



Représentant les avocats d'Europe  
Representing Europe's lawyers

## ▶ ▶ Content

Akzo Nobel Case .....	2
Money laundering .....	3
Belgian challenge .....	3
FATF .....	3
European Rule of Law Projects .....	4
Poland .....	4
Commission's Consultation on 116 European freephone numbers .....	5
Relations with China and Japan .....	5
Relations with the United States .....	6
Summit IV .....	6
Conference of Chief Justices .....	6
Costs of Justice Study .....	6
Corporate Social Responsibility (CSR) .....	6
Deontology – European Transparency Initiative .....	7
European Contract Law .....	8
IT Law .....	8
Moldova .....	9
Co-operation in the field of disciplinary matters .....	9
Company law .....	9
Services – Latest developments .....	10
Implementation of the Services Directive .....	10
Commission's consultation on Codes of conducts .....	10
European Parliament report on obligations of cross-border services providers .....	10
Training .....	11

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## ▶▶ Akzo Nobel Case

The Court of First Instance on 17 September 2007 published its judgement on two joint cases, Akzo Nobel Chemicals Ltd and Akcros Chemicals Ltd v Commission of the European Communities - (T-25/03) and (T-253/03), please see: <http://curia.europa.eu/jurisp/cgi-bin/form.pl?lang=EN&Submit=rechercher&numaff=T-125/03>). At the centre of both cases was the exclusion of in-house lawyers from legal privilege in the Community Competition law.



European Court of Justice

the procedure determined by the Court in the *AM&S* case. In short, that procedure is designed to ensure that, in the event that the Commission and the undertaking under investigation are unable to resolve a dispute as to the privileged status of a communication, the Court should rule and, crucially, that before it does so, the Commission should not read the document.

Case T-125/03 sought the annulment of the decision by which the Commission ordered the inspection at Akzo's premises insofar as that decision is treated by the Commission as being the legal basis on which it claimed the right to take copies of the documents. The other application, case T-253/03, sought the annulment of a subsequent decision ("the Rejection Decision") by which the Commission rejected the claims for legal professional privilege made by Akzo.

The CCBE was an intervener in both cases supporting the applicant, Akzo Nobel. Before the Court the CCBE submitted that the Commission's approach defeats a principal aim of

The Court found that the Commission infringed essential procedural requirements, first, by forcing the companies to allow the Commission inspectors to have a cursory look at certain documents, and second, by reading some of the documents in question without first giving the companies the opportunity to bring the issue before the Court of First Instance. Most importantly, the Court upheld the argument presented by the CCBE and other parties that internal company documents drawn up exclusively for the purpose of seeking legal advice from an independent lawyer in exercise of the rights of defence may benefit from Legal Professional Privilege (LPP). The CCBE welcomes the strong message the Court gave by underlining the importance of LPP in safeguarding the public interest in the proper administration of justice.

Relating to the persons covered by confidentiality protection, the CCBE urged on the Court an approach which can be called one of subsidiarity, and one which is entirely in line with developments both in national law and in Community law since *AM&S* (*AM&S Europe Limited v Commission of the European Communities* (Case 155/79) [1982] ECR1575). Given that there is no Community harmonisation of the rules for organising the legal profession, the CCBE claimed that it was open to each Member State to determine who may act and be held out as a member of the relevant Bar or Law Society. In those Member States where such members may be employed "in-house" and where national law recognises that communications with such legal advisors is covered by the national law concept of professional privilege, the Community privilege should apply as well. In short, while the material scope of the Community concept of professional privilege is essentially a matter of Community law, its personal scope is, as a matter of Community law, determined by national law. It urged a re-drawing of the dividing line in *AM&S* to distinguish between those legal professionals who are and those who are not recognised as members of one of the official bars and law societies, as opposed to those who are and those who are not employed by the entity to which they are providing advice (i.e. the line drawn by the court in *AM&S*), and whose contacts with their clients are covered in the relevant jurisdiction by the privilege rules. This solution would give full effect to what is the principal touchstone in the *AM&S* judgment, namely the criterion of independence and subjection to official professional discipline. At the end, the CCBE submitted to the Court that the Rejection Decision was incorrect in denying that communications with Akzo's internal lawyer were covered by professional privilege. Notwithstanding his employed status, the advocaat met all the criteria of independence required by *AM&S* as he was a full member of the Dutch Bar and as such subject to professional obligations.

