
DEVELOPING THE VISION OF THE EUROPEAN LAWYER TO SUPPORT THE RULE OF LAW

A strategy for the CCBE

Introduction

The first strategy paper of the CCBE was adopted at the Plenary Session in Budapest in May 2008. It was always understood that it would be an evolving document, taking account of changes in external circumstances and in the CCBE's own priorities. Over a year after its initial adoption, it is therefore now time to look again at the strategy and update it. Even though it is a three-year strategy, it is likely that it will be reflected upon, and if necessary amended, every year with the following three years in mind.

This revised paper takes account of the central assumption of the previous one: that our strategy should position and profile the CCBE in the European political arena where we would all like it to be, as a strong political voice representing the European legal profession in defending democratic states ruled by law.

The implementation of the strategy

It is not enough to say that the European legal profession supports the principles of the rule of law. The CCBE should be able to demonstrate how it transforms these words into actions. A few years ago, we started discussions among European bar presidents in order to "develop a European-wide vision for the future of our profession". The CCBE should implement its strategy by developing this vision of the European lawyer who has all the requisites to support the principles of the rule of law and who is determined to do so. The European lawyer is not a title, it is not a single harmonised qualification which each lawyer in Europe has to attain, but rather a common understanding of the role and standards expected of a lawyer who is a member of the profession in one of our member countries.

Elements of the strategy

There are many elements to this strategy. Some of them are a substantial part of the vision, and some help develop the achievement of the vision. These elements also serve as milestones in measuring where we are in the development of the vision.

These are the substantial elements of the vision:

1. The common understanding of the European lawyer and his/her role in European democratic society.
2. Europe-wide solutions for variations in professional ethical rules for lawyers.
3. Europe-wide professional training standards for lawyers.

These are supporting elements to develop the vision:

4. A modernised structure and organisation for the CCBE.
5. Reflection on the legal instruments of the European Union regarding lawyers.

What do we have already?

In November 2006, we adopted the "Charter of Core Principles of the European Legal Profession", which should serve as a basis for any further deontological rules. We also revised the Code of Conduct for European Lawyers, which could be used as a model for a code which goes beyond cross-border work.

In 2007, we adopted the CCBE Recommendation on Training Outcomes for European Lawyers which we hope will be followed in all CCBE member countries. This describes clearly what could be expected from a European lawyer with regard to professional competences.

In 2009, we published for the first time a manifesto around the European elections, which was widely distributed and well received by decision-makers. It gave a high profile to the CCBE's call on four particular issues: the creation of a separate DG Justice at European level; the guarantee for a citizen to consult a lawyer in full confidence; protecting the procedural rights of suspects and defendants in criminal cases; and striking the right balance between liberty and security in legislation against terrorism and organised crime. We were very pleased to note a great success in one of these four areas, when the incoming President of the European Commission in September 2009 undertook to create a Commissioner for Justice, Fundamental Rights and Civil Liberties in his incoming administration. Through our recommendations to the Stockholm Programme, the CCBE will follow closely the developments on the implementation of the improvements suggested.

What can be achieved in the next three years?

Directives relating to lawyers

The CCBE had a very important role when the lawyers' directives were created. The directives have served the European legal profession well; however, it is a question whether they will serve the profession well enough in the future. We must again be proactive.

The evaluation of the lawyers' Establishment directive, postponed until 2012, will involve a general review of the European legal profession by the institutions of the European Union. We are planning to have our vision of the European lawyer prepared by then. We will be ready with our own legal and economic analysis regarding our profession, and so able to provide our own common understanding of the European lawyer.

Deontology

On the basis of the already adopted Core Principles and the revised Code of Conduct, we have started work on those areas of our ethical provisions where there are major differences between us. We have built up common ground step-by-step: we are going through each group of issues, each chapter separately. This will enable us to find common definitions, and to consider carefully the sensitive issues and the finding of mutually acceptable solutions.

E-Justice

One of the biggest challenges facing the legal profession is its ability to serve the European citizen in the new digital age. The CCBE is working hard to provide services through the European Commission's proposed e-Justice portal, to be launched on 15 December 2009. We have submitted an application to provide fact-sheets on defendants' rights in the 27 Member States, to be accessible through the portal. And we are aiming to improve the 'search-a-lawyer' function on our website, and in the proposed portal. We believe that this work also serves to unite the legal profession across Europe in common endeavours for the benefit of the European citizen.

International relations

We are conscious that Europe has more neighbours than those in the east and south-east to which it is joined by a land border. There are also neighbours across the Mediterranean in north Africa and the Middle East, with which Europe has had a long and close history. The proximity of these countries already poses questions to the CCBE, such as enquiries about CCBE membership and the general issue of immigration through these countries. In principle, we are in favour of extending the remit of the CCBE to all near neighbours of the European Union, whether in the traditional countries of eastern Europe or those across the Mediterranean. This requires careful reflection before being taken further: for instance, how will the CCBE deal with this extension of its geographical area of interest when it has such scarce resources to undertake its current work? What has the CCBE to offer the bars in this wider basin of countries, in terms of services or membership? We would like this issue to be discussed in detail over the coming period.

Statutes and internal working methods

If we want the CCBE to be ready to implement a vision of the European lawyer, our statutes need to be revised, too. In the last couple of years, the amendments served mainly to solve immediate issues. It is clear that we have some immediate issues to resolve, such as the election process, but we also have to ensure that our rules will serve well a democratic and efficient working method among our enlarged membership, and ensure that they are adapted to the changing environment of the European Union in the 21st century. The Statutes Working Group is finalising its recommendations on these issues.

However, there are improvements to be made to internal working methods which do not require a change in the statutes. Work will begin on preparing bye-laws and other appropriate procedural rules for a more efficient CCBE. In addition, we will improve co-ordination of work across the CCBE by instituting more regular meetings of chairs of committees. In future, those chairs who are in any case present for other meetings will meet at every Standing Committee meeting, while there will continue to be the regular meetings for all chairs of committees at the twice-yearly Plenary Sessions. We propose that all committees should meet sometimes - at least once or twice a year - in conjunction with the Standing Committee or Plenary Session, both to give their chairs the opportunity to become part of the greater CCBE family and its thinking, and also to give all delegations the opportunity of monitoring and participating in all committees' work. Finally, it is proposed that the portfolio of committees be split equally between the vice-presidents, without the President having responsibility for any particular committee (given his/her overall responsibility for the CCBE's work).

Conclusion

We believe that the continuing strategy outlined in this paper will serve as a template for the work of the CCBE over the next three years, always with the view in mind that the strategy will be evolving and should be able to continue to position the CCBE in a central role on the European legal stage, in promoting the proper administration of justice and the relevant common principles of the rule of law in the EU.