, if developed and deployed prudently, can greatly improve the work of lawyers and the quality and speed of justice.

In this context, during his introductory speech, José de Freitas, President of the CCBE, highlighted some of the considerations that new e-Justice systems must address and overcome if they are to play a proper role in the justice systems of advanced societies, e.g. digital procedures should facilitate all parties in a trial and not just one party to the possible disadvantage of the other party, and e-Justice systems should enable lawyers to at least exercise the full procedural rights that they previously had under paper-based systems and take into account lawyers’ deontological and statutory duties.

During the event, the CCBE also organised a workshop, chaired by Simone Cuomo (CCBE Senior Legal Advisor), to explore ways to ensure more effective and efficient means of communication between lawyers and courts. To this end, Katell Drouet-Bassou (Chair of the CCBE’s Family & Succession Law Committee), presented a number of scenarios in the field of cross-border family law in the context of the Brussels IIa Regulation on jurisdiction and the recognition and enforcement of judgments in matrimonial matters and the matter of parental responsibility.

For more details on this subject, all presentations made during this conference are available via the following link: <https://www.e-codex.eu/emeetsjusticepublications>.

DEFENCE OF THE DEFENDERS: EUROPEAN LAWYERS URGE THE TURKISH GOVERNMENT TO END THE PERSECUTION OF LAWYERS

On 5 April, on the occasion of Lawyers’ Day in Turkey, the CCBE and nearly 40 lawyers’ organisations and Bars/Law Societies issued a [joint statement on the situation of lawyers in Turkey](#). These organisations strongly condemn the ongoing persecution of lawyers in Turkey and urge the Turkish government to release all lawyers who have been unduly detained for carrying out their professional activities.

Since the Turkish government declared a state of emergency after the failure of the coup d’état on 15 July 2016, the persecution of lawyers has intensified. Since July 2016, 1546 lawyers have been prosecuted, nearly 600 lawyers have been arrested and 274 lawyers have been sentenced to long prison terms - the average duration being seven years. These lawyers, who are simply trying to carry out their professional activities, are often prosecuted, arrested and sentenced on alleged terrorism-related charges which, according to the Turkish Penal Code, carry a sentence of seven and a half to twenty years’ imprisonment.

The Statement recalls that this is a clear violation of several European and International legal instruments, such as the Council of Europe Recommendation on the freedom of exercise of the profession of lawyer, the International Covenant on Civil and Political Rights and the United Nations Basic Principles on the Role of Lawyers.

On 10 April, Human Rights Watch published a report on the situation entitled [“Lawyers on Trial: Abusive Prosecutions and Erosion of Fair Trial Rights in Turkey”](#) which contains several recommendations addressed to the Turkish Government, to the Union of Turkish Bar Associations and Provincial Bar Associations, the European Union and Member States plus Norway, to the Council of Europe, to the UN Special Rapporteur on the Independence of Judges and Lawyers, and to the Bar Associations and Lawyers’ Associations in Europe, Canada and the US.

EU - CHINA HUMAN RIGHTS DIALOGUE

On 2 April, the CCBE participated in a civil society round table as part of the 37th round of the EU-China Human Rights Dialogue. The meeting was chaired by Paola Pampaloni, Deputy Managing Director for Asia and the Pacific at the European External Action Service (EEAS), and included several EEAS officials, as well as human rights NGOs. Regrettably, the Chinese delegation did not participate in the round table.

The CCBE was represented by one of its experts from the Human Rights Committee, Basile Ader, Vice-President of the Paris Bar, who highlighted the ongoing attacks against Chinese lawyers, including arrests without trial, without informing the lawyers’ families, as well as cases of torture.

The EEAS reported that the deterioration of the civil and political rights situation in China, marked by the arrest and detention of a significant number of human rights defenders and lawyers, has been raised with the Chinese delegation. Several individual cases were raised, such as lawyers Wang Quanzhang, Yu Wensheng, Li Yuhuan, Zhou Shifeng, Xia Lin and Gao Zhisheng.

See the [EEAS’s press release](#).

The CCBE is closely monitoring the situation of lawyers in China and will continue to urge the Chinese authorities to guarantee that all lawyers in China are able to perform their professional duties without fear of reprisal, hindrance, intimidation or harassment, in order to preserve the independence and integrity of the administration of justice.

GERMAN BAR ASSOCIATION ELECTS ITS NEW PRESIDENT



Edith Kindermann is the new President of the German Bar Association (DAV). The lawyer and notary from Bremen was elected as the first female DAV President on 23 March 2019. Edith Kindermann is 56 years old and has been a practicing lawyer since 1992. During her presidency, she plans to focus on adapting the rules on lawyers’ fees to ensure adequate remuneration, as well as on reforming professional regulations for lawyers. Another important challenge she will tackle is the increasing digitalisation of the legal services market. Furthermore, she wants to defend and improve access to justice for all citizens. Edith Kindermann is the Chair of the DAV Committee on Lawyers’ Fees and has been a member of the DAV Executive Board since 2011.

▷ European Court of Human Rights

The European Court of Human Rights has had a new President since 5 May: Linos-Alexandre Sicilianos (Greece) who replaces President Guido Raimondi (Italy). Linos-Alexandre Sicilianos has been a judge at the European Court since 2011 and Vice-President of the Court between 2017 and 2019.

The Plenary Court elects its President for a period of three years. The President presides over the Plenary Sessions of the Court, the sessions of the Grand Chamber and those of the panel of five judges.



UPCOMING EVENTS

27/06/2019 CCBE Workshop on the Impact of Anti-Money Laundering Legislation and Tax Legislation on Legal Professional Privilege

27/06/2019 CCBE Summer Reception

28/06/2019 Standing Committee – Brussels

13/09/2019 Standing Committee – Copenhagen

24/10/2019 Standing Committee – Lisbon

25/10/2019 Joint CCBE – FBE Conference on self-regulation - Lisbon