With regard to in-house counsels, the CCBE regrets very much that the Court did not take the opportunity to develop the scope of legal professional privilege to include those in-house counsel who are members of a Bar or Law Society and therefore subject to professional obligations of confidentiality under national rules. It is not obvious why in-house counsels who are subject to high professional standards under national law should not be afforded the same level of protection merely because of their employed status.

The CCBE membership will be considering the possibility of an appeal which would need to be submitted two months after the publication of the judgement.

For further information, please contact Birgit Beger ([begeer@ccbe.eu](mailto:begeer@ccbe.eu)).

## ▶▶ Money laundering

### Belgian challenge

The CCBE is disappointed by the decision of the European Court of Justice in the challenge by the Belgian Bars against the reporting obligations on lawyers imposed by the 2001 money laundering Directive [case C-305/05 with regard to Directive 2001/97/EC].

In 2004, the Belgian Bars challenged the implementation of those provisions of the 2001 Money Laundering Directive which imposed for the first time reporting obligations on lawyers in Belgium. The CCBE intervened in support of the Belgian Bars' contention that the reporting obligations were an unjustified infringement of the right to a fair trial guaranteed by Article 6 of the European Convention on Human Rights. In its judgment, the Court decided that the reporting obligation imposed on lawyers participating in financial transactions with no link to judicial proceedings did not breach the right to a fair trial.

The CCBE intervened as it believes that the introduction of reporting obligations (previously confined to financial institutions) on lawyers, who are members of a regulated profession, will breach Article 6 as it compromises the independence of lawyers, and will lead to the irrevocable violation of the principle of client confidentiality. Access to legal advice will be jeopardised, and subsequent defence cannot be guaranteed, if the necessary confidence of a client in his or her lawyer will be betrayed by the obligation imposed on lawyers to report their suspicions to state authorities.

The CCBE has never accepted that lawyers, who are members of a regulated profession, should have been included in the scope of the reporting obligation. The CCBE has consistently requested that the Commission and the Financial Action Task Force on Money Laundering (FATF) provide evidence that lawyers are being unwittingly used to facilitate money laundering activities which would justify reporting obligations being imposed on them. Such evidence has never been provided by either the Commission or the FATF. The CCBE does not and never will condone the actions of any lawyer who knowingly participates in the criminal activity of a client, whether relating to money laundering or anything else. But there are already professional ethical rules and disciplinary sanctions, in addition to criminal sanctions, in place to deal with lawyers who participate in such criminal activity.

The CCBE is disappointed by the ruling of the Court, as it has given a narrow interpretation to the scope of the right to a fair trial and has left a number of other issues concerning fundamental rights unanswered. It is also believed that the Court's division of legal activities into judicial proceedings (which will be exempt from the scope of the directive) and other activities in which legal advice may be given (which will not be exempt) is unworkable in practice, since few clients will present their problems in such a clear-cut way.

### FATF

The CCBE participated in a meeting with the Financial Action Task Force on 11 September 2007 in London. The American Bar Association and the International Bar Association were also represented as well as representatives from the accountancy sector, jewellers, casinos owners and a number of other sectors.

The meeting was convened to discuss the risk-based approach. The FATF and the financial services sector have concluded guidance for the financial services sector with regard to the risk-based approach, and the



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11 September meeting was convened to explain the nature of the work done to date with the financial services sector, and agree on how further work might be undertaken with the sectors involved.

The representatives from the legal profession communicated the fact that the function and role of lawyers differ significantly from that of financial institutions, and the international legal profession does not consider that the principles contained in the recently concluded FATF guidance for the financial services sector can simply be applied to lawyers. Furthermore, the international legal profession conveyed to the meeting that many Bars have already drafted extensive guidance for their members which is specifically tailored to address any risks that might arise, and in cases where Bars have not yet drawn up guidelines, it is the view of the legal profession that any such guidelines should be drafted by the legal profession itself and not by any other body.

For further information, please contact Peter Mc Namee ([mcnamee@ccbe.eu](mailto:mcnamee@ccbe.eu)).

## ▶▶ European Rule of Law Projects

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In July, the CCBE started a one-year project on the Rule of Law in Europe. To that end, a Director was hired, Rahela Dosen, who is to draw up and implement a programme of funded assistance to the bars, and to the rule of law in general, in the emerging democracies on the borders of the European Union, and to others in Europe with a need for rule of law assistance.

