

Brussels, 10 July 2009

European lawyers make their case for the Stockholm Programme

As the Ministers of Justice and Home Affairs prepare to meet informally in Stockholm on 15-17 July, the Council of Bars and Law Societies of Europe (CCBE) today makes its recommendations to the drafters and implementers of the future 'Stockholm Programme', which will outline the work of the EU over the next 5 years in the area of justice, freedom and security. The European Commission has already published a communication on 10 June giving its vision.

Through its members, the CCBE represents over 700,000 lawyers from the European Union and European Economic Area and beyond.

The CCBE recommendations to the drafters of the Stockholm Programme include the following points:

- The current imbalance at the European level between the rights of the prosecution and the rights of the defence threatens to undermine confidence in the principle of mutual recognition, and the CCBE is extremely disappointed at the slowness and lack of ambition shown in this area over a decade. With the Commission's proposal (announced last Wednesday) on the rights to interpretation and translation, some small step has finally been taken. The CCBE however is dismayed that the approach chosen by the Commission and Swedish Presidency is to introduce procedural safeguards for suspects and defendants in criminal proceeding one by one. The CCBE President Anne Birgitte Gammeljord said: *"Clearly this is due to reluctance on the part of a number of Member States to accept a collective set of procedural safeguards, and this in itself is of concern to the CCBE."* The CCBE has not been able to examine the text of the proposal yet, but fears that, given the uncertain way forward, it may represent the lowest common denominator.
- The setting up of a mechanism of collective redress at EU level is not being considered within the future Stockholm Programme, and this is only because it is not dealt with by DG Justice, Freedom and Security, although it is clearly a justice issue. *"This, in our view, is a good example of the negative effect of the absence of a stand-alone DG Justice"*, CCBE President Anne Birgitte Gammeljord says. The CCBE renews its call for a DG Justice at the Commission that will be solely competent for all justice matters in order to ensure that justice is dealt with effectively and comprehensively.
- The Commission refers in its communication to ways to enhance legal security for cross-border users of legal acts. The CCBE warns that differences in legal cultures and systems should be considered and that mutual recognition should benefit all citizens and residents of all Member States. Some Member States have notaries who can deliver authentic acts and lawyers and other professionals who can perform acts with equivalent legal effect; some Member States do not have notaries; moreover, some Member States have authentic acts that are not notarial acts. *"It is important for citizens and businesses that mutual recognition should not be restricted to authentic acts delivered by notaries but also cover analogous legal acts (deed, legal act by a lawyer or equivalent) which exist under national law"*, Anne Birgitte Gammeljord says. *"Otherwise, there would be discrimination against EU citizens and businesses exercising their freedom of choice to use alternatives to notaries, or not having access to notaries due to the absence of notaries in their Member State, as well as discrimination between legal professions."*
- Moves towards greater use of mutual recognition should be accompanied by increased mutual trust in the civil and criminal systems of the Member States. The CCBE believes that the abolition of the exequatur procedure in civil and commercial matters, in particular, would facilitate enforcement in the best interest of citizens. But Anne Birgitte Gammeljord warns: *"Mutual trust implies that minimum standards and adequate safeguards are addressed from the start. For the abolition of exequatur, these would relate to proper service of judgments and judicial documents and a process of verification to ensure the judgment is a valid one."*

The CCBE contribution to the Stockholm Programme also addresses other issues, such as e-Justice, lawyers' participation in the various justice networks and equal access to legal training for lawyers. Click here to download the full [CCBE recommendations for the Stockholm Programme](#)

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