So far, the Director has represented the CCBE at the World Justice Project meeting of the American Bar Association that took place in Prague in July. In addition, in the framework of the European Commission's "Promotion of the Civil Society Dialogue between European Union and Turkey" grant, a project proposal was submitted together with the Union of Turkish Bar Associations, Conseil National des Barreaux (France), the Law Society of England and Wales, Consejo General de la Abogacía Española (Spain), Consiglio Nazionale Forense (Italy), Krajowa Rada Radców Prawnych (Poland) and the Österreichischer Rechtsanwaltskammertag (Austria). The project proposal focuses on the development of continuing professional education of lawyers in Turkey and foresees activities in all seven regions of Turkey.

For further information, please contact Rahela Dosen ([dosen@ccbe.eu](mailto:dosen@ccbe.eu)).

## ▶▶ Poland

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A number of laws prepared by the Polish government in recent months have raised serious concerns within the CCBE, since they will curb the necessary independence of the judiciary and the legal profession. For instance, the draft law on discipline proceedings, which concerns inter alia advocates and legal advisers in Poland, will subordinate disciplinary proceedings to a large extent to the Minister of Justice. The draft law on legal licences proposes creating a 'third profession' to provide legal services, the so-called legal licences, which would be tied to the Ministry of Justice. There are further laws which will also have a grave impact on judges and the court system. For example, the new Act on the common courts system gives the Minister of Justice power to interfere in the functioning of courts (such as assigning cases to particular judges, lifting the judge's immunity, and delegating judges to different locations).

It is for this reason that the CCBE organised a roundtable on "Defending the rule of law in Poland" on 6 September 2007 in Warsaw, Poland (keynote speaker: Mr. Stanisław Dąbrowski, Chairman of the Polish National Council of Judiciary). The roundtable brought together representatives of European and Polish institutions (judiciary, Parliament, legal professions) for an open debate about recent and current developments in Poland which have a serious impact on the functioning of the judiciary and the legal profession in Poland and on the administration of justice as a whole.

The CCBE and the International Bar Association (IBA) sent a joint mission to Poland in the week beginning 3<sup>rd</sup> September. The mission met with representatives of Courts, Parliament and the legal profession. The mission expressed alarm about threats to the rule of law in Poland due to the cumulative impact of legislation, in force and proposed, which would undermine current guarantees for the independence of the judiciary and the legal profession. Their full press statement is available at the following website address: [http://www.ccbe.eu/fileadmin/user\\_upload/NTCdocument/pr\\_0607\\_enpdf1\\_1189149424.pdf](http://www.ccbe.eu/fileadmin/user_upload/NTCdocument/pr_0607_enpdf1_1189149424.pdf). The joint mission will analyse Polish justice developments in the coming weeks thoroughly and will report fully on the current posi-

tion in relation to the rule of law in Poland in due course.

The CCBE will continue to follow developments in Poland very closely.

For further information, please contact Sieglinde Gamsjäger ([gamsjaeger@ccbe.eu](mailto:gamsjaeger@ccbe.eu)).

## ►► Commission's Consultation on 116 European freephone numbers



European Commission

The Commission has launched a consultation to identify services of social value in Europe that could benefit from single European freephone numbers starting with 116.

The CCBE responded to the consultation welcoming the Commission initiative and proposing the creation of a “legal help” number i.e. a European freephone number for information on how to obtain legal advice for those in emergency situations, particularly cross-border.

This number would assist citizens to find legal advice in emergency situations. The type of information provided through the phone might principally be how to obtain legal advice, for example by giving the name and contact details of lawyers who would be able to help the person concerned. Where necessary, it could also cover “first aid” legal advice.

From a CCBE study recently updated, it appears that in most EU Member States, Bars and Law Societies already provide information services by phone to citizens. The type of information and the way this service is organised vary from country to country, but the objective is the same: to help citizens to obtain legal advice.

The CCBE is now in the process of identifying which Bars and Law Societies would be willing to participate in the project.

The CCBE assumes that some sort of funding would be provided by Member States in order to ensure the good functioning of such an emergency number. However, the issue of the financing still needs to be clarified.

For further information, please contact Karine Métayer ([metayer@ccbe.eu](mailto:metayer@ccbe.eu)).

## ►► Relations with China and Japan



The CCBE met in Bruges on 9 July with the All China Lawyers Association and the Japanese Federation of Bar Associations, with the CCBE as hosts. Relations were extremely good between all parties, and the discussion was engaged and interesting. It was agreed that the Japanese would act as hosts next year. These meetings give the CCBE the opportunity to maintain excellent links at the highest level with two important bar associations of the world.

For further information, please contact Peter McNamee ([mcnamee@ccbe.eu](mailto:mcnamee@ccbe.eu)).

## ►► Relations with the United States

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### Summit IV

For the fourth year in a row, the CCBE participated in a meeting with representatives from the American Bar Association (ABA) during the ABA annual meeting in San Francisco in August 2007, in order to discuss issues regarding the liberalisation of legal services between the United States and the European Union. The meeting, as in previous years, provided an interesting exchange of views which highlighted areas for future work in this area.

### Conference of Chief Justices

The CCBE participated, as it has done before, in a meeting with the Chief Justices of US State Supreme Courts. This meeting, as with the Summit IV meeting referred to above, discussed issues in connection with the liberalisation of legal services.

For further information, please contact Peter Mc Namee ([mcnamee@ccbe.eu](mailto:mcnamee@ccbe.eu)).

## ►► Costs of Justice Study

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The Commission has commissioned a study in relation to sources of costs of civil judicial proceedings in the EU Member States (<http://costsofjustice.org>). This study is being carried out by an institute based in Paris.

The CCBE has written to the Commission in order to express concerns in relation to the way the study is being out. The letter pointed out that Bars and Law Societies had not been consulted by the experts used in the Member States in relation to lawyers' fees and other issues within their expertise. The CCBE also underlined that, since many Bars have not yet filled in the questionnaire, the information contained in the preliminary report might be incomplete or contain mistakes. The CCBE referred to the poor experience it has had in the past with Commission studies based on wrong information (for example, with DG Competition and its study into the regulation of the liberal professions).

The CCBE therefore requested to receive the data in relation to lawyers' fees and other issues which fall within the expertise of the legal profession before the finalisation of the study, in order to be able to send comments on its accuracy. The CCBE emphasised the danger of having incomplete and/or wrong factual information, which could lead to inappropriate legislative measures.

Furthermore, the CCBE requested to receive more information in relation to the study, in particular the list of experts consulted in each Member State, as well as information on the timetable of the project.

For further information, please contact Karine Métayer ([metayer@ccbe.eu](mailto:metayer@ccbe.eu)).

## ►► Corporate Social Responsibility (CSR)

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In order to assess the involvement of the legal profession in the area of CSR, the CCBE Working Group on Corporate Social Responsibility (CSR) sent a questionnaire in April 2007 to CCBE member Bars and Law Societies on the issue of CSR. The questionnaire had two parts – one for Bars and Law Societies, and a part for law firms. The questionnaire arose due to the CCBE Working Group observing an increasing need for the legal profession to be involved with the issue of CSR, and the increased impact of CSR on the legal profession. It was felt that a questionnaire would provide a useful overview of how CCBE member Bars viewed CSR and whether CCBE member Bars and Law Societies believe that CSR will be an issue in the future.

The Working Group received a response from 13 Bars and Law Societies and 8 law firms. All Bars and Law Societies responded that they are very interested in knowing more about the relevance of CSR to the legal profession, and a number of Bars indicated that they could foresee CSR being an issue in the future for their Bar. All Bars indicated that they regard CSR as being important for the reputation of the profession.

It is with respect to the results of the questionnaire that the CCBE Working Group on CSR will focus its future

work. The CCBE Working Group on CSR believes that, today, there is no coordinated approach for the legal profession with regard to CSR, despite CSR featuring higher and higher on the agenda of law firms and regularly featuring on conference agendas at both a national and international level. Indeed, it is believed that corporations (and of course their in-house counsel) are far more experienced in CSR than the law firms that advise them.

For further information, please contact Peter Mc Namee ([mcnamee@ccbe.eu](mailto:mcnamee@ccbe.eu)).

## ▶▶ Deontology – European Transparency Initiative



Commissioner Siim Kallas  
Administrative affairs, audit and anti-fraud

The European Commission has decided to create a new voluntary register for interest representatives, so that there will be some regulation of the people who lobby the Commission. The register is intended to be launched in spring 2008. Commissioner Siim Kallas (administrative affairs, audit and anti-fraud) discussed the European Transparency Initiative, as it is called, with members of the European Parliament on 16 July in Brussels.

The Commission is also drafting common elements for Codes of Conduct for relations between interest representatives and the EU institutions. This 'Code' will be a requirement for entry into the register, and its compliance will be monitored by the Commission.

With regard to financial disclosure required to join the register, the Commission demands that registrants declare relevant budget figures and breakdown on major clients and funding sources. Public affairs consultancies criticise this issue, since the Commission in their opinion is allegedly asking for excessive and discriminatory financial disclosure.

The Commission insists that, regarding financial disclosure, they would not be asking for fees or events to be declared. They would simply be asking public affairs consultancies for an estimate expressed in relative weight per client, on behalf of whom they lobbied in the past year. In the view of the Commission, this is very light self-regulation, compared to the reporting requirements that some of the same companies are subject to when lobbying in Washington DC. The Commission also stresses that there is a broad consensus that the register should apply to a very wide scope of actors, including public affairs consultancies, corporate and "in-house" lobby units, NGOs, think-tanks, trade associations and trade unions, and law firms.

It appears that the Commission's reaction to failure to comply with the register requirements will be a US-style regulation of all lobbying activity, such as entertaining officials at receptions. Doubts have been raised whether the Commission can enforce such a measure even for its own staff, let alone Brussels-wide. Many decisions are taken jointly by the Commission, the Parliament and Member State governments grouped in the European Council.

The European Parliament held a public workshop on this subject on 8 October 2007. At the workshop the EU-USA situation of Lobbying was compared, and representatives of different lobby categories discussed the current proposals from the Commission. The European Parliament's Committee on Constitutional Affairs is preparing an own-initiative report on the development of a framework governing the activities of interest representatives (lobbyists) in the European institutions. This document, which will be drafted by Finnish MEP Alexander Stubb (EPP-ED), is a follow-up to the Transparency Initiative launched in 2005 by the Commission. The CCBE secretariat had a meeting with the rapporteur on 17 September where it expressed the concerns expressed by the membership so far.

The CCBE president also had another meeting with the European Commission, represented by Mr Nymand-Christensen (Director of Better Regulation and Institutional Issues) and Mr Legris (Head of Unit Transparency, Relations with Stakeholders and External Organisations). The Commission was keen to hear the CCBE's initial comments on a draft Code of Conduct. The CCBE will continue to follow the European Transparency Initiative closely.

For further questions, please contact Birgit Beger ([beger@ccbe.eu](mailto:beger@ccbe.eu)).

## ▶▶ European Contract Law

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Following its work on the response to the Green paper on the review of the consumer acquis, the CCBE European contract law working group has been discussing over the last few months three basic aspects of EC law influence in the field of contract law:

- Notions and Functions of Contract
- Freedom of contract and its restrictions
- Extending the scope of consumer law protection to non-consumers

Upon termination of the discussion, the working group will draft a CCBE position paper on these issues for approval by the CCBE membership.

For further information, please contact Birgit Beger ([beger@ccbe.eu](mailto:beger@ccbe.eu)).

## ▶▶ IT Law

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The CCBE Standing Committee in Warsaw on 7 September 2007 adopted two documents of particular importance for e-communication of the legal profession in Europe:

- Framework proposal for establishing a European Framework system for Electronic ID-cards
- CCBE Policy for national certification authorities to ensure that digital certificates are interoperable across borders

The Framework proposal for a European wide system for Electronic ID cards acknowledges the fact that several EC instruments (the Directives on electronic communications, on establishment and most likely on services) make it advisable to develop such a scheme for lawyers. The scheme would help to create cross-border interoperability and create safer and more efficient e-communication. The second document, the CCBE policy specifies the technical details for the European scheme of ID cards. One of the key functions of electronic ID cards is the possibility to provide Digital certificates. Digital certificates are necessary to create digital signatures which lawyers can use for secure electronic communication. In order to make electronic ID cards interoperable across borders at European level, the CCBE will be constituted as an entity of trust which oversees that the national conditions for electronic ID cards are in accordance with European standards and can be recognised for cross-border practice. This would allow e.g. a French lawyer with a French certificate to have the guarantee that his/her policy complies with the CCBE standards and therefore would be trusted in another Member State that has also adopted the framework. At the same time, the CCBE would trust the notification by a national bar that its certification policies fulfil these standards. As a European body, the CCBE will promote the insertion of chips with digital signature in its own European card for European Lawyers, and also the use of electronic ID cards at European level.

The CCBE could also develop in the future contents and services accessible through a secured platform for its members and/or for EU lawyers at large. In this way, the CCBE would benefit from a faster and more secure exchange of information between all the parties involved and more means to overcome the geographical distance between its members.

The framework proposal for a European wide system for Electronic ID cards and the CCBE policy for national certification authorities to interoperate digital certificates is available on the CCBE web-site: [http://www.ccbe.eu/fileadmin/user\\_upload/NTCdocument/en\\_guidelines\\_framew1\\_1192450932.pdf](http://www.ccbe.eu/fileadmin/user_upload/NTCdocument/en_guidelines_framew1_1192450932.pdf).

If you have any further questions, please contact Birgit Beger ([beger@ccbe.eu](mailto:beger@ccbe.eu)).

## ▶▶ Moldova

The Italian and Athens Bar Associations sponsored a very successful conference for Moldovan lawyers on 1 June 2007 in Chisinau, Moldova. The event was part of the CCBE Moldova Twinning programme which was started last year in an attempt to assist the Moldovan Bar Association in its current reform process.

The Italian Bar focused its presentation at the conference on “The free movement of lawyers between Italy and Moldova”, and the Athens Bar Association dealt with procedural requirements before the European Court of Human Rights (ECHR). Moldovan lawyers also participated as speakers in order to provide an insight into recent developments of the legal profession in Moldova. Representatives of Moldovan NGOs spoke on “Defence lawyer policy: institutional and economic perspectives” and “The impediments facing lawyers in representing clients with applications lodged with the ECHR against the Republic of Moldova”.

The conference was very well received by the Moldovan legal profession. Further information on the conference (programme, speaker notes etc) can be found at the following website address: <http://www.ccbe.eu/index.php?id=144&L=0>.

The CCBE will continue its efforts in supporting the Moldovan Bar.

For further information, please contact Sieglinde Gamsjaeger ([gamsjaeger@ccbe.eu](mailto:gamsjaeger@ccbe.eu)).

## ▶▶ Co-operation in the field of disciplinary matters

On 7 September, the CCBE adopted recommendations on disciplinary process for the legal profession. This proposal was initiated by the CCBE working group on co-operation in disciplinary matters, which expressed its concern at the recent pattern of events around Europe where the disciplinary powers of the bars were being diluted or entirely removed from the control of the bars. The working group felt that the CCBE should develop a set of core principles of the disciplinary process for the legal profession, which could serve as a point of reference for Bars and Law Societies.

The CCBE recommendations underline in particular the need of the independence of disciplinary proceedings from state authorities, the conduct of disciplinary proceedings at first instance by Bars/Law Societies, respect for the European Convention on Human Rights, the separation between criminal trials and disciplinary proceedings and the protection of lawyer-client privileged information. The document can be found at the following link: [http://www.ccbe.eu/fileadmin/user\\_upload/NTCdocument/CCBE\\_Recommendations1\\_1190034926.pdf](http://www.ccbe.eu/fileadmin/user_upload/NTCdocument/CCBE_Recommendations1_1190034926.pdf)

For further information, please contact Karine Métayer ([metayer@ccbe.eu](mailto:metayer@ccbe.eu)).

## ▶▶ Company law

The CCBE Company Law Committee will prepare in the coming weeks responses to two Commission initiatives which have recently been published:

- 1) On 12 July 2007, the European Commission put forward measures which would simplify the business environment for EU companies in the areas of company law, accounting and auditing. The proposed measures, which are set out in a Communication, would remove or reduce a range of administrative requirements that are considered outdated or excessive. All interested parties have been invited to comment on the proposals by mid-October 2007.

The former chairman of the Company Law Committee, Hans-Jürgen Hellwig, participated in a Policy Roundtable organised by the Institute of Chartered Accountants on 18 September 2007 which dealt with the Commission Communication.

- 2) On 19 July 2007, the European Commission launched a public consultation on the obstacles companies – in particular small and medium-sized enterprises (SMEs) – face when conducting cross-border business in the EU, and on the content of a possible European Private Company Statute. Responses

will be taken into account in a forthcoming Commission impact assessment and possible legislative proposal. The deadline for responses is 31 October 2007.

For further information, please contact Sieglinde Gamsjäger ([gamsjaeger@ccbe.eu](mailto:gamsjaeger@ccbe.eu)).

## ▶▶ Services – Latest developments

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### Implementation of the Services Directive

During the summer, the European Commission published a “handbook on the implementation of the Services Directive” aiming to give Member States technical assistance in the implementation of the Directive.

At present, the handbook is only available in English, but it will be translated and published in all official EU languages on the website of the Commission at the following link: [http://ec.europa.eu/internal\\_market/services/services-dir/proposal\\_en.htm](http://ec.europa.eu/internal_market/services/services-dir/proposal_en.htm)

The handbook gives further explanation of the Services Directive’s main provisions.

The CCBE’s current commentary on the Directive might be completed in the light of the Commission’s explanations on issues of interest for lawyers.

### Commission’s consultation on Codes of conducts

Further to the adoption of the Services Directive, in particular the provisions on quality of services, the European Commission launched on 30 May a large-scale consultation on codes of conducts. The objective of the consultation is to create an inventory of the current situation and obtain stakeholders’ opinions on measures to encourage the development of codes of conduct at Community level.

Even though the Commission is well aware of the CCBE Code of conduct (which is considered as a model), the Commission expressed its interest in receiving the response of the CCBE to its online questionnaire ([http://ec.europa.eu/internal\\_market/services/services-dir/conduct\\_en.htm](http://ec.europa.eu/internal_market/services/services-dir/conduct_en.htm)).

The CCBE responded on 19 July.

### European Parliament report on obligations of cross-border services providers

The European Parliament committee on the Internal Market and Consumer Protection (IMCO) adopted a report on obligations of cross-border service providers on 17 July.

The CCBE had expressed strong reservations on the initial draft report which, among other things, called on the Commission to submit an appropriate proposal for a broad horizontal instrument in order to strengthen consumer confidence in cross-border trade of services by way of harmonising obligations of cross-border service providers.

In its comments on the draft report, the CCBE underlined that the possible need for a new broad horizontal instrument on services should be assessed only after the full implementation of the new Services Directive, and of the various legislative initiatives aiming at ensuring legal certainty as regards the rights, and especially the obligations, of cross-border service providers (in particular, Rome I).

The CCBE also stated that, before any new initiative in this area, it was necessary to carry out a thorough study on the obligations of service providers within the legal framework of the EU and the judicial systems of all the Member States. The CCBE insisted that there should be consultation with the parties concerned so that it can be ascertained with certainty that there is a real need for new measures, and, if so, whether this can be achieved by amendment of the new Services Directive, in order to avoid a multiplicity of instruments dealing with the issue of the provision of services.

The text adopted by IMCO in July was an improvement from the CCBE’s point of view, compared to the text of the original draft report. The main points raised by the CCBE comments on the draft report have been taken into consideration in the new version.

However paragraph 20 of the report remained problematic since it called on the Commission “to draw up a voluntary code of conduct in which service providers could participate in order to gain greater trust from consumers and with a quality certification mechanism and an inbuilt dispute settlement system involving appropriate bodies in order to assist in simplified dispute resolution;”

The CCBE considered this provision to be in conflict with Article 37 of the Services Directive which encourages the drawing up of Codes of conduct by professional bodies, organisations and associations. The CCBE therefore undertook initiatives in order to support the deletion of paragraph 20.

The IMCO report was voted by the Parliament Plenary Session on 27 September without paragraph 20. Consequently, the final report does not call on the Commission to draw up a voluntary code of conduct in which service providers could participate.

The CCBE will continue to closely follow the developments on this issue.

For further information, please contact Karine Métayer ([metayer@ccbe.eu](mailto:metayer@ccbe.eu)).

## ▶▶ Training



The CCBE, in co-operation with the Polish National Council of Legal Advisers, the Polish Bar Council and the University of Warsaw, held a very successful conference on ‘Improving legal education and training in a converging Europe’ which took place on 25-27 September in Warsaw, Poland. The conference allowed for presentation and discussion of current developments in the field of legal education and training of lawyers in Europe. The conference gathered representatives from Bars and Law Societies, academics and training institutions from across Europe. The conference was also an occasion for the CCBE to present its draft recommendation on training outcomes for European lawyers to an audience outside the member Bars and Law Societies. The recommendation is scheduled for adoption at the CCBE Plenary Session in November.

More information on the conference can be obtained at the following website address: <http://www.ccbe.eu/index.php?id=163&L=0>.